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Emergency Preparedness, Response, and
Recovery and Oversight, Management, and
Accountability, Committee on Homeland
Security, House of Representatives

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DISASTER CONTRACTING

FEMA Continues to Face Challenges with its Use of Contracts to Support Response and Recovery

Statement of Marie A. Mak, Director,
Contracting and National Security Acquisitions

GAO Highlights

Highlights of [GAO-19-518T](#), a testimony before the Subcommittees on Emergency Preparedness, Response, and Recovery and Oversight, Management, and Accountability, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

According to FEMA—a component within DHS—the 2017 disasters affected 47 million people, or about 15 percent of the nation’s population. Federal contracts have played a key role in responding to these disasters and in long-term community recovery. So far, FEMA has obligated billions of dollars on these contracts.

This testimony is based primarily on GAO’s recent reports on disaster contracting—specifically advance contracting and post-disaster contracts related to the 2017 disasters—which detail much of FEMA’s disaster contracting activities. It addresses key challenges FEMA faced contracting for goods and services in response to these disasters.

To conduct this work, GAO analyzed data from the Federal Procurement Data System-Next Generation through June 30, 2018, the latest and most complete data available for the 2017 disasters. GAO also analyzed FEMA guidance and documentation and interviewed FEMA officials to discuss the use of contracts to respond to the 2017 disasters.

What GAO Recommends

GAO has made a total of 19 recommendations—most of which were to FEMA—related to contracting activities in response to the 2017 disasters. Ten of these are described in this statement. DHS concurred with most of these recommendations, and has some actions underway, but it has not fully implemented them. Attention to these recommendations can assist FEMA as it uses contracts to respond to future disasters.

View [GAO-19-518T](#). For more information, contact Marie A. Mak at (202) 512-4841 or makm@gao.gov.

May 9, 2019

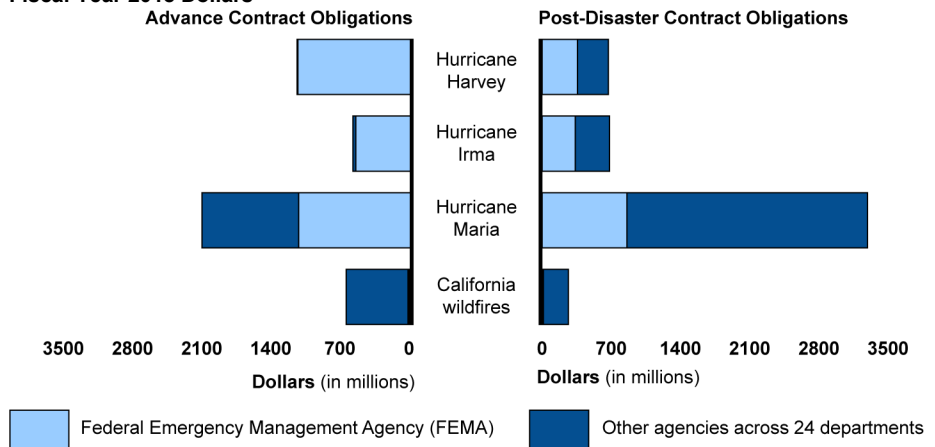
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FEMA Continues to Face Challenges with Its Use of Contracts to Support Response and Recovery

What GAO Found

Following Hurricanes Harvey, Irma, and Maria, and the 2017 California wildfires, federal agencies entered into disaster-related contracts worth about \$9.5 billion, according to data as of June 30, 2018—the latest and most complete data at the time of GAO’s review (see figure). The Federal Emergency Management Agency (FEMA) obligated about \$2.9 billion of this total through advance contracts, which it establishes prior to a disaster to rapidly mobilize resources. FEMA obligated an additional \$1.6 billion through post-disaster contracts, which are established after disasters hit.

Known Government-wide Contract Obligations for 2017 Disasters, as of June 30, 2018, in Fiscal Year 2018 Dollars



Source: GAO analysis of Federal Procurement Data System-Next Generation data. | GAO-19-518T

Notes: Advance contract obligations are limited to FEMA and U.S. Army Corps of Engineers (USACE) contracts, and California wildfire obligations are limited to contracts identified by FEMA and USACE. Following FEMA and USACE, the Defense Logistics Agency and U.S. Coast Guard had the next highest obligations.

In its December 2018 and April 2019 reports, GAO made 10 recommendations to strengthen FEMA’s ability to address challenges GAO identified in how FEMA plans, coordinates, and tracks its contracts:

- Planning:** FEMA has an outdated strategy and unclear guidance on how contracting officers should use advance contracts and has not fully assessed its contracting workforce needs. Effectively planning its contract use is critical to FEMA quickly providing critical goods and services.
- Coordination:** FEMA did not fully coordinate with states and localities on certain contracts and encountered communication and coordination challenges with other federal agencies. Effective coordination helps FEMA ensure stakeholders have the tools needed to facilitate their disaster response efforts.
- Tracking:** The full extent of 2017 disaster contracting activities, for FEMA and other agencies, is unknown. GAO found that codes used to track obligations for these disasters in a federal procurement data system were closed without full consideration of user needs or due to inconsistent implementation of criteria established by the Department of Homeland Security (DHS) and other agencies, limiting visibility over federal disaster contracts.

Chairman Payne, Chairwoman Torres Small, Ranking Members King and Crenshaw, and Members of the Subcommittees:

I am pleased to be here today to discuss the Federal Emergency Management Agency's (FEMA) contracting practices in response to the catastrophic 2017 disasters—Hurricanes Harvey, Irma, and Maria, and the California wildfires. According to FEMA—a component within the Department of Homeland Security (DHS)—these disasters affected 47 million people, or about 15 percent of the nation's population. Once a major disaster has been declared by the President, federal contracts play a key role in its immediate aftermath and in long-term community recovery by providing life-sustaining goods and services to survivors. FEMA has obligated billions of dollars on contracts in response to the 2017 disasters.

The Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006 required FEMA, among other things, to establish advance contracts. Advance contracts are established prior to disasters to quickly provide life-sustaining goods and services in the immediate aftermath of a disaster.¹ FEMA may also award new contracts to support disaster response efforts following a disaster declaration. According to FEMA officials, these post-disaster contract awards may be required, for example, if advance contracts reach their capacity, or if goods and services that are not suitable for advance contracts are needed. According to our analysis of Federal Procurement Data System-Next Generation (FPDS-NG) data, federal agencies had obligated about \$9.5 billion in response to the three 2017 hurricanes and the California wildfires as of June 30, 2018—the most recent and complete data available.² FEMA obligated about \$2.9 billion of this total through advance contracts, and roughly an additional \$1.6 billion through post-disaster contracts.

¹Pub. L. No. 109-295, §§ 601-699. PKEMRA included several provisions, notably the requirement for FEMA to identify requirements that can be contracted for in advance and establish advance contracts. Among other provisions, PKEMRA also required FEMA to develop a contracting strategy that maximizes the use of advance contracts to the extent practical and cost effective; establish a process to ensure coordination of advance contracts with state and local governments, as appropriate; and encourage state and local governments to engage in similar pre-planning and contracting.

²Advance contract obligations included in this analysis were limited to FEMA and U.S. Army Corps of Engineers (USACE) contracts. Obligations for the California wildfires were limited to contracts identified by FEMA and USACE.

My statement today addresses key challenges FEMA faced contracting for goods and services in response to these disasters. This statement is primarily based on reports we issued in December 2018 and April 2019 on FEMA's disaster contracting activities in response to the 2017 hurricanes and California wildfires.³ For the reports cited, among other methodologies, we reviewed FPDS-NG data through June 30, 2018—the most recent and complete data available—to identify FEMA contract obligations for the 2017 disasters. We also analyzed FEMA guidance and documentation and interviewed FEMA officials to discuss the use of contracts to respond to the 2017 disasters. Each of the reports cited in this statement provide further detailed information on our scope and methodology.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate, evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

³GAO, *2017 Disaster Contracting: Actions Needed to Improve the Use of Post-Disaster Contracts to Support Response and Recovery*, [GAO-19-281](#) (Washington, D.C.: Apr. 24, 2019); and *2017 Disaster Contracting: Action Needed to Better Ensure More Effective Use and Management of Advance Contracts*, [GAO-19-93](#) (Washington, D.C.: Dec. 6, 2018).

FEMA Experienced Challenges in Planning, Coordinating with Stakeholders, and Tracking the Use of Contracts

Challenges in Acquisition and Workforce Planning

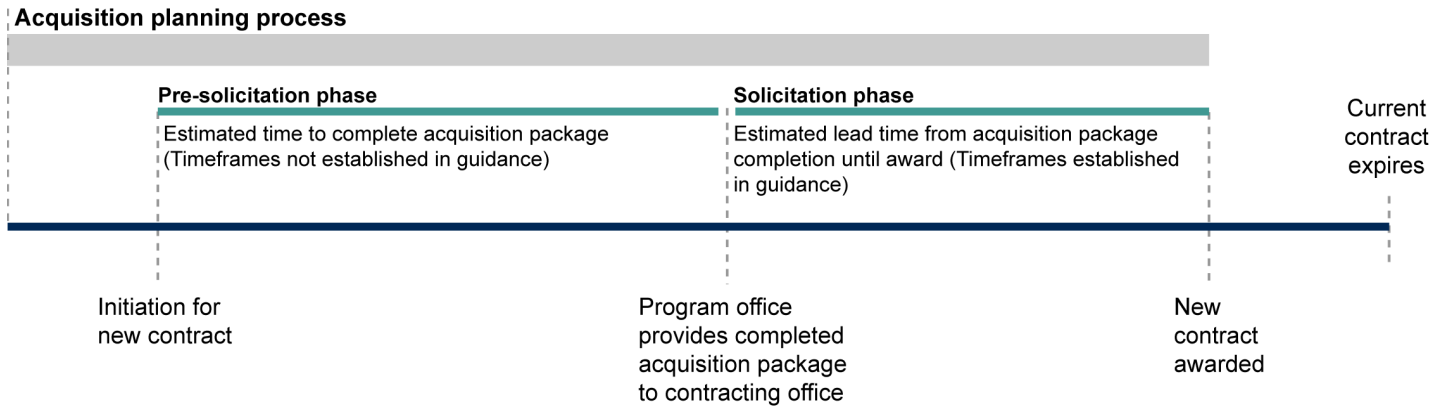
Ensuring that there is adequate time to complete acquisition planning activities and identifying the contracting workforce required to execute mission needs can help agencies establish a strong foundation for successful acquisition outcomes. However, our prior work identified challenges FEMA faced in its acquisition and workforce planning efforts for disaster contracting. The Federal Acquisition Regulation (FAR) requires agencies to perform acquisition planning activities for all acquisitions to ensure that the government meets its needs in the most effective, economical, and timely manner possible.⁴ In our December 2018 report, we found that FEMA had guidance in place establishing timeframes for certain FEMA acquisitions following the completion of the acquisition package.⁵ Further, FEMA implemented an acquisition tracking tool in 2016—the 5-Year Master Acquisition Planning Schedule (MAPS)—which monitors the status of and provides acquisition planning timeframes for certain high value and mission-critical acquisitions, including advance contracts, regardless of dollar value.

However, we found that FEMA had not established timeframes or released guidance for the pre-solicitation phase of the acquisition planning process, when program officials identify a need and develop key acquisition package documents (see figure 1).

⁴FAR § 7.102.

⁵[GAO-19-93](#).

Figure 1: Notional Depiction of Acquisition Planning Timeline Depicted in FEMA’s 5 Year Master Acquisition Planning Schedule (MAPS)



Source: GAO depiction of milestones identified in FEMA’s 5 Year Master Acquisition Planning Schedule. | GAO-19-518T

Not adhering to suggested timeframes can place a burden on contracting officers and increase the likelihood of not awarding a contract on schedule. This, in turn, may create a need for FEMA to non-competitively extend the existing contract—this extension may be considered a bridge contract. Given the lack of a government-wide definition, we defined bridge contracts in our prior work as: extensions to an existing contract beyond its period of performance (including base and options) and new, short-term contracts awarded on a sole-source basis to an incumbent contractor to avoid a lapse in service caused by a delay in awarding a follow-on contract.⁶ FEMA officials acknowledged that the use of non-competitive bridge contracts is not an ideal practice as they cannot ensure the government is paying what it should for goods and services. However, in December 2018, we found that FEMA used bridge contracts for at least 10 of its advance contracts used in response to the 2017 disasters—with some of these contracts lasting for several years.

To decrease dependence on bridge contracts, FEMA established MAPS to help track and monitor the status of acquisition planning timeframes for certain acquisitions. However, most of the program office and contracting officials we spoke with during our December 2018 review had limited familiarity with the tool. In our December 2018 report, we recommended that FEMA update and implement existing guidance to identify acquisition

⁶The FAR does not define bridge contracts or require that they be tracked.

planning timeframes and considerations across the entire acquisition planning process and clearly communicate the purpose and use of its acquisition planning tool to relevant personnel. DHS concurred, but in its response to our report stated it believed existing outreach and training on MAPS had resolved these challenges. We acknowledged FEMA's training in our report, but noted that not all relevant staff we spoke with were familiar with MAPS, and that there was no formal guidance on the timeframes for the entirety of the acquisition planning process. Given these issues, we continue to believe FEMA needs to take additional steps to implement our recommendation.

Without planning and guidance on its use of advance contracts, FEMA lacks reasonable assurance that it is maximizing their use to the extent practicable and cost-effective to quickly provide goods and services following a disaster. PKEMRA requires the FEMA Administrator to develop a contracting strategy that maximizes the use of advance contracts to the extent practical and cost effective, and FEMA contracting officials told us that advance contracts should be used before awarding new contracts. However, in December 2018, we found that FEMA's advance contract strategy and guidance did not clearly identify the objectives of advance contracts or whether and how they should be prioritized for use in relation to new post-disaster contracts.

For example, we reported that FEMA's lack of an updated strategy and guidance contributed to confusion and challenges with the use of advance contracts for tarps, used to cover small areas of roof damage. Although FEMA had awarded advance contracts to provide tarps, a subsequent modification to these contracts limited the ability to use them for immediate disaster response needs—one of FEMA's stated purposes. Furthermore, we found that FEMA awarded vendors new post-disaster contracts for tarps before using its existing advance contracts. According to FEMA officials at that time, neither of the post-disaster contract vendors was able to provide the required tarps when needed.⁷ We concluded that the timing and use of the existing tarp advance contracts raised questions about the ability of contracting officers to use these contracts to provide tarps immediately following disasters. Additionally, we concluded that an updated advance contracting strategy could have

⁷The first post-disaster contract was terminated for convenience citing shortages in available tarps following the 2017 hurricane season. A stop-work order was issued for the second post-disaster contract following concerns over whether the tarps received met FEMA's specifications.

enabled FEMA to more quickly provide the needed tarps to survivors, considering the additional time and staff resources needed to award new post-disaster contracts.

In our December 2018 report, we recommended that FEMA update its strategy to clearly define the objectives of advance contracts, how they contribute to FEMA's disaster response operations, and whether and how they should be prioritized in relation to making new, post-disaster contract awards. We also recommended FEMA update its guidance accordingly. DHS concurred with these two recommendations and identified actions it plans to take to address them.

Our prior work also showed that FEMA's ability to adequately plan for and manage its disaster contracts is further complicated by persistent acquisition workforce challenges, including attrition and staffing shortages. In April 2019, we found that FEMA had identified workforce shortages as a continuing challenge for disaster response and recovery. But FEMA had not assessed its contracting workforce—including regional contracting workforce needs—since at least 2014.⁸ We recommended FEMA assess its workforce needs to address these shortcomings and develop a plan, including timelines. DHS agreed, identified steps FEMA has taken and plans to take to address the recommendation, and estimated addressing the recommendation by September 2019.

Continued Challenges Coordinating with Federal, State, and Local Partners on Contracting Issues

Our prior reports found that FEMA experienced challenges coordinating with state, local, and federal partners over disaster preparation and response efforts. Coordination is critical to ensuring that states and localities have their own tools in place to facilitate disaster response, and that contracting needs are clearly communicated and considered among federal agencies. Yet FEMA faced continued challenges and inconsistencies in its coordination with states and localities over the use of advance contracts.

In January 2017, FEMA updated guidance to include requirements for coordination with state and local governments on the use of federal advance contracts. This update was in response to our September 2015 finding that there were inconsistencies in whether and how staff in FEMA's regional offices performed state and local outreach on advance

⁸[GAO-19-281](#).

contracting efforts.⁹ However, in December 2018, we reported on similar inconsistencies in state and local outreach.¹⁰ We found that FEMA's guidance did not specify how often or what types of advance contract information should be shared with states and localities, or instruct FEMA contracting officers to encourage states and localities to establish their own advance contracts for the types of goods and services needed during a disaster. As a result, we found that while some FEMA regional officials regularly performed outreach with states and localities to assist them with establishing advance contracts for goods and services commonly needed during a disaster—like security, transportation, and office supplies—other FEMA regional officials did so less frequently. According to regional officials, coordinating more frequently with states and localities allows them to avoid overlap between state and federal contracting efforts, and helps FEMA officials know what resources the states have in place before a disaster occurs and how long states are capable of providing those resources following a disaster. We recommended in our December 2018 report that FEMA update its guidance to provide specific direction for contracting officers to perform outreach to states and localities on the use and establishment of advance contracts. DHS concurred and stated it would update guidance and continue efforts to establish resources for state and local governments on advance contracts.

Information on FEMA's advance contracts can be used to facilitate state and local coordination over the use and establishment of advance contracts. However, our work showed that this information was inconsistent and could further hinder FEMA's information sharing and coordination efforts. In December 2018, we reviewed FEMA's advance contract list and other resources FEMA contracting officials said they used to identify advance contracts—like biannual training documentation—and found differences in the advance contracts identified.¹¹ For example, we reported that FEMA officials told us that the advance contract list available to contracting officers is updated on a monthly basis. However, our analysis found that 58 advance contracts identified on the June 2018 advance contract list had not been included in contracting officers' May 2018 training documentation. The missing

⁹[GAO-15-783](#).

¹⁰[GAO-19-93](#).

¹¹[GAO-19-93](#).

contracts included those for telecommunications services, generators, and manufactured housing units.

Recognizing some of the shortcomings in communicating with state and local governments following the 2017 disasters, FEMA stated it would develop a toolkit to provide states and localities with recommendations for advance contracts, emergency acquisition guidance, and solicitation templates. However, at the time of our December 2018 review, FEMA officials were uncertain what information they would share with states and localities on advance contracts, and said they did not plan to provide the complete list of the advance contracts FEMA has in place to avoid being overly prescriptive. Yet without a centralized and up-to-date resource on advance contracts, FEMA contracting officers and their state and local counterparts may not be able to effectively communicate about advance contracts and use them to respond to future disasters. Given FEMA's recent emphasis on the importance of states and localities having the capability to provide their own life-saving goods and services in the immediate aftermath of a disaster, we concluded that clearly communicating consistent and up-to-date information on the availability and limitations of federal advance contracts is imperative to informing state and local disaster response efforts.

In our December 2018 report, we recommended that FEMA identify a single centralized resource listing its advance contracts and ensure that resource is updated regularly. Further, we recommended that FEMA should communicate information on advance contracts using that resource to states and localities to inform their advance contracting efforts. DHS concurred with these two recommendations and identified some steps it planned to take, but also stated it believes the existing advance contract list satisfies our recommendation for a single centralized resource. However, as our report noted, we found inconsistencies in this list that FEMA needs to address for advance contract information to be complete and up-to-date for the contracting officers who rely on it.

In addition to challenges coordinating with state and local governments, we identified coordination and planning concerns between FEMA and other federal agencies. As the federal disaster coordinator, FEMA obtains

requirements from states and localities.¹² It then tasks the appropriate federal agencies with specific missions, based on their emergency support functions. Agencies assigned to specific missions are then responsible for fulfilling requirements, and may use contracts to do so. However, we reported in April 2019 that some federal agencies experienced challenges coordinating with FEMA and state and local partners.¹³ For example, USACE officials reported that, during their debris removal mission following the California wildfires, local officials believed that the soil removed would be replaced. However, this was not part of the mission assignment from USACE to FEMA. In these instances, agency officials told us they relied on FEMA to communicate information on their mission assignments to be able to administer contracts.

According to a FEMA official during our April 2019 review, coordination and planning concerns related to mission assignments—like contracting considerations—should be worked out in advance between FEMA and agencies such as USACE. However, we found that FEMA policy and guidance lack details on how that coordination should take place. Further, a FEMA official told us that contracting considerations are not necessarily built into mission assignments. We recommended in April 2019 that FEMA revise its mission assignment policy and guidance to better incorporate consideration of contracting needs and ensure clear communication of coordination responsibilities related to contracting. DHS concurred and plans to develop tools and training within the next year to provide the necessary guidance.

Challenges with Tracking of Contract Use

Limited transparency into disaster contracting obligations further complicates the challenges noted above. We found in April 2019 that the full extent of disaster contracting—for both advance and post-disaster contracts—related to the 2017 disasters was and continues to be unknown.¹⁴ This was due to changes in the criteria for establishing and

¹²According to the National Response Framework—a guide to how the federal government, states and localities, and other public and private sector institutions should respond to disasters and emergencies—the Secretary of Homeland Security is responsible for ensuring that federal preparedness actions are coordinated to prevent gaps in the federal government’s efforts to respond to all major disasters, among other emergencies. The framework also designates FEMA as the lead agency to coordinate the federal disaster response efforts across 30 federal agencies.

¹³[GAO-19-281](#).

¹⁴[GAO-19-281](#).

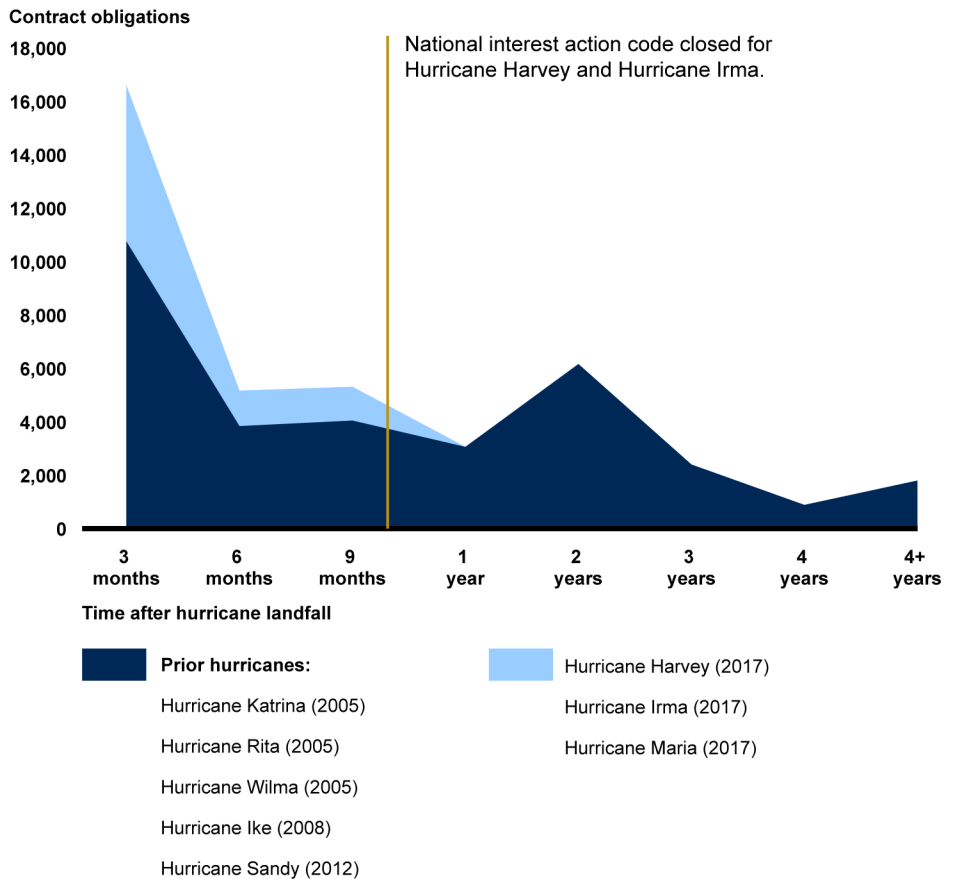
closing a national interest action (NIA) code—a mechanism for government-wide tracking of emergency or contingency-related contracting—in FPDS-NG, and DHS’s inconsistent implementation of the updated criteria for closing codes. Specifically, the codes for Harvey and Irma closed on June 30, 2018, less than a full year after the hurricanes hit. The code for Maria is valid through June 15, 2019, about 21 months after that hurricane made landfall. This is in contrast to prior hurricanes, for which codes sometimes remained open more than 5 years after the disaster, with the code for Hurricane Katrina being open for 13 years after the disaster. The ability to identify disaster contracting for the 2018 hurricanes was similarly limited as the NIA codes for Hurricanes Florence and Michael expired on March 15, 2019 and April 12, 2019, respectively, about 6 months after those storms made landfall.

Based on a memorandum of agreement, the General Services Administration (GSA), DHS, and the Department of Defense (DOD) are jointly responsible for determining when a NIA code should be established and closed. DHS delegated its role, on behalf of civilian agencies for disaster or emergency events, to its Office of the Chief Procurement Officer. The agreement outlines criteria DHS should consider in making determinations to establish and close a NIA code. For our April 2019 review, we identified changes in these criteria between June 2012 and June 2018. For example, the updated agreement does not include the national interest and visibility of an event as criteria for extending a NIA code, allowing a NIA code to expire regardless of the high visibility of the event and information needs of key users. DHS officials reported several rationales to support their decision to close the NIA codes for the 2017 hurricanes, but these were inconsistent with the criteria in the agreement and did not consider key user needs or fully explain the decisions to close the codes.

Once a NIA code in FPDS-NG is closed, there is no other publicly available, government-wide system available to comprehensively track contract obligations for specific events. Our April 2019 report demonstrated the magnitude of contract dollars that are no longer easily trackable once a NIA code is closed. For example, using the description field in FPDS-NG, we found that between July 1 and September 30, 2018—after the NIA codes were closed—agencies obligated at least \$259 million on contracts for Hurricanes Harvey and Irma. However, not all agencies put event-specific information in the description field, and we found for the 2017 hurricanes only 35 percent of contract obligations linked to a NIA code included this information. Moreover, as we have previously reported, and illustrate in figure 2, it can take years to fully

account for federal contract obligations related to response and recovery after a hurricane.

Figure 2: Contract Obligations over Time for Prior Hurricanes and the 2017 Hurricanes, in Fiscal Year 2018 Dollars (dollars in millions)



Source: GAO analysis of Federal Procurement Data System-Next Generation data (FPDS-NG). | GAO-19-518T

Note: This figure includes reported obligations from August 2005 through September 2018. The national interest action codes for Hurricanes Harvey and Irma were closed about 10 months after these storms made landfall. Obligations for these events made after June 30, 2018, were identified using the description field in FPDS-NG, and do not provide the full extent of procurement activities for these events.

In our April 2019 report, we made two recommendations, including that

- GSA, in coordination with DOD and DHS, assess whether the criteria in the current NIA code agreement meets the long-term needs for high visibility events and account for the needs of users, such as FEMA, other agencies, and Congress; and

-
- in the interim, DHS, in coordination with DOD and GSA, should keep the existing NIA codes for disasters open, reopen the NIA codes for Hurricanes Harvey, Irma, Florence, and Michael, and request that agencies retroactively update applicable contract actions to reflect these codes, to the extent practicable.

GSA and DOD indicated they would work jointly with DHS to assess the criteria in the agreement within the year. DHS did not comment on that recommendation.¹⁵ Given the high visibility and national interest in these events, assessing the criteria, keeping NIA codes open, and reopening closed codes for the recent disasters to the extent practicable would help ensure visibility over federal disaster contracts.

In conclusion, given the circumstances surrounding the 2017 disasters, and the importance of preparedness for future disasters, it is critical to ensure that FEMA is well-positioned to respond through its use of contracts. Our work has shown that without effective planning on the use of contracts, FEMA may face challenges in quickly providing critical goods and services to survivors following a disaster. Further, without effective coordination, FEMA cannot ensure that local, state, and federal partners have the tools they need to assist in disaster response. Moreover, not tracking certain information on a government-wide basis in FPDS-NG may result in key users lacking the information necessary to provide oversight of FEMA's and other agencies' disaster contract actions. Implementing our recommendations to update its planning guidance and advance contract strategy; assess acquisition workforce needs; improve coordination with state, local, and federal partners; and improve tracking of disaster contracting actions will help FEMA overcome key challenges it faces in contracting during a disaster, and improve future response efforts.

Chairman Payne, Chairwoman Torres Small, Ranking Members King and Crenshaw, and members of the subcommittees, this concludes my statement. I would be pleased to respond to any questions.

¹⁵DHS did not concur with a draft recommendation to keep the existing NIA codes open, citing concerns with being bound by the current agreement and its authority to direct other agencies to retroactively update relevant contract actions to reflect the reopened codes. We revised that recommendation to address these concerns.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this statement, please contact me at (202) 512-4841 or makm@gao.gov. Contacts for our Office of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this statement include Janet McKelvey (Assistant Director); Caryn Kuebler and Meghan Perez (Analysts in Charge); Emily Bond; Erin Butkowski; Suellen Foth; Julia Kennon; Sylvia Schatz; Lindsay Taylor; and Robin Wilson. Key contributors for the previous work on which this statement is based are listed in the products cited.

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