

FEDERAL SUPPLY SCHEDULES USAGE ACT OF 2010

SEPTEMBER 14, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOWNS, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 2868]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (S. 2868) to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Legislative History	3
Section-by-Section	3
Explanation of Amendments	4
Committee Consideration	4
Roll Call Votes	4
Application of Law to the Legislative Branch	4
Statement of Oversight Findings and Recommendations of the Committee	4
Statement of General Performance Goals and Objectives	4
Constitutional Authority Statement	5
Federal Advisory Committee Act	5
Unfunded Mandate Statement	5
Earmark Identification	5
Committee Estimate	5
Budget Authority and Congressional Budget Office Cost Estimate	5
Changes in Existing Law Made by the Bill, as Reported	6
Additional Views	8

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Supply Schedules Usage Act of 2010”.

SEC. 2. AUTHORITY OF THE AMERICAN RED CROSS AND OTHER DISASTER RELIEF ORGANIZATIONS TO USE FEDERAL SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

“(e) USE OF SUPPLY SCHEDULES BY THE RED CROSS AND OTHER DISASTER RELIEF ORGANIZATIONS.—

“(1) IN GENERAL.—The Administrator may provide for the use by the American National Red Cross and other qualified disaster relief organizations of Federal supply schedules. Purchases under this authority by the Red Cross shall be used in furtherance of the purposes of the American National Red Cross set forth in section 300102 of title 36, United States Code. Purchases under this authority by other qualified disaster relief organizations shall be used in furtherance of purposes determined to be appropriate and set forth in guidance by the Administrator of the General Services Administration, in consultation with the Administrator of the Federal Emergency Management Agency.

“(2) LIMITATION.—The authority under this subsection may not be used to purchase supplies for resale.

“(3) QUALIFIED DISASTER RELIEF ORGANIZATION DEFINED.—In this subsection, the term ‘qualified disaster relief organization’ has the meaning given the term by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.”.

SEC. 3. DUTY OF USERS REGARDING USE OF FEDERAL SUPPLY SCHEDULES.

Section 502 of title 40, United States Code, as amended by section 2, is further amended by adding at the end the following new subsection:

“(f) DUTY OF USERS REGARDING USE OF SUPPLY SCHEDULES.—All users of Federal supply schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services.”.

SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO USE SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Subsection (d)(1) of section 502 of title 40, United States Code, is amended by inserting “, to facilitate disaster preparedness or response,” after “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)”.

PURPOSE AND SUMMARY

S. 2868, the “Federal Supply Schedules Usage Act of 2009” (FSSAA), authorizes the Administrator of the General Services Administration (GSA) to provide for the use of the Federal Supply Schedules (FSS) by the American Red Cross (Red Cross), and state and local governments, for disaster preparedness and response.

The bill seeks to enhance the ability of the Red Cross and state and local governments to effectively prepare for and respond to disasters by giving them the ability to purchase specific goods and services through the pre-negotiated contracts of the FSS. This would save the administrative costs of negotiating individual agreements and leverage the economies of scale of the federal government’s buying power. Both groups would be barred from the resale of any products purchased off the FSS and all of their purchases would be required to be in accordance with the ordering guidance of the GSA.

BACKGROUND AND NEED FOR LEGISLATION

S. 2868 would allow the American National Red Cross and state and local governments to make purchases from the Federal Supply Schedules for disaster relief and preparedness. This will help the

country quickly and effectively respond to disasters and also leverage the buying power provided by the schedules. This authority will allow the disaster response entities to get better value for their dollars spent, which, in turn will increase their ability to provide response to our citizens. State and local governments have already been given this authority for other categories of products such as IT and emergency equipment, this bill expands the authority to disaster preparedness.

LEGISLATIVE HISTORY

S. 2868 was introduced by Sen. Joseph I. Lieberman on December 12, 2009. The bill was reported by the Senate Committee on Homeland Security and Governmental Affairs without amendment on May 17, 2010. The Senate passed FSSAA without amendment and unanimous consent on May 24, 2010. The bill was referred to the House Committee on Oversight and Government Reform on May 25, 2010. The Oversight Committee ordered the bill reported favorably, with an amendment, on July 28, 2010.

SECTION-BY-SECTION

Section 1: Short title

The short title of the bill is the “Federal Supply Schedules Usage Act of 2009.”

Section 2: Authority of the American Red Cross and other disaster relief organizations to use Federal Supply Schedules for certain goods and services

This section would amend section 502 of title 40, United States Code, by adding a new subsection (e), providing for the use of the Federal Supply Schedules by the American National Red Cross and other disaster relief organizations for purposes in furtherance of the purposes of the American National Red Cross set forth in section 300102 of title 36, United States Code. Purchases under this authority by other qualified disaster relief organizations shall also be in furtherance of purposes determined to be appropriate and in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.

This section also adds a new paragraph (2), providing limitation that the American National Red Cross may not make purchases under the authority of this section for resale.

Paragraph (3) defines the term “qualified disaster relief organization” as the meaning given the term by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.

Section 3: Duty of users regarding use of Federal Supply Schedules

This section would further amend section 502 of title 40, United States Code, by adding a new subsection (f), requiring all users of the Federal Supply Schedules, whether Federal or non-Federal users, to do so in accordance with the ordering guidance of the Administrator of General Services.

Section 4: Authority of state and local governments to use supply schedules for certain goods and services

This section would amend subsection (d)(1) of section 502 of title 40, United States Code, by adding the authority for state and local governments to use the schedules to facilitate disaster preparedness and response.

EXPLANATION OF AMENDMENTS

Representative Cao offered an amendment which was agreed to by voice vote. The amendment would allow all qualified nonprofit disaster relief organizations to have access to the Federal Supply Schedules and is intended to enhance the delivery of disaster relief and recovery goods and services in areas of the United States affected by disasters. The qualified disaster relief organizations would be able to make purchases from the Schedules as deemed appropriate and with the guidance of the General Services Administration, in consultation with the Administrator of the Federal Emergency Management Agency.

COMMITTEE CONSIDERATION

The Committee on Oversight and Government Reform met in open session and ordered S. 2868, as amended, to be reported favorably to the House by a voice vote.

ROLL CALL VOTES

No roll call votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. The bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report including the need to allow our country to respond to disasters in the most efficient and timely manner possible, whether through federal or non-federal efforts.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including the legislation's grant of authority to the American National Red Cross, state, and local governments to make purchases for disaster preparedness and response from the Federal Supply Schedules.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by S. 2868. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the meaning of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

S. 2868 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out S. 2868. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for S. 2868 from the Director of the Congressional Budget Office:

AUGUST 9, 2010.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2868, the Federal Supply Schedules Usage Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 2868—Federal Supply Schedules Usage Act of 2009

S. 2868 would amend federal law to allow disaster relief organizations, as well as state and local governments, to use the federal supply schedules of the General Services Administration (GSA) to procure goods and services from private firms for disaster preparedness and response activities. Under current law, state and local governments may purchase such services through the federal supply schedules; the legislation would expand the purchasing program to include the American Red Cross and other disaster relief organizations.

CBO estimates that implementing the legislation would have no significant impact on the federal budget. Enacting the bill would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that any net budgetary impact would not be significant in any year. Enacting the bill would not affect revenues.

Any purchases of such supplies and services would be an exchange between disaster relief organizations and commercial suppliers. However, GSA charges a 0.75 percent fee on all sales to recover the procurement and administrative costs of operating the program. Based on information from GSA regarding the current program and anticipated demand under the expanded program, CBO estimates that increasing the number of purchases would increase offsetting receipts by less than \$500,000 annually. Because such fees are spent by GSA without further appropriation, the net budgetary impact of the legislation would be negligible.

S. 2868 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On December 23, 2009, CBO transmitted a cost estimate for S. 2868, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on December 6, 2009. The two pieces of legislation are similar and CBO's estimate of their costs is the same.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 40, UNITED STATES CODE

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CHAPTER 5—PROPERTY MANAGEMENT

SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

* * * * *

§ 502. Services for other entities

(a) * * *

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(d) USE OF SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.—

(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for goods or services that are to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), to facilitate disaster preparedness or response, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

* * * * *

(e) USE OF SUPPLY SCHEDULES BY THE RED CROSS AND OTHER DISASTER RELIEF ORGANIZATIONS.—

(1) IN GENERAL.—The Administrator may provide for the use by the American National Red Cross and other qualified disaster relief organizations of Federal supply schedules. Purchases under this authority by the Red Cross shall be used in furtherance of the purposes of the American National Red Cross set forth in section 300102 of title 36, United States Code. Purchases under this authority by other qualified disaster relief organizations shall be used in furtherance of purposes determined to be appropriate and set forth in guidance by the Administrator of the General Services Administration, in consultation with the Administrator of the Federal Emergency Management Agency.

(2) LIMITATION.—The authority under this subsection may not be used to purchase supplies for resale.

(3) QUALIFIED DISASTER RELIEF ORGANIZATION DEFINED.—In this subsection, the term “qualified disaster relief organization” has the meaning given the term by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.

(f) DUTY OF USERS REGARDING USE OF SUPPLY SCHEDULES.—All users of Federal supply schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services.

* * * * *

ADDITIONAL VIEWS

The Federal Supply Schedules Usage Act of 2009 (S. 2868) grants the Administrator of the General Services Administration (GSA) the authority to allow the American Red Cross and state and local governments to utilize the Federal supply schedules (FSS) to prepare for and respond to natural disasters. The bill does not require that the American Red Cross or the state and local governments use the FSS. If these entities choose to use the FSS, however, the bill enables them to leverage the federal government's significant purchasing power. According to the Congressional Budget Office, this bill would have no significant impact on the federal budget.

There is precedent for allowing government entities, quasi-government entities, and certain private entities to buy goods and services from the FSS. Over the years, Congress has given GSA statutory authority to broaden access to the FSS. Currently, all executive agencies, the legislative branch, the District of Columbia, tribes and tribal organizations, certain foreign governments, and quasi-governmental and government chartered entities such as the Christopher Columbus Fellowship Foundation, the Bonneville Power Administration, and the Civil Air Patrol are eligible to use the FSS for certain purposes or under certain circumstances. A complete list of the entities eligible to use the FSS was made part of the record at the Committee's Business Meeting on this bill and others held on July 28, 2010.

During the Committee Business Meeting on the bill, Representative Anh "Joseph" Cao offered an amendment to expand S. 2868 to allow all qualified non-profit organizations, such as the Salvation Army and Catholic Relief Services, to purchase from the FSS. The amendment requires the GSA Administrator, along with the head of Federal Emergency Management Agency (FEMA), to determine which organizations qualify for the purposes of this bill.

In 2005, vast areas along the coast of the Gulf of Mexico, were devastated by Hurricane Katrina. This includes Louisiana's Second Congressional District, which includes parts of Orleans and Jefferson Parishes. In the wake of the hurricane, many observed the multitude of non-profit organizations, beyond the American Red Cross, that provided disaster relief and continue to provide recovery services to areas along the Gulf Coast. More recently, after the tragic earthquake in Haiti, the New York Times listed at least 41 large-scale disaster relief organizations to which Americans could contribute. Because of their work on both the international and domestic stages, these organizations should also be eligible to purchase goods and services from the FSS.

In addition to widely recognized national organizations, local organizations are also invaluable. They have on-the-ground knowledge of the greatest local needs and how to fulfill those needs. Under the Stafford Act, whenever possible, contracts for disaster

relief should be awarded to local contractors. Giving local organizations access to the GSA's FSS will facilitate the quick delivery of supplies and services to areas affected by natural disaster. Granting access to the favorable rates offered by the FSS to additional qualified organizations whose mission is to provide disaster relief, preparedness, and recovery services will enhance the delivery and quality of disaster relief and recovery goods and services in areas of the U.S. affected by a disaster. In introducing this amendment, Rep. Cao sought eligibility for these local organizations as well.

We applaud the expansion of the bill to include private, non-profit organizations beyond the American Red Cross to ensure that the greatest numbers of individuals affected by disaster can be served swiftly and completely by qualified non-profit organizations. There are numerous capable disaster relief organizations that should be eligible to purchase from the FSS. We appreciate the Chairman agreeing to support this amendment and were pleased it was agreed to during the Business Meeting.

DARRELL ISSA,
Ranking Member.
ANH "JOSEPH" CAO,
Member.

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