



One Hundred Fifteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

February 7, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen:

I write to express my profound concern about the disaster contracting practices at the Federal Emergency Management Agency (FEMA). Over the past six months, FEMA has repeatedly awarded contracts to companies that were ultimately unable to meet their obligations, slowing FEMA's response and recovery efforts. Given the cumulative impact of these contracting mistakes – delayed response to disaster survivors and increased costs to taxpayers – the Department of Homeland Security (the Department or DHS) must assess how and why failed contracts are awarded and implement measures to improve FEMA's disaster contracting process.

Over the past several months, I have registered concerns with both DHS and FEMA regarding the contracting practices employed to facilitate the delivery of much-needed relief supplies and services, including FEMA's plan to enter into a massive Indefinite Delivery Indefinite Quantity contract for transportation services¹ and a contract with Bronze Star for tarps or plastic sheeting that was cancelled after the company could not perform.² Now, after reports that FEMA entered into a contract for 30 million meals with a company the Government Printing Office (GPO) debarred, I am writing to DHS once again to seek action.³

Earlier this week, news broke that FEMA entered into a \$156 million contract with Tribute Contracting, LLC (Tribute), a single-employee outfit with no large-scale disaster contracting experience.⁴ It is unclear the degree to which FEMA researched Tribute's experience contracting with the Federal government, but evidence suggests that an appropriate review would have

¹ Letter from Ranking Member Bennie G. Thompson to Acting Secretary of Homeland Security Elaine Duke (Dec. 1, 2017).

² Letter from Ranking Member Bennie G. Thompson to Administrator of the Federal Emergency Management Agency William B. Long (Dec. 5, 2017).

³ Patricia Mazzei & Agustin Armendariz, "FEMA Contract Called for 30 Million Meals for Puerto Ricans. 50,000 Were Delivered," *The New York Times* (Feb. 6, 2018), available at <https://www.nytimes.com/2018/02/06/us/fema-contract-puerto-rico.html>.

⁴ *Id.*

revealed that Tribute's owner/employee had five cancelled government contracts in the past.⁵ I also understand that Tribute was barred from receiving contracts from GPO.

Nevertheless, FEMA selected Tribute to supply meals for disaster survivors utilizing Lowest Price Technically Acceptable (LPTA) source selection methods. This requires that FEMA will award any company that offers to perform the contract for the lowest cost, provided the company self-reports that it meets the technical requirements set forth in the solicitation. For reasons I hope you are able to explain, FEMA did not include a provision in its solicitation reserving the right to consider past performance, although I understand it is possible to do so.

FEMA's problems with disaster contracting are not new, but they continue to be disruptive to the agency's ability to carry out its important mission. Accordingly, pursuant to Rule X and XI of the House of Representatives, please respond to the following questions in writing by February 21, 2018:

- How many contract awards has FEMA issued for disaster-related goods or services using LPTA source selection methods since August 1, 2017? Of those, how many of the contract solicitations identified past performance as a review criterion?
- Going forward, does FEMA plan to identify past performance as a review criterion for contracts awarded using LPTA source selection methods?
- I understand that solicitation number HSFE70-17-R-MARIAMEALS, issued September 18, 2017, did not identify past performance as a review criterion. Why?
- How did FEMA determine that Tribute's proposal was technically acceptable? Are you satisfied that the requirements for contractors responding to solicitation number HSFE70-17-R-MARIAMEALS were sufficiently rigorous to ensure that contractors would be able to perform contract obligations? Is DHS and/or FEMA reviewing the manner in which it determines whether a contractor's proposal is technically acceptable?
- At the time FEMA awarded contract number 70FB7018C00000001 to Tribute, was it aware that Tribute had five other canceled government contracts and that it was prohibited from further contracts with the Government Printing Office? If not, when did it become aware? If so, how did that information factor into FEMA's review of Tribute's proposal?
- At the time FEMA awarded contract number 70FB7018C00000001 to Tribute, was it aware that its previous contract engagements were limited to providing non-food related supplies and goods? If not, why not? If so, how did it factor into FEMA's review of Tribute's proposal?
- Since August 1, 2017, how many contracts for disaster-related goods and services has FEMA, or any other DHS component, terminated because the contractor was unable to perform its obligations under the contract? Please provide a complete list, including the

⁵ *Id.*

name of the contractor, the good or service expected to be provided, the date of the award, the date of contract termination, the reason the contract was terminated, and whether the contract has since been rebid.

- Are DHS and FEMA assessing the manner in which it trains its contracting and procurement employees to ensure more rigorous review of disaster contracting bids? Please explain.

Thank you for your attention to this matter. If you have any questions or require additional information, please contact Alison Northrop, Chief Director for Oversight, at (202) 226-2616.

Sincerely,



BENNIE G. THOMPSON
Ranking Member