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(Original Signature of Member)

115TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To direct the Administrator of the Federal Emergency Management Agency to establish a contractor review process with respect to certain contracts, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of Mississippi introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To direct the Administrator of the Federal Emergency Management Agency to establish a contractor review process with respect to certain contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Due Diligence for  
5 FEMA Disaster Contractors Act of 2018”.

1 **SEC. 2. PAST PERFORMANCE AND RESOURCES REVIEW.**

2 (a) REVIEW REQUIRED.—Before awarding a covered  
3 contract, the Administrator of the Federal Emergency  
4 Management Agency shall—

5 (1) conduct a review of the potential contractor  
6 in accordance with this section; and

7 (2) after considering the results of the review,  
8 determine whether the past performance and re-  
9 sources of the contractor are adequate for perform-  
10 ance of the covered contract.

11 (b) DETERMINATION OF ADEQUACY REQUIRED.—

12 The Administrator may only award a covered contract to  
13 a contractor if the Administrator has determined pursuant  
14 to subsection (a) that the past performance and resources  
15 of the contractor are adequate for performance of the cov-  
16 ered contract.

17 (c) SCOPE OF REVIEW.—In carrying out a review  
18 under subsection (a) with respect to a covered contract,  
19 the Administrator shall assess the past experience and re-  
20 sources of the potential contractor, including whether the  
21 contractor has—

22 (1) successfully performed a contract similar to  
23 the covered contract (including contracts performed  
24 at the State or local level);

25 (2) a record of—

1 (A) demonstrating appropriate organiza-  
2 tion, accounting, and operational controls;

3 (B) conforming to contract requirements  
4 and standards of good workmanship;

5 (C) forecasting and controlling costs and  
6 demonstrating appropriate budgetary controls;

7 (D) adhering to schedules and appro-  
8 priately satisfying the administrative aspects of  
9 performance; and

10 (E) demonstrating reasonable and coopera-  
11 tive behavior and a commitment to customer  
12 satisfaction;

13 (3) personnel or subcontractors with adequate  
14 experience to perform the covered contract;

15 (4) financial resources adequate to perform the  
16 covered contract; and

17 (5) technical resources adequate to perform the  
18 covered contract.

19 (d) WAIVERS.—

20 (1) IN GENERAL.—The Administrator may  
21 waive a requirement under this section with respect  
22 to a contract if the Administrator determines that  
23 the waiver is in the public interest.

24 (2) NOTIFICATION.—Not later than 30 days  
25 after the date on which the Administrator issues a

1 waiver under paragraph (1), the Administrator shall  
2 submit to the Committee on Homeland Security and  
3 the Committee on Transportation and Infrastructure  
4 of the House of Representatives and the Committee  
5 on Homeland Security and Governmental Affairs of  
6 the Senate written notice of the waiver that includes  
7 a description of the reasons for the waiver.

8 (e) COVERED CONTRACT DEFINED.—In this section,  
9 the term “covered contract” means a contract—

10 (1) for goods or services;

11 (2) awarded in response to a major disaster or  
12 emergency declared under the Robert T. Stafford  
13 Disaster Relief and Emergency Assistance Act (42  
14 U.S.C. 5121 et seq.); and

15 (3) in an amount that equals or exceeds  
16 \$1,000,000.