

The Federal Advance Contracts Enhancement (FACE) Act

Senator Marco Rubio (R-FL)

Background: Following Hurricane Katrina, Congress required the Federal Emergency Management Agency (FEMA) to establish advance contracts for goods and services to enable the federal government to quickly mobilize resources to affected areas in the aftermath of a disaster. The 2017 disaster season was historically destructive, and FEMA was forced to rely heavily on advance contracts in its response to Hurricanes Harvey, Irma, and Maria, as well as the 2017 California wildfires. GAO was asked to review the federal government's response to the 2017 hurricanes and California wildfires and assess a number of issues including:

- 1) FEMA and the United States Army Corps of Engineers (USACE)'s use of advance contracts;
- 2) FEMA's planning and reporting of selected advance contracts; and
- 3) challenges with FEMA's use of these contracts.

On December 6, 2018, the U.S. Government Accountability Office (GAO) released a report titled, "2017 Disaster Contracting: Actions Needed to Better Ensure More Effective Use and Management of Advance Contracts." In its report, GAO found a number of issues with FEMA's handling of advance contracts, including limitations in FEMA's use of some advance contracts, congressional committees being provided with incomplete information in FEMA's reports, and coordination with states and localities on their use.

As a result, GAO made nine recommendations, including that it update its strategy and guidance to clarify the use of advance contracts, improve the timeliness of its acquisition planning activities, revise its methodology for reporting disaster contracting actions to congressional committees, and provide more consistent guidance and information to contracting officers to coordinate with and encourage states and localities to establish advance contracts. **FEMA concurred with all nine of GAO's recommendations.**

FACE Act: Senator Rubio's bill will require FEMA to ensure more effective use and management of its advance contracts process by incorporating these recommendations to ensure that federal preparedness actions are coordinated to prevent gaps in recovery efforts from occurring. The bill also requires FEMA to regularly update the appropriate committees of Congress on the progress of the agency's implementation of these recommendations. It is critical that Congress enact these reforms in a timely manner and prior to the start of the next disaster season in order to ensure that both FEMA and our states and localities are well-prepared and equipped for future disasters.