

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

December 19, 2018

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

As you know, Democrats will be in the majority in the House of Representatives beginning in January, and I have been chosen as the incoming Chairman of the Committee on Oversight and Government Reform. I am writing to request that you fully comply with the Committee's previous bipartisan request for documents regarding the agency's preparations and response to Hurricanes Irma and Maria, as set forth in the letter on October 11, 2017.¹ I intend to continue this investigation in the next Congress.

Please refer to the instructions included with the October 11, 2017, letter on how to respond to this document request. As specified therein, upon completion of the document production, please submit a written certification that a diligent search has been completed and all responsive documents have been produced to the Committee.

Please provide all responsive documents and the certification by January 11, 2019. If you have any questions about this request, please contact my staff at (202) 225-5051.

¹ Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Acting Secretary Don Wright, M.D., Department of Health and Human Services (Oct. 11, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/10/2017-10-11-TG-EEC-to-Wright-HHS-Hurricane-Document-Request.pdf>).

The Honorable Alex M. Azar II
Page 2

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink, reading "Elijah E. Cummings". The signature is stylized with a large, looped "E" and a long, sweeping underline that extends to the right.

Elijah E. Cummings
Ranking Member

cc: The Honorable Trey Gowdy, Chairman

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December 19, 2018

The Honorable James N. Mattis
Secretary
U.S. Department of Defense
1400 Defense Pentagon
Washington, D.C. 20301

Dear Mr. Secretary:

As you know, Democrats will be in the majority in the House of Representatives beginning in January, and I have been chosen as the incoming Chairman of the Committee on Oversight and Government Reform. I am writing to request that you fully comply with the Committee's previous bipartisan request for documents regarding the Department of Defense's preparations and response to Hurricanes Irma and Maria, as set forth in the letter on October 11, 2017.¹ I intend to continue this investigation in the next Congress.

Please refer to the instructions included with the October 11, 2017, letter on how to respond to this document request. As specified therein, upon completion of the document production, please submit a written certification that a diligent search has been completed and all responsive documents have been produced to the Committee.

Please provide all responsive documents and the certification by January 11, 2019. If you have any questions about this request, please contact my staff at (202) 225-5051.

¹ Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary James N. Mattis, Department of Defense (Oct. 11, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/10/2017-10-11-TG-EEC-to-Mattis-DOD-Hurricane-Documents-Request.pdf>).

The Honorable James N. Mattis
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Elijah E. Cummings
Ranking Member

cc: The Honorable Trey Gowdy, Chairman

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December 14, 2018

The Honorable William B. Long
Administrator
Federal Emergency Management Agency
500 C Street, SW
Washington, D.C. 20024

Dear Administrator Long:

As you know, Democrats will be in the majority in the House of Representatives beginning in January, and Rep. Cummings has been chosen as the incoming Chairman of the Committee on Oversight and Government Reform. We are writing to request that you fully comply, by December 31, 2018, with all previous Republican requests for documents from the Oversight Committee regarding the Trump Administration's response to the hurricanes in Puerto Rico and the U.S. Virgin Islands in 2017. Those previous requests are described below.

Documents in Response to Bipartisan Request on October 11, 2017

More than a year ago, on October 11, 2017, Chairman Trey Gowdy and Rep. Cummings sent a bipartisan request to the Department of Homeland Security (DHS) seeking the following:

1. Documents or communications received, prepared, or sent before September 5, 2017, by officials of the Department of Homeland Security or any of its components, offices, or directorates, including the Federal Emergency Management Agency, relating to threat assessments, mitigation measures, emergency preparedness, or other contingency plans in the case of a hurricane striking Puerto Rico or the U.S. Virgin Islands; and
2. Documents or communications received, prepared, or sent between September 5, 2017, and October 4, 2017, by officials of the Department of Homeland Security or any of its components, offices, or directorates, including the Federal Emergency Management Agency, relating to any steps taken to prepare Puerto Rico and the U.S. Virgin Islands for Hurricanes Irma and Maria, as well as logistics challenges, distribution of commodities, or power restoration following the storms.¹

¹ Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Acting Secretary Elaine Duke, Department of Homeland Security (Oct. 11,

The Federal Emergency Management Agency (FEMA) has produced only about 5,000 pages of documents in response to this request. On August 17, 2018, a FEMA official informed the Democratic staff that the agency had produced “the communications central to the Committee’s request and therefore considers this request closed.”²

The production is obviously incomplete. For example, it does not include a single email to or from you or your staff to the government of Puerto Rico, a single email to or from Acting Secretary of Homeland Security Elaine Duke, or a single email of FEMA officials communicating about the response with White House officials.

Documents Relating to Emergency Meal Contract

On February 6, 2018, we sent a letter to Chairman Gowdy requesting that he issue a subpoena to compel FEMA to produce documents it has been withholding relating to its failure to provide tens of millions of emergency meals to U.S. citizens who were victims of the hurricanes in Puerto Rico. Due to the gravity of these matters, we also requested 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, 2017.³

On October 3, 2017, FEMA officials awarded a contract valued at \$155,982,000 to Tribute Contracting, LLC to deliver 30 million emergency meals.⁴ Twenty days later, FEMA officials terminated the contract “for cause” after having accepted only 50,000 meals—more than 29 million meals short of their goal.⁵

FEMA’s decision to award the contract was incomprehensible given the company’s inability to fulfill previous government contracts that were only a fraction of the size. For example, in 2013, the Federal Prison System cancelled a contract with Tribute valued at \$27,029 for “not delivering” required food (e.g., beans, flour, and spaghetti) and in 2014, the Federal Prison System terminated “for default” a contract with Tribute valued at \$9,900 to provide meat

2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/10/2017-10-11-TG-EEC-to-Duke-DHS-Hurricane-Document-Request.pdf>).

² Email from Congressional Affairs Division, Federal Emergency Management Agency, to Democratic Staff, House Committee on Oversight and Government Reform (Aug. 17, 2018).

³ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Stacey Plaskett, Subcommittee on the Interior, Energy and Environment, 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>).

⁴ Federal Procurement Data System, *Tribute Contracting LLC No. 70FB7018C00000001* (Oct. 3, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/FEMA%20-%20Tribute%20Contract%20Award.pdf>).

⁵ Federal Procurement Data System, *Modification of Contract No. 70FB7018C00000001* (Oct. 23, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/M7.jpg>).

products.⁶ More troubling, the Government Publishing Office determined in 2016 that Tribute would be ineligible for any contracts worth more than \$30,000 through January 7, 2019.⁷

By October 11, 2017, FEMA officials reportedly admitted facing massive food shortages of millions of meals per day. According to one report, “Federal officials privately admit there is a massive shortage of meals in Puerto Rico three weeks after Hurricane Maria devastated the island,” and FEMA officials reported providing only 200,000 meals a day to more than 2 million people—“a daily shortfall of between 1.8m and 5.8m meals.”⁸

Documents related to the Tribute contract fall squarely within the Committee’s bipartisan document request on October 11, 2017. Yet, FEMA has not produced a single document relating to this contract. Chairman Gowdy declined to issue a subpoena or allow the Committee to vote on issuing a subpoena.⁹ Democratic staff asked FEMA officials directly for these documents, but FEMA refused to produce them.

Documents Relating to Emergency Fuel Requests to Preserve Food

On March 20, 2018, we sent another letter to Chairman Gowdy re-emphasizing our request for a subpoena based on additional new information obtained independently by Democratic staff indicating that FEMA 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.¹⁰

These new documents obtained independently by Democratic staff showed that senior officials at Walmart took extraordinary measures to try to convey their emergency requests to

⁶ USASpending.gov, Tribute Contracting LLC DJBP0211NA110006 (termination date of Oct. 16, 2013) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/27029%20Federal%20Prison%20System%20Default.pdf>); USASpending.gov, Tribute Contracting LLC DJBP0117NA140257 (termination date of July 14, 2014) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/9900%20Federal%20Prison%20System%20Default.pdf>).

⁷ Government Publishing Office, *System for Award Management Exclusions* (Feb. 4, 2016) (S4MR4B2LL) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/M1.pdf>).

⁸ *Puerto Rico: US Officials Privately Acknowledge Serious Food Shortage*, The Guardian (Oct. 11, 2017) (online at www.theguardian.com/world/2017/oct/11/puerto-rico-food-shortage-hurricane-maria).

⁹ House Committee on Oversight and Government Reform Democrats, *Republicans Block 13 More Subpoena Motions* (Mar. 15, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/republicans-block-13-more-subpoena-motions-including-for-white-house-security>).

¹⁰ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Stacey Plaskett, Subcommittee on the Interior, Energy and Environment, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Mar. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-03-20.EEC%20%26%20Plaskett%20to%20Gowdy%20re.Walmart.pdf>).

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.¹¹

These new documents also showed 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 showed that by September 27, 2017—a full week after the hurricane struck—FEMA failed to supply emergency fuel to save these perishable food supplies.¹²

Again, documents relating to emergency requests for fuel were within the scope of the Committee's bipartisan document request on October 11, 2017; again, FEMA provided no documents relating to this matter; and again, Chairman Gowdy declined to issue a subpoena.

Documents in Response to Chairman Gowdy's Request on September 6, 2018

On September 6, 2018, Chairman Gowdy sent his own additional request for documents relating to FEMA's response and recovery efforts. His request sought documents relating to the "adequacy of FEMA's existing plans for responding to a catastrophic natural disaster in a geographically isolated area" and the "implementation of lessons-learned from previous disasters, including Hurricane Katrina."¹³

In response, FEMA produced an email chain regarding conditions on the ground in Vieques, Puerto Rico. The first email, sent at 10:53 am on November 29, 2017, to Michael Byrne, FEMA's lead official in Puerto Rico, was forwarded to you by an individual whose name was redacted. In this forwarded email, the sender claimed that individuals in Vieques "are getting no response to our urgent needs; first of all restoration of power."¹⁴

During the Committee's recent hearing on November 29, 2018, Rep. Cummings asked you whether you recalled this email. In response, you testified: "there were hundreds of emails very similar to that from Vieques and Culebra." You explained that although you did not remember receiving this specific email, "there were 400 emails a day coming to me on Puerto Rico in some cases."¹⁵

¹¹ *Id.*

¹² *Id.*

¹³ Letter from Chairman Trey Gowdy, House Committee on Oversight and Government Reform, to Administrator William Long, Federal Emergency Management Agency (Sept. 6, 2018) (online at <https://oversight.house.gov/wp-content/uploads/2018/09/2018-09-06-TG-to-Long-FEMA-Hurricane-Hearing-Request-due-9-12.pdf>).

¹⁴ Email from [Redacted] to Congressional Staff (Nov. 29, 2017).

¹⁵ House Committee on Oversight and Government Reform, *Evaluating Federal Disaster Response and Recovery Efforts*, 115th Cong. (Nov. 29, 2018).

Yet, to date the Committee has received only 29 emails to or from your account and only seven emails on which you were copied. Your testimony makes clear that our Committee has received only a small portion of potentially thousands of communications Committee Members requested.

Documents Relating to Mass Graves

During our recent hearing, Rep. Cummings also asked you about an email exchange the Committee obtained from the Department of Defense from September 29, 2017—nine days after the hurricane struck—reporting that search and rescue teams had begun finding “mass graves in mud slide areas.” These officials reported: “don’t know if it’s families, or an entire town that was trying to avoid flooding and got buried my [sic] land slide. Planning for the worst.”¹⁶

In response to Rep. Cummings’ question at the hearing, you stated that you were “not aware of any mass graves.”¹⁷ Your testimony raises concerns that there may have been a serious communications breakdown between key federal entities in the Trump Administration.

Conclusion

For the reasons set forth above, we request that you fully comply—by the end of this year—with all previous requests for documents from the Oversight Committee, which include the following:

1. all documents and communications requested in the letter from Chairman Gowdy and Ranking Member Cummings to DHS on October 11, 2017;
2. all documents and communications described in our letter to Chairman Gowdy on February 6, 2018, regarding Tribute Contracting, LLC;
3. all documents and communications described in our letter to Chairman Gowdy on March 20, 2018; and
4. all documents and communications requested in the letter from Chairman Gowdy to you on September 6, 2018.

When responding to these requests, please include all documents, including emails, to or from you or other FEMA officials referring or relating to issues with recovery and rebuilding on Vieques and mass graves in Puerto Rico.

¹⁶ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 13, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-09-13.EEC%20to%20Gowdy-OGR%20re%20Hurricane%20Response%20Request.pdf>).

¹⁷ House Committee on Oversight and Government Reform, *Evaluating Federal Disaster Response and Recovery Efforts*, 115th Cong. (Nov. 29, 2018).

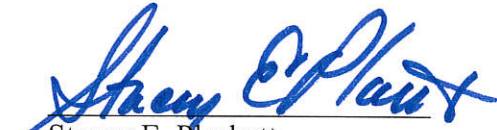
During your recent testimony before the Committee, you stated: "I expect my staff to be very responsive when it comes to any inquiry that this committee or any other committee would put forward."¹⁸ Based on that commitment, we expect that you and your staff will respond promptly and provide all of the documents we have been seeking. As Rep. Cummings explained at the hearing, this Committee intends to continue this investigation in the next Congress. To that end, we have also submitted the enclosed Questions for the Record relating to our recent hearing.

If you have any questions, please contact our staff at (202) 225-5051. Thank you for your prompt consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member



Stacey E. Plaskett
Ranking Member
Subcommittee on the Interior,
Energy and Environment

cc: The Honorable Trey Gowdy, Chairman

¹⁸ *Id.*