

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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June 29, 2017

Rear Admiral David Boone (Ret.)  
President  
Chicago Bridge & Iron Company Federal Services LLC  
1725 Duke Street, Suite 400  
Alexandria, VA 22314

Dear Admiral Boone:

We are writing to give you a final opportunity to correct or withdraw your sworn testimony before the Committee on April 5, 2017. During that hearing, you claimed that your company: (1) fully complied with all of its responsibilities under its contract with the Federal Emergency Management Agency (FEMA) to provide housing units and maintenance to the victims of the floods in Baton Rouge, Louisiana in 2016; and (2) was not aware of any problems with malfunctioning thermostats until after Everett Wilson, an 84 year-old blind veteran, was killed by excessive heat due to a malfunctioning thermostat.

Should you decline to take advantage of this opportunity, we may consider alternative measures. Testifying before Congress is a serious endeavor, and the Committee relies on witnesses to be truthful at all times to assist our oversight efforts and ensure that the American people are well-served. Under 18 U.S.C. §1001, witnesses who knowingly and willfully falsify or conceal material facts could be charged with a felony and subject to fines and up to five years in prison.

### **Documents Contradict Your Sworn Testimony**

In your testimony before the Committee, you stated that your company “did what was required by the contract.” You also claimed: “We have received only positive comments and glowing accolades from FEMA at all levels about our performance under this task.”<sup>1</sup>

These claims are overwhelmingly contradicted by numerous documents obtained by the Committee. These documents leave no doubt that your company received significant criticism from FEMA for failing to meet its contractual maintenance obligations and to properly staff and run the maintenance hotline—the lifeline that victims relied on to report problems with their housing units. For example:

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<sup>1</sup> House Committee on Oversight and Government Reform, *Hearing on Oversight of the Federal Emergency Management Agency's Response to the Baton Rouge Flood Disaster: Part II* (Apr. 5, 2017).

- On September 25, 2016, Carl Kahn, a FEMA manager, wrote to Kevin Neal, the Senior Project Manager at CB&I: “[O]ur applicants have attempted to call the maintenance hotline (888-414-1989), and have been cut off repeatedly. FEMA called to test it, and was also cut off. The call center said it is an AT[&]T issue. ... Please get this corrected.”
- On September 27, 2016, Robert Jones, FEMA’s Region VI Logistics External Support Branch Director, emailed Mr. Neal from CB&I: “Please get your crews in line so that we are able to move forward with these issues with minimal issues. Today, I am scrubbing my emails, and I have seen at least 20 problems with your subs. Please drop the hammer on these guys because their performance does not look good on you and your reputation that you and your team has [sic] established.”
- On September 29, 2016, Robert Ford from the FEMA Contract Management Section emailed Mr. Neal from CB&I: “Kevin, please see below. We are still getting reports about the communication between our survivors and CBI’s maintenance hotline. Please sort this out, the survivors shouldn’t be treated unkindly for any reason. The survivors need immediate help in most cases and not lectures or excuses that their needs can’t be met.”
- On October 7, 2016, Thomas Dulin from CB&I emailed Mr. Neal and other CB&I officials about a meeting with Mr. Jones from FEMA: “Robert Jones called me in and they are getting complaints about the Maint. #. He told me that he called the Maint. # and spoke to Melanie, she told him that they are responsible for only 15% of the units. She also said that FEMA should be ashamed of themselves because they know that they(D&D) can’t handle the calls and she is the only person taking the calls. He asked that we get a handle on this and tighten it up.”
- The same day, Mr. Neal from CB&I wrote to a CB&I subcontractor: “Bill we can’t have this BS I don’t know who Melanie is but she needs to be told how to respond. This isn’t going to help sell what we discussed.”
- On October 10, 2016, Mr. Kahn from FEMA emailed Mr. Neal at CB&I with the subject line “HOTLINE IS OUT OF COMPLIANCE WITH CONTRACT for the below URGENT Maintenance.” He wrote: “[T]his maintenance line is not answering as the message box is full. The FEMA COR [contracting officer’s representative] tested the line, and this hotline is NOT functional per contract. Rectify immediately and return the hotline in compliance of contract for emergency maintenance for contract. Notify FEMA when this is rectified immediately. This applicant has system stuck on heat at 99 deg for 2 days.”
- On October 11, 2016, in response to the email from Mr. Kahn from FEMA, Mr. Neal from CB&I emailed Mr. Kahn: “Carl verify that they called the right

number and get back to me.”

- The same day, Mr. Ford from FEMA emailed Mr. Neal from CB&I: “Kevin, we only have one number for maintenance. All MHU occupants are given the same number. Maintenance = 888 414 1989. The issue is not the phone number, it’s the receptionist who doesn’t answer the phone. The message box over fills and doesn’t allow a call for help to get through. Carl tested the hot line last night and experienced the same thing. This is our survivors lifeline ... and FEMA is disappointed in this hotline service. It’s terribly inadequate and not in any way dependable.”
- On October 11, 2016, Mr. Neal at CB&I conceded in an email with subcontractor Timberline Construction Group: “We don’t have an 800 number that’s the issue. The requirements are after first trailer is installed we need an 800 number for maintenance. We got to have this number active today. We’re getting hammered bad on this.”
- On October 12, 2016, Mr. Kahn at FEMA emailed Mr. Neal at CB&I: “Kevin, it is for the contractor to notify the applicants what the maintenance hotline number is, and to ensure the hotline is staffed. There should not be a recorder as evidenced by the CBI hotline number, 888-414-1989, being full and unable to take a message. This is not per contract, does not serve the applicants for emergencies, and puts the contractor at risk to not respond to emergencies per contract.”
- Citing data provided by CB&I to FEMA, on January 4, 2017, Mr. Kahn at FEMA emailed a FEMA federal coordinating officer describing that in December 2016, CB&I received 1,980 maintenance calls, but the “contractor only completed 198 of those, thus, 90 percent were not completed.”
- On January 18, 2017, FEMA hand-delivered a “Letter of Concern” to CB&I expressing “concerns about your current trend of performance” and highlighting problems with “Completing & Reporting of backlog Maintenance work orders” and “Non-Response to repeat calls from FEMA applicants.”

### **Documents Show Company Knew of Thermostat Problems Before Everett Wilson’s Death**

During your testimony before the Committee, you claimed that your company had no responsibility for the tragic death of Everett Wilson, an 84 year-old blind veteran who was killed on October 25, 2016, by excessive heat due to a malfunctioning thermostat. You testified that your company “didn’t know about the thermostats until after his passing.”<sup>2</sup>

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<sup>2</sup> *Id.*

These claims are also contradicted by the documents obtained by the Committee. The documents show that your company knew from August 2016 that multiple thermostats were malfunctioning—some in a manner similar to the thermostat malfunction in Mr. Wilson’s housing unit. For example:

- On August 9, 2016, CB&I’s subcontractor, D&D Emergency Services, emailed Mr. Neal and other CB&I officials that it had to perform an emergency maintenance call because a resident’s “Ac stopped working.” He added: “We had to replace her thermostat.”
- On September 20, 2016, a CB&I employee emailed Mr. Neal at CB&I regarding pre-occupation checks at a separate trailer, reporting: “[T]he thermostat isn’t working.”
- On October 10, 2016, as previously stated, Mr. Kahn from FEMA emailed Mr. Neal at CB&I to notify him that an “applicant has system stuck on heat at 99 deg for 2 days.”
- The next day, Mr. Kahn from FEMA emailed Mr. Neal from CB&I again about this urgent call: “Kevin, 20 hours and not [sic] reply since the applicant made her urgent call to the CBI CC. CBI has not replied to the CORs [contracting officer’s representative’s] concern by either verbal (met w/John Mitchell about this yesterday afternoon) or by email (see below string). This item will be referred to the FEMA CO [contracting officer] for disposition.”
- Also on October 11, 2016, Mr. Kahn from FEMA emailed Mr. Means and Mr. Neal at CB&I to report an HVAC system on fire: “[T]he fire department responded ... after the applicant called the maintenance hotline. The CC hotline message machine was full. This is contra-indicated by contract as the contract requires the CC hotline to be staffed. Please ensure this CBI CC (and the one that will be used for the USACE units) will be staffed (no machine). Emergencies are not being addressed per contract when this happens which puts your emergency timeliness at risk of being out of compliance as well.”
- On October 17, 2016, the week before Mr. Wilson was killed, the chief executive of CB&I’s subcontractor, D&D Emergency Services, reported to Mr. Dulin, Mr. Neal, and Mr. Means at CB&I that an HVAC in a separate trailer was “only blowing heat” and that a technician had “bad thermostat replace [sic] with digital thermostat.”
- On October 25, 2016—the day Mr. Wilson was killed—the CB&I maintenance number was disconnected for at least 24 hours, according to an email from Mr. Kahn of FEMA to several individuals, including Mr. Neal at CB&I. Mr. Kahn emailed Mr. Neal and other FEMA officials that day: “The 888 number below is the maintenance line for CBI installations but is not working now. I just tried it a

couple times.”

- On October 26, 2016, the day after Mr. Wilson was killed, the chief executive of CB&I’s subcontractor, D&D Emergency Services, emailed Mr. Means at CB&I: “there are maintenance history [sic] on the bard ac units for 2011 2012 they are wired to have fan run all the time for fresh air this has been a [sic] issue and the Fan relay is a recommended remedy.”
- Also on October 26, 2016, Mr. Means at CB&I emailed Mr. Kahn and others at FEMA: “As a follow up, we have encountered a maintenance trend with these type [sic] of HVAC units many times especially on this mission.”
- On October 28, 2016, Bill Hamlin, the chief executive at D&D Emergency Services, obtained a written statement from a CB&I technician who delivered a new thermostat to Mr. Wilson’s trailer for testing by FEMA and others to determine whether the wiring in the unit was defective: “FEMA ask [sic] to see a thermostate [sic] once in his hands he keep it ask for it back said they needed it – he said a BARD (AC-brand) tech was going to install. ... I have never enterd (sic) that trailer ever.”
- That same day, after reviewing the written statement by the CB&I Emergency Services technician, Mr. Neal of CB&I emailed D&D Emergency Services: “Thanks Bill please keep this between CB&I unless asked for under a legal subpoena request.”
- On October 29, 2016, Mr. Means at CB&I asked the chief executive of CB&I’s subcontractor, D&D Emergency Services, “How many thermostats have you changed out for DR4277 [sic]?” In response, on October 29, 2019, Mr. Hamlin emailed Mr. Means at CB&I that they previously “changed 10 to 12” thermostats and that they make this change “when the AC is not turning off and on correctly.”
- On October 29, 2016, an official at Timberline, another CB&I subcontractor, emailed Mr. Means at CB&I with a list of 13 addresses where it had to change defective thermostats.
- In undated notes from a subsequent meeting with CB&I, a FEMA official documented CB&I’s claims at the meeting as follows: “We have 965 RFOs [“ready for occupancy” inspections] 42 have required thermostat changes. Half of the 42 were because batteries were not good or IMPROPER INSTALLATION AT the factory or wires were crossed. Other 21 were bad. (undetermined) ... One sub has the bad thermostats. We think they threw them away. We are working to find them.”

### **Failure to Correct the Record**

During the hearing, you failed to take multiple opportunities offered by Members of the Committee to revise or retract your testimony in light of the facts included in these documents, many of which were provided to the Committee by your own company prior to your testimony. For example, Rep. Stacey Plaskett stated:

[W]e have an email of September, dated September 27 of 2016, and that's from FEMA's Region VI branch director, Robert Jones, addressed to Mr. Neal. And in that email, the FEMA branch director wrote, and I quote, "Please get your crews in line so that we are able to move forward with these issues with minimal issues. Today, I am scrubbing my emails, and I have seen at least 20 problems with your subs. Please drop the hammer on these guys because their performance does not look good on you and your reputation that you and your team have established."<sup>3</sup>

She then had the following exchange with you:

Rep. Plaskett: I would just want to know if Mr. Boone, Admiral Boone, at this time would like to retract that statement that he had made previously, which is on the record under oath. I don't want him to get himself in trouble at this point.

Chairman Chaffetz: Which statement?

Rep. Plaskett: About having had only accolades and good words from FEMA.

Admiral Boone: I can only attest to the feedback that I have received. Obviously, you've presented some information I haven't seen before. So I'd like the opportunity to review that before I make any changes to my statement.<sup>4</sup>

Your response made little sense since the document referred to by Rep. Plaskett was produced to the Committee by your own company. In addition, it was addressed to your senior project manager, Kevin Neal, who you characterized as one of two individuals who gave you feedback "on a continuous basis" about CB&I's "recurring and regular relationship with FEMA officials." As Chairman Chaffetz stated: "You provided the documents to us. We actually read them. Maybe you should read your documents."<sup>5</sup>

At the hearing, you continued to extol CB&I's performance despite the multiple examples of your poor performance, including the January 18, 2017 Letter of Concern in which FEMA expressed its "concerns about your current trend of performance." You had the following exchange with Ranking Member Cummings:

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Ranking Member Cummings: Our staff reviewed the maintenance call logs, and there were numerous errors in the weeks before Mr. Wilson's death, including incomplete names, phone numbers, and addresses. In the weeks right before Mr. Wilson's death, our staff found at least 25 work orders for heating and air conditioning issues. They sound a lot like what we heard from Mr. Wilson's caretaker. They describe defective HVAC systems and systems continuously blowing hot air. Two of these work orders say that the technicians dispatched to the sites were unable to perform the repairs and had to call for other technicians to perform them. That sounds almost exactly like what we heard from Mr. Wilson's caretaker. Now, Mr. Boone, were you aware before October 26 that there were issues with thermostats in some of these mobile units?

Admiral Boone: I was not aware of the numbers. It's not uncommon to have system breakdowns, and so we do the maintenance and repair as required.<sup>6</sup>

Ranking Member Cummings: "Mr. Boone, your company has a problem. If I were running your company and I had these kinds of problems and something did not flow up to me, the very things that could destroy my business, there's something wrong with the company; there's something wrong with the management. And it might be you."<sup>7</sup>

#### **Failure to Provide Information Regarding Profits**

In the two weeks before the hearing, CB&I's legal representatives repeatedly refused to comply with the Committee's request for financial records related to CB&I's profits on the Baton Rouge contract, and that refusal continues to this day.

On March 23, 2017, the majority and minority Committee staff jointly emailed CB&I's legal counsel to request the following: "All communications or documents concerning CB&I's revenues and profits, projected and actual, from its contract with FEMA."<sup>8</sup> On March 29, 2017, CB&I's legal team responded:

[Y]ou have asked how much money CB&I has made on the Baton Rouge task order. This is a fixed price task order and is not based upon a cost build-up. Because of the fixed price nature of the task order, CB&I doesn't identify profit or fee in the way it would for a cost reimbursement contract and, thus, does not have such information readily available.<sup>9</sup>

On March 30, 2017, Committee staff sent another joint email to CB&I requesting

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Email from House Committee on Oversight and Government Reform Staff to Dentons US LLP (Mar. 23, 2017).

<sup>9</sup> Email from Dentons US LLP to House Committee on Oversight and Government Reform Staff (Mar. 29, 2017).

“documents showing CB&I’s actual profits to date” no later than 5:00 pm the following day.<sup>10</sup> On March 31, 2017, CB&I responded in a letter, writing:

The Committee has requested information relating to CB&I Federal Services, LLC’s profit/fee earned to date. CB&I Federal Services, LLC reports profits through the Capital Services reporting segment, which has been reporting profitability in the 3-6 percent range. We can confirm that this project is currently reporting profits in the lower end of that range.<sup>11</sup>

Despite these claims, the documents obtained by the Committee indicate that CB&I circulated daily cost summaries, including the contract amount, funded amount, funding expended, and “daily burden.” In addition, on September 28, 2016, Mr. Neal from CB&I emailed Larry Haser, a Vice President at CB&I, about the Baton Rouge task order:

I just have to be congenial and get the funds. Once he funds this small mod I have my prices established. Today has been extremely frustrating dealing with them. Tomorrow will be a better day. I want to get this to 50 m[illion] and minimum 12%.

We reiterate the Committee’s request that you provide the Committee with all documents and communications relating to CB&I’s revenues and profits, projected and actual, from its Baton Rouge contract with FEMA.

### Conclusion

In the two months since the hearing, you sent one letter to correct a “repeated line of questioning which stemmed from an e-mail message composed by FEMA Quality Assurance Specialist Carl Kahn,” in which he stated that CB&I had completed only 198 maintenance calls in December 2016—only 10% of the total number of calls CB&I received in December 2016. You wrote:

It is of critical importance that the hearing record reflect that this email and the data cited was focused entirely on CB&I’s timely **reporting** of the data surrounding each maintenance call and **not** the actual response to the caller or the quality of the maintenance work.<sup>12</sup>

You sent no further communications to the Committee offering corrections, clarifications, or retractions of your testimony, which is clearly contradicted by the evidence detailed above.

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<sup>10</sup> Email from House Committee on Oversight and Government Reform Staff to Dentons US LLP (Mar. 30, 2017).

<sup>11</sup> Letter from Dentons US LLP to House Committee on Oversight and Government Reform Staff (Mar. 31, 2017).

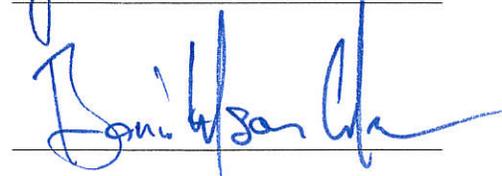
<sup>12</sup> Letter from Admiral David M. Boone, President, CB&I Federal Services, to Chairman Jason Chaffetz and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Apr. 26, 2017) (emphasis in original).

We request that you provide a response to this letter no later than July 13, 2017. If you fail to do so, the Committee may consider other alternatives to address this matter.

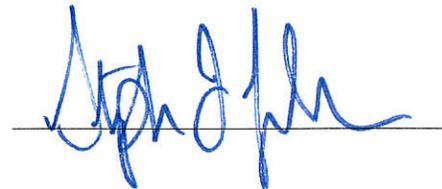
Sincerely,



Jamie Roshin



Eleana H. Norton



Wm. Lucy Clay

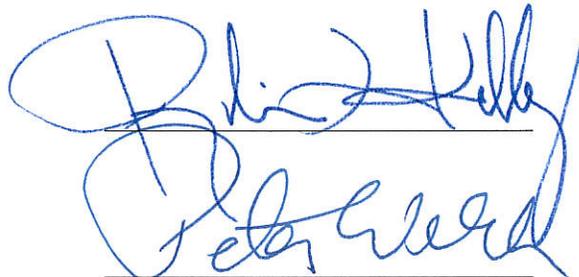
Mark DeSaulnier

Caroleen B. Maloney

cc: The Honorable Trey Gowdy, Chairman



Wae B. Deering



Jahidul Huda

Stacey E. Platt

Brenda L. Lawrence

