

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 20, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Our Committee has been conducting a bipartisan investigation of the Trump Administration's response to the hurricanes in Puerto Rico and the U.S. Virgin Islands since last October. Although we sent a joint letter to the Department of Homeland Security (DHS) requesting documents from the Federal Emergency Management Agency (FEMA), the Department has been stonewalling the Committee for the past five months, has failed to produce key documents we requested, and has not produced a single email relating to the hurricanes in Puerto Rico.

Despite this obstruction, Democrats have been able to conduct our own proactive investigation of the Trump Administration's response, focusing specifically on its deficient efforts to provide emergency food. We have spoken with numerous government officials, business owners, whistleblowers, and private citizens involved with these efforts.

On February 6, 2018, we provided you with documents we obtained indicating that FEMA failed to deliver tens of millions of emergency meals because it inexplicably awarded a contract to deliver 30 million emergency meals worth approximately \$156 million to a tiny, one-person company with a history of struggling with much smaller contracts.¹ Twenty days later, FEMA terminated the contract "for cause" after having accepted only 50,000 meals—29 million meals short of their goal.

Although we asked you in our February letter to issue a subpoena to compel DHS to produce the documents we requested last October, you refused to do so. The Department still

¹ Letter from Ranking Member Elijah E. Cummings and Rep. Stacey Plaskett to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Feb. 6, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-02-06.EEC%20%26%20Plaskett%20to%20Gowdy%20re.FEMA-Tribute%20Contracting.pdf>).

has not produced the documents we requested, despite the fact that these documents fall squarely within the bipartisan document request we made more than five months ago.

Despite DHS's failure to cooperate, we have pressed forward with our investigation by speaking with numerous government employees, corporate officials, and private citizens. As part of our ongoing efforts, today we are providing new documents we have obtained indicating that FEMA also failed to respond to multiple emergency requests from major supermarkets seeking fuel to run generators to help prevent food from spoiling in the days immediately following Hurricane Maria—including tons of fresh produce, dairy, and other perishable products that were desperately needed by these American citizens.

These new documents show that senior officials at Walmart took extraordinary measures to try to convey their emergency requests to FEMA. They enlisted congressional offices and officials from the government of Puerto Rico to try to communicate with FEMA. They explained repeatedly that they had emergency generators already in place with enough fuel to preserve food stocks for a matter of days, but that they needed FEMA's help to obtain additional emergency fuel to keep their food from spoiling after that.

These new documents show that the government of Puerto Rico communicated these emergency requests directly to FEMA, including repeatedly conveying them in person and in writing. The documents also show that by September 27, 2017—a full week after the hurricane struck—FEMA failed to supply emergency fuel to save these perishable food supplies.

Documents show that FEMA did not respond to requests for fuel as tons of desperately needed food went bad. It is unclear whether FEMA had a plan to distribute emergency fuel that it failed to execute, or whether FEMA had no plan at all.

For all of these reasons, today we reiterate our request that you issue a subpoena to compel DHS to produce all of the documents we originally requested on a bipartisan basis on October 11, 2017. We also renew our request to expand the date range of our original document requests. If you choose not to issue this subpoena yourself, then we request that you place this matter on the agenda for our next regularly scheduled business meeting so all Committee Members have the opportunity to vote on this motion.

New Documents Show FEMA Failed to Respond to Emergency Requests for Fuel to Preserve Food

Hurricane Maria struck Puerto Rico on Wednesday, September 20, 2017, leveling San Juan and leaving millions of people without access to food and water.

On Friday, September 22, at 4:55 p.m. EST, a senior Walmart official emailed Rep. Luis Gutiérrez' office with an urgent request:

We're trying to keep the lights on and the food refrigerated in the few stores we've been able to get back up and running on the island. The problem is we're running

out of generator fuel and need help getting the Governor's approval for me (as I understand it. As you know, the communications situation is terrible).

Have you guys been in touch with anyone from FEMA that we can contact to help? We want to keep this food fresh for people.

At 6:01 p.m., Rep. Gutiérrez' office forwarded this email to a Puerto Rican government official, writing:

Do you have any suggestions/ideas for [Walmart]? We are reaching out to FEMA, too, but just in case you have ideas. Thanks.

At 6:13 p.m., the Puerto Rican government official responded that he was meeting with FEMA at that moment and was relaying the request directly:

FYI I'm sitting with the FEMA rep right now so we are taking care of this.

At 7:13 p.m., Walmart officials sent a priority list with the top Walmart stores that needed fuel to keep perishable food from spoiling. It read:

As we discussed, we have 48 facilities on the island (46 stores, 1 home office, 1 distribution center). All have generators on site. Fuel at this point is becoming a key concern as we are less than 24 hours left in maintaining power in most facilities.

Currently we have already opened 3 facilities to support the public and have plans to bring more on line. Key to doing this is ensuring that we have power to run the operation and reestablish our supply chain. While we have need for all facilities, our facilities are prioritized in the attached list to the top 12 stores, plus distribution center and home office.

Further prioritization would be the following to serve the largest populations:

- **Distribution Center 6087 – Catano**
- **Sam's Club 4866, Kennedy Av, San Juan**
- **Sam's Club 6543, Carolina**
- **Walmart Supercenter 2449 Caguas**
- **Walmart Supercenter 5803 San Juan (RH Todd)**
- **Walmart Supercenter 2346, Toa Baja**
- **Walmart Supercenter 5802, Canovanas**

You can reach me directly on my mobile at [Redacted] or contact our 24/7 Emergency Operations Center at Walmart at [Redacted].

Thank you for your assistance on this matter.

At 7:36 p.m., the Puerto Rican government official forwarded this information directly to a FEMA official in an email titled "Walmart Stores Priority List." He wrote:

I have copy and pasted an email I received from Walmart regarding their priority list of stores. They have identified 12 specific outfits of their 48 stores that are top priority. If FEMA doesn't have the capacity of all 12 stores as priority sites requiring fuel, I have a list of 6 stores that are "super" priority for Walmart. Essentially, the fuel issue from my understanding is that FEMA needs to designate these Walmart sites as top priority. The gentlemen on the phone explained to me that they are very concerned about the food being thrown out due to spoiling due to the lack of food. Furthermore, he signaled that he would be willing to donate the food if FEMA cannot authorize fuel deliveries to these stores and is wondering if FEMA or the Puerto Rico agency for emergency would be the point of contact regarding these donations.

Please let me know if you need anything else from me on this. I can be reached through cell at [Redacted]. Also, if you receive any updates on this issue, please let me know so I can reach out to Walmart.

At 7:43 p.m., the Puerto Rican government official sent an email back to Walmart officials confirming that FEMA had been alerted. He wrote:

I have passed it along to FEMA. I will keep you all in the loop moving forward.

The next day, Saturday, September 23, 2017, at 9:39 a.m., a Walmart official sent an email to the Puerto Rican government official pressing for any information from FEMA on the urgent request. He wrote:

[T]hanks very much for your help so far. Checking in to see if you've learned anything about the fuel situation.

That Sunday evening, September 24, 2017, starting at 9:01 p.m. the Walmart official tried again to obtain information about the emergency request for fuel. He had the following text message exchange with the Puerto Rican government official:

Walmart: Any word on the fuel situation on the island?

Puerto Rico: [Redacted], no word yet. I've put in numerous requests with FEMA and haven't heard anything. Because of ur issue, I've put in a request to be embedded into FEMA headquarters tomorrow, which will allow me to get this sorted out directly. I'll let you know if anything happens

Walmart: You're a good man. Thank you. Did the hospitals get fuel?

Puerto Rico: I think so. But I can't be sure. Our communication with FEMA on the specifics of certain things has been less than desired. I appreciate your concern though

On Monday, September 25, 2017, starting at 9:56 a.m., they had another text message exchange:

Puerto Rico: I've reached out t PREMA and told them about ur situation. Hopefully they can hel Help*

Walmart: Our chief concern right now is with our distribution center. We might have 2 days worth of fuel left. It is critical that we keep that going in order to preserve our fresh inventory. If that goes down it could take weeks to replenish which would have a big negative impact on the island.

Puerto Rico: Noted

Walmart: Thanks. Anything else we need to be doing? We're pushing FEMA from multiple angles.

Puerto Rico: Nothing that I can think of.

I have a complete list of their employees and I'm going down it trying to contact the right person.

I do not know what is going on with communication in FEMA right now

On Wednesday, September 27, 2017, a government official sent an email informing FEMA that, since efforts to obtain emergency fuel had been unsuccessful for five days, Puerto Rican Governor Rosselló had personally intervened with FEMA to again request emergency fuel for grocery stores to maintain perishable food supplies:

I wanted you to know so you could share with NRCC/team that this morning, because of immediate threat to public health and safety, the Governor asked John Rabin [FEMA's Acting Regional Administrator for Region II] at 8:10 am this morning to have FEMA deliver fuel to all grocery and large retail immediately.

It is unclear how many tons of perishable meat, dairy, and produce were lost. Based on reports from a Walmart employee, a Walmart in San Juan was able to open within three to five days, but it was forced to throw out fresh meat and dairy products that spoiled because Walmart did not have the emergency fuel to keep its generators running. Additionally, the Walmart employee confirmed that stores in Humacao, Carolina, and Canovanas were forced to throw out

even more, including all perishable food products, as the result of a lack of emergency fuel.

Other Supermarkets in Puerto Rico Also Threw Out Food Due to Lack of Fuel

Representatives from local supermarkets throughout Puerto Rico have reported that they also received no emergency fuel and were forced to dispose of thousands of dollars' worth of fresh meat, dairy, and vegetables in the immediate aftermath of Hurricane Maria.

For example, Manuel Reyes, the Executive Vice President of the Puerto Rico Chamber for the Marketing and Distribution of the Food Industry, an organization that represents grocers, food distributors, and food manufacturers in Puerto Rico, reported that he was not aware of FEMA providing emergency fuel to any grocery stores, despite numerous requests. He also reported that grocers and other private businesses eventually established an independent network to obtain and distribute fuel on their own.

Joyleen Quiñones, the General Manager for Selectos Supermarket stores in San Juan, confirmed that generators for two stores—Levittown and Los Palacios—became inoperable due to a lack of fuel and were forced to throw out thousands of dollars' worth of food. Selectos is the second-largest co-op in Puerto Rico. According to Ms. Quiñones, Selectos Los Palacios, 45 minutes outside of San Juan, threw away enough meat, fruit, vegetables, and dairy to fill a twenty cubic yard container valued at approximately \$50,000. Coca Cola, which has an office nearby, eventually provided emergency fuel to stores managed by Ms. Quiñones. She described great demand for food in the week following Hurricane Maria, reporting that hundreds of people stood in line outside her store and many went hungry.

Request for Subpoena

On October 11, 2017, the Committee sent a bipartisan letter requesting documents from the Department of Homeland Security relating to FEMA's preparation for and response to Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands.²

For the reasons set forth above, we request that you issue a subpoena, by March 29, 2018, to compel the Department to produce all of the documents in our October request, including the following subset of documents which should have been produced in response to our original request:

- (1) all documents and communications referring or relating to requests for fuel from Walmart and other food retailers;
- (2) all documents and communications referring or relating to retailer decisions to close for any period of time due to a lack of fuel or power; and

² Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Acting Secretary Elaine C. Duke, U.S. Department of Homeland Security (Oct. 11, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/10/2017-10-11-TG-EEC-to-Duke-DHS-Hurricane-Document-Request.pdf>).

- (3) all documents and communications referring or relating to retailers throwing away perishable or nonperishable products after Hurricane Maria.

Due to the gravity of these matters, we also request that the Committee expand the date range of our October 11, 2017, document requests to encompass the period from September 20, 2017, to December 1, 2017. If you choose not to issue this subpoena yourself, then we request that you place this matter on the agenda for our next regularly scheduled business meeting so that all Committee Members will have the opportunity to vote on a motion to issue this subpoena.

Thank you for your consideration of this request.

Sincerely,


Elijah E. Cummings
Ranking Member


Stacey E. Plaskett
Member of Congress