

117TH CONGRESS
1ST SESSION

S. 3256

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve accountability of disaster contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Mr. SCOTT of Florida (for himself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve accountability of disaster 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 “Disaster Contract
5 Transparency Act of 2021”.

6 **SEC. 2. DEBRIS REMOVAL CONTRACT OVERSIGHT.**

7 (a) IN GENERAL.—Title IV of the Robert T. Stafford
8 Disaster Relief and Emergency Assistance Act (42 U.S.C.

1 5170 et seq.) is amended by adding at the end the fol-
 2 lowing:

3 **“SEC. 431. PUBLIC ASSISTANCE GRANT PROGRAM ELIGI-**
 4 **BILITY AND OVERSIGHT FOR DEBRIS RE-**
 5 **MOVAL.**

6 “(a) DEFINITIONS.—In this section—

7 “(1) the term ‘Administrator’ means the Ad-
 8 ministrator of the Federal Emergency Management
 9 Agency;

10 “(2) the term ‘Agency’ means the Federal
 11 Emergency Management Agency;

12 “(3) the term ‘covered State’ means a State for
 13 which a major disaster or emergency was declared
 14 under this Act during the 5-year period preceding
 15 the date on which the State requests assistance for
 16 debris removal under the public assistance grant
 17 program;

18 “(4) the term ‘covered unit of local government’
 19 means a unit of local government for which a major
 20 disaster or emergency was declared under this Act
 21 during the 5-year period preceding the date on
 22 which the State requests assistance for debris re-
 23 moval under the public assistance grant program;
 24 and

1 “(5) the term ‘public assistance grant program’
2 means the public assistance grant program author-
3 ized under sections 403, 406, 407, 418, 419, 428,
4 and 502(a).

5 “(b) ELIGIBILITY.—

6 “(1) IN GENERAL.—

7 “(A) ADVANCE CONTACT REQUIRED.—Ex-
8 cept as provided in subparagraph (B), a covered
9 State or covered unit of local government shall
10 not be eligible for assistance for debris removal
11 under the public assistance grant program, in-
12 cluding direct Federal assistance for debris re-
13 moval provided by the Corps of Engineers, un-
14 less the covered State or covered unit of local
15 government has in effect, prior to the major
16 disaster or emergency declaration under this
17 Act for which the covered State or covered unit
18 of local government is seeking debris removal
19 assistance, an advance contract for debris re-
20 moval services that collectively provides ade-
21 quate coverage, as determined by the Adminis-
22 trator, for debris removal for the entire State.

23 “(B) GRACE PERIOD.—Subparagraph (A)
24 shall not apply during the 1-year period begin-
25 ning on the date on which a State or unit of

1 local government becomes a covered State or
2 covered unit of local government.

3 “(2) REPORTING.—For purposes of deter-
4 mining eligibility under paragraph (1), each covered
5 State shall submit, on an annual basis, a report to
6 the Administrator on all advanced contracts in effect
7 for the covered State or covered units of local gov-
8 ernment within the State, including, for each ad-
9 vanced contract—

10 “(A) the name of the contractor;

11 “(B) the contract terms and conditions;

12 “(C) the reimbursement rates;

13 “(D) verification and oversight agree-
14 ments;

15 “(E) geographic coverage of the contract;

16 “(F) capacity of contractor; and

17 “(G) debris removal assets owned by the
18 contractor.

19 “(c) REIMBURSEMENT OF DEBRIS REMOVAL CON-
20 TRACTS.—With respect to reimbursing advance contracts
21 for debris removal services described in subsection (b), the
22 Administrator shall reimburse for such services at the
23 lower of—

24 “(1) the rate of the Federal contract, if any;

1 “(2) the rate of the State advance contract, if
2 any; or

3 “(3) the rate of the unit of local government
4 advance contract.

5 “(d) PENALTIES FOR CONTRACTORS.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (3), any contractor who breaches or otherwise
8 fails to honor an advance contract for debris removal
9 service entered into with a State or unit of local gov-
10 ernment shall not be eligible for any Federal reim-
11 bursement funds for debris removal services for not
12 less than 10 years after the date on which the ad-
13 vance contract is breached.

14 “(2) DETERMINATION OF BREACH.—A deter-
15 mination of whether an advance contract for debris
16 removal service is breached or otherwise not honored
17 under paragraph (1) shall be made by a court of
18 competent jurisdiction.

19 “(3) WAIVER OF PENALTY.—The Administrator
20 may waive paragraph (1) if the Administrator deter-
21 mines such waiver is necessary due to—

22 “(A) a labor or supply shortage; or

23 “(B) no alternative contractors being avail-
24 able to perform the necessary services.

25 “(e) OVERSIGHT.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this section, the Ad-
3 ministrator shall develop and implement guidance
4 and procedures, including clear and unambiguous
5 rules, with respect to the oversight of debris removal
6 contracts entered into under the public assistance
7 grant program, including, at a minimum—

8 “(A) a requirement that—

9 “(i) all States and units of local gov-
10 ernment receiving debris removal assist-
11 ance under the public assistance grant pro-
12 gram take the primary role in the over-
13 sight function of debris removal; and

14 “(ii) the Agency shall verify compli-
15 ance with the requirements of this section
16 and any regulations promulgated under
17 this section;

18 “(B) guidance for State and local debris
19 monitors regarding debris removal operations,
20 debris operations oversight, and contractor
21 oversight, including contractor monitoring;

22 “(C) checklists, job aids, eligibility require-
23 ments, contract requirements, debris manage-
24 ment planning guidance, and other items, as

1 determined necessary by the Administrator, for
2 State and local debris monitors;

3 “(D) guidance for State and local debris
4 monitors on how to ensure that subgrant recipi-
5 ents meet the grant requirements and eligibility
6 criteria for the public assistance grant program
7 under which the grant was awarded in all areas
8 of the debris removal operation;

9 “(E) a list of the specific debris removal
10 monitoring responsibilities expected to be com-
11 pleted by a State for which a public assistance
12 grant program grant is awarded; and

13 “(F) a list of the specific debris removal
14 monitoring responsibilities expected to be com-
15 pleted by recipients of a subgrant of a grant
16 from a public assistance grant program.

17 “(2) REVIEW AND UPDATE OF GUIDANCE AND
18 PROCEDURES.—The Administrator shall review and
19 update the guidance and procedures required under
20 paragraph (1) as appropriate, but not less frequently
21 than once every 3 years.

22 “(3) REQUIREMENTS.—

23 “(A) IN GENERAL.—In developing the
24 guidance and procedures required under para-
25 graph (1), the Administrator shall—

“(i) except as provided in subparagraph (B), require that not later than 45 days after a grant is awarded under the public assistance grant program for debris removal, and once every 45 days thereafter for the duration of the grant, the State shall submit a report to the Administrator on the progress of the debris removal; and

“(ii) ensure that oversight of debris removal operations can be accomplished in all units of local government of a State in which debris removal operations are being carried out, such as through real-time reporting on operations.

“(B) WAIVER OF REPORTING REQUIREMENT.—The Administrator may waive the reporting requirement described in subparagraph (A)(i), if the Administrator determines, on a case-by-case basis, that such reporting requirement would negatively impact disaster recovery efforts.

“(f) TRAINING.—The Administrator shall provide training on appropriate debris removal guidance and procedures to—

“(1) Agency debris monitors; and

1 “(2) appropriate State and private entities.

2 “(g) FIELD PRESENCE OF FEDERAL COORDINATING
3 OFFICERS.—

4 “(1) IN GENERAL.—The Administrator shall
5 develop a documented risk-based approach for
6 grants awarded under the public assistance grant
7 program that Federal coordinating officers ap-
8 pointed under section 302 can use to determine ap-
9 propriate cost-effective field presence required for
10 debris removal oversight.

11 “(2) VERIFYING DEBRIS AMOUNTS AND REIM-
12 BURSEMENT.—

13 “(A) IN GENERAL.—The Administrator
14 shall require that any entity applying for debris
15 removal assistance under the public assistance
16 grant program shall, as part of the assistance
17 application, enter into a debris removal moni-
18 toring contract to conduct oversight and
19 verification of debris removal by contractors,
20 which shall require that one of the verification
21 methods approved by the Administrator under
22 subparagraph (B) be used to conduct the over-
23 sight and verification.

24 “(B) VERIFICATION METHODS.—For pur-
25 poses of subparagraph (A), the Administrator

1 shall, on an annual basis, develop and publish
2 a list of approved verification methods, which
3 may include—

4 “(i) a digital photograph of each load
5 of debris to validate load tickets;

6 “(ii) a digital photograph of each
7 truck used to haul debris to verify truck
8 certifications; and

9 “(iii) measurements of debris piles
10 and mulch piles for comparison and
11 verification against a photograph described
12 in clauses (i) and (ii).

13 “(3) PENALTIES FOR INACCURATE ACCOUNTING
14 OF DEBRIS REMOVAL AMOUNTS.—Any discrepancy
15 between the reported amount of debris collected by
16 a contractor and the verified amount, as determined
17 using an approved verification method under para-
18 graph (2)(B), shall incur a penalty at 2 times the
19 reimbursement rate of the documented discrep-
20 ancy.”.

21 (b) ADVANCE CONTRACTING.—Section 691 of the
22 Post-Katrina Emergency Management Reform Act of
23 2006 (6 U.S.C. 791) is amended—

24 (1) in subsection (b), by adding at the end the
25 following:

1 “(5) ADDITIONAL CONTRACTS.—If it is deter-
 2 mined under subsection (e)(2) that an advanced con-
 3 tract is needed for a good or service described in
 4 such subsection, the Administrator shall, to the
 5 greatest extent possible, enter into 1 or more ad-
 6 vance contracts for that good or service.

7 “(6) PRIORITY.—To the greatest extent pos-
 8 sible, the Administrator shall use advance contracts
 9 for goods and services before making new post-dis-
 10 aster contract awards for the same or similar goods
 11 and services.”; and

12 (2) by adding at the end the following:

13 “(e) ANNUAL REPORTS.—Not later than 180 days
 14 after the date of enactment of this subsection, the Admin-
 15 istrator shall submit to the appropriate committees of
 16 Congress a report on advanced contracts that contains—

17 “(1) a comprehensive list of advance contracts
 18 in effect as of the date the report, which shall in-
 19 clude—

20 “(A) the contracting entity;

21 “(B) the award amount;

22 “(C) the good or service being provided
 23 under the contract; and

24 “(D) the duration of the contract; and

1 “(2) a review of the need for advance contracts
2 that may be lacking as of the date of the report
3 for—

4 “(A) debris removal services;

5 “(B) prefabricated and portable buildings;

6 “(C) inspection services;

7 “(D) installation of power transmission
8 equipment; and

9 “(E) other goods and services determined
10 by the Administrator to be appropriate for ad-
11 vance contracts.”.

12 (c) EFFECTIVE DATE.—Subsections (b) and (c) of
13 section 431 of the Robert T. Stafford Disaster Relief and
14 Emergency Assistance Act, as added by subsection (a) of
15 this section, shall not take effect until the date that is
16 1 year after the date of enactment of this Act.

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