

Congress of the United States

April 7, 2020

The Honorable Peter T. Gaynor
Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, DC 20024-2523

Dear Administrator Gaynor:

Following a troubling report from the Office of Inspector General of the Department of Health and Human Services (HHS) detailing the lack of medical equipment in hospitals around the nation, as well as media reporting indicating the Federal Emergency Management Agency (FEMA) is redirecting medical supplies bound for states and hospitals, the Committees continue to work to understand current Federal processes for acquiring and distributing personal protective equipment (PPE) and other essential medical supplies and equipment—including ventilators—to states, territories, and the District of Columbia.¹ In particular, the Committee on Homeland Security and the Committee on Oversight and Reform seek to understand how FEMA is working to support private sector supply chains. The Committees also seek to understand the role of Jared Kushner in managing FEMA’s operational efforts to obtain and distribute PPE and medical supplies and equipment.

After encouraging the States to take care of themselves, the Trump Administration now appears to be positioning FEMA to engage in the redirection of private supply chains—but the agency’s opaque and evolving processes are clearly not meeting the needs that communities have right now for PPE and medical supplies.

A report released yesterday by the HHS Office of Inspector General provided a “national snapshot of hospitals’ challenges and needs in responding to the coronavirus 2019 (COVID-19) pandemic” during the time frame of March 23–27, 2020. According to the HHS Inspector General, “Hospitals reported that widespread shortages of PPE put staff and patients at risk,” and “Hospitals also expressed uncertainty about availability of PPE from Federal and State sources and noted sharp increases in prices for PPE from some vendors.” This report confirms that—in the richest nation

¹ New York Times, ‘Swept Up by FEMA’: Complicated Medical Supply System Sows Confusion (April 6, 2020) (online at www.nytimes.com/2020/04/06/us/politics/coronavirus-fema-medical-supplies.html?action=click&module=Spotlight&pgtype=Homepage).

in the world—hospitals are lacking masks, gowns, and other basic materials health care professionals need to safely test and treat patients with COVID-19.²

Following the apparent depletion of the Strategic National Stockpile, federal efforts are focused on the procurement and distribution of new materials.³ Media reports indicate that the Trump Administration is trying “to create a hybrid system of distribution—divided between the federal government, local officials and private health care companies.” According to the *New York Times*, under this system, FEMA is “trying to expedite” shipments of medical supplies purchased by large distributors such as McKesson. FEMA “allows those distributors to sell about half of the equipment to companies and counties that had previously placed orders” while the “other half of the shipments must be sold to counties that the federal government prioritizes by the severity of the outbreak.”⁴ The creation of this new system comes after reports that “the federal government’s directive for states to fend for themselves has resulted in an intense bidding war, raising the costs of limited medical resources as states fight amongst themselves to get their share.”⁵ It is unclear, however, how companies and counties are chosen to receive supplies they have purchased directly from distributors (or what amounts they are chosen to receive), and how counties are prioritized to be allowed to buy (and at what prices) shipments of PPE and other medical equipment under federally directed assignments.

The Committees also do not understand the role in FEMA’s operations of Jared Kushner, Senior Advisor to the President, although his involvement has been described as “integral.”⁶ It appears that Mr. Kushner is unclear about basic facts regarding the purpose of the Strategic National Stockpile, which he erroneously described in the following manner: “And the notion of the federal stockpile was it’s supposed to be our stockpile—it’s not supposed to be state stockpiles that they then use.”⁷ Reports also indicate that Mr. Kushner may believe that requests for PPE and other

² Department of Health and Human Services, Office of Inspector General, “Hospital Experiences Responding to the COVID-19 Pandemic: Results of a National Pulse Survey March 23-27, 2020 (April 2020) (online at <https://oig.hhs.gov/oei/reports/oei-06-20-00300.pdf>).

³ CNN, *Last rounds of protective gear in national stockpile being shipped* (April 1, 2020) (online at www.cnn.com/2020/04/01/politics/national-stockpile-shipments/index.html).

⁴ New York Times, *‘Swept Up by FEMA’: Complicated Medical Supply System Sows Confusion* (April 6, 2020) (online at www.nytimes.com/2020/04/06/us/politics/coronavirus-fema-medical-supplies.html?action=click&module=Spotlight&pgtype=Homepage).

⁵ Vanity Fair, *The State-led Scramble for Coronavirus Supplies is Not Going Well* (April 1, 2020) (online at www.vanityfair.com/news/2020/03/coronavirus-medical-supplies-shortage-state-scramble-federal-response).

⁶ New York Times, *Kushner Puts Himself in Middle of White House’s Chaotic Coronavirus Response* (April 3, 2020) (online at <https://www.nytimes.com/2020/04/02/us/politics/jared-kushner-coronavirus-trump.html>).

⁷ Slate, *Coronavirus Supply Czar Jared Kushner Demonstrates He Has No Grasp on Coronavirus Supply Situation* (April 3, 2020) (online at <https://slate.com/news-and-politics/2020/04/jared-kushner-coronavirus-conference-appearance.html>).

medical supplies from the states may be inflated, and that “[i]n some cases, people are requesting 10 times what they actually need.”⁸

In addition to seeking to understand the criteria and opinions that may be guiding efforts to address national supply needs, we are troubled by reports that Mr. Kushner’s actions—and those of outside advisers he has assembled and tasked—may be “circumventing protocols that ensure all states’ requests are handled appropriately.” We are particularly troubled that Mr. Kushner’s work may even involve “directing FEMA and HHS officials to prioritize specific requests from people who are able to get Kushner on the phone.”⁹

Among the specific activities on which Mr. Kushner has reportedly worked is Project Airbridge, which is moving the PPE and medical supplies purchased by private distributors from locations overseas to the U.S.¹⁰ No details have been provided on how equipment is prioritized for these flights. In fact, FEMA’s Daily Briefing Points from April 2 stated that, “FEMA will not have detailed visibility on the amount of PPE until the flights are loaded overseas.”¹¹ It is unclear how FEMA or other Federal authorities are determining how to schedule flights to which locations if they are uncertain what supplies will be available in any given location. It is also unclear what role—if any—distributors have in directing the flights.

To help the Committees understand how FEMA is acquiring and distributing PPE and medical supplies and equipment, we request that FEMA provide to the Committees no later than April 15, 2020, all documents referring or relating to:

1. Protocols, policies, or processes for (a) receiving and tracking requests from states, territories, and the District of Columbia for PPE or medical supplies and equipment; and (b) distributing or directing the sale of any form of PPE or medical supplies and equipment obtained from any source to the states, territories, and the District of Columbia to be used for the diagnosis or treatment of COVID-19;
2. The policies, protocols, and processes in place to guide the distribution of any remaining ventilators in the Strategic National Stockpile as well as new ventilators acquired by FEMA or distributors;
3. All flights FEMA has scheduled through Project Airbridge, including the destinations of all such flights, and the manifests detailing the quantities and types of PPE and essential medical supplies and equipment carried to the U.S. on these flights, and all documents

⁸ Washington Post, *White House: States need to better calibrate supply requests* (April 6, 2020) (online at www.washingtonpost.com/health/white-house-states-need-to-better-calibrate-supply-requests/2020/04/06/fd5cd03e-785f-11ea-a311-adb1344719a9_story.html).

⁹ CNN, *Inside Jared Kushner and Peter Navarro’s efforts to rescue the White House’s coronavirus response* (April 3, 2020) (online at www.cnn.com/2020/04/03/politics/kushner-navarro-defense-production-act-coronavirus/index.html).

¹⁰ New York Times, *White House Airlifts Medical Supplies From China in Coronavirus Fight* (March 29, 2020) (online at www.nytimes.com/2020/03/29/business/economy/coronavirus-china-supplies.html).

¹¹ Federal Emergency Management Agency, Daily Briefing Points: Coronavirus (COVID-19) Pandemic Whole-of-America Response (April 2, 2020).

referring or relating to the allocation or sale of materials carried on these flights to distributors and to states, territories and the District of Columbia;

4. The seizure and/or redistribution by FEMA of PPE and medical supplies and equipment that was intended to fulfill orders for these items placed by hospitals, health centers, states/territories/the District of Columbia, or any local jurisdiction or public health entity, including the quantities and types of supplies seized and/or redistributed and the subsequent distribution of these items as directed by FEMA, including the prices paid for these items by the recipients designated by FEMA;
5. All communications between any FEMA employee and Jared Kushner regarding the acquisition, distribution of, or federally directed sale of any form of PPE or of medical supplies and equipment to be used for the diagnosis or treatment of COVID-19; and
6. All communications between any FEMA employee and each of Nat Turner, Dave Caluori, and any other individual(s) who are currently employees of private sector firms and have signed any form of voluntary agreements to aid in the federal effort to respond to the COVID-19 crisis.

We appreciate your attention to these matters.

Sincerely,



BENNIE G. THOMPSON
Chairman
Committee on Homeland Security



CAROLYN B. MALONEY
Chairwoman
Committee on Oversight and Reform