

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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

<http://oversight.house.gov>

May 6, 2019

The Honorable Peter Gaynor  
Acting Administrator  
Federal Emergency Management Agency  
500 C Street, S.W.  
Washington, D.C. 20024

Dear Acting Administrator Gaynor:

We are writing to insist on full compliance with the Committee's previous requests for documents from the Federal Emergency Management Agency (FEMA) relating to the preparation for and response to Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands.

On October 11, 2017, then-Chairman Trey Gowdy and then-Ranking Member Elijah Cummings sent a bipartisan letter to then-Acting Secretary of Homeland Security Elaine Duke requesting the following documents:

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 FEMA, 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 FEMA, 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.<sup>1</sup>

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<sup>1</sup> Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform, to Acting Secretary Elaine Duke, Department of Homeland Security (Oct. 11, 2017) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2017/10/2017-10-11-TG-EEC-to-Duke-DHS-Hurricane-Document-Request.pdf>).

FEMA failed to produce key documents responsive to that request despite multiple, repeated inquiries by Committee staff.

On December 14, 2018, after the midterm elections, Rep. Cummings sent a letter requesting that you “fully comply, by December 31, 2018,” with the previous bipartisan request and explained in detail how FEMA’s previous productions were “obviously incomplete.”<sup>2</sup>

Since then, FEMA has not produced any additional documents responsive to the October 2017 bipartisan document request.

We are now writing to insist that you fully comply with this bipartisan request that was made more than 18 months ago. We ask that FEMA prioritize production of the following documents:

1. All documents and communications regarding FEMA’s contract with Tribute Contracting LLC to provide meals in Puerto Rico (Solicitation Number: HSFE70-17-R-MARIAMEALS), including:
  - a. the complete file of the contracting officer on the award and administration of the contract;
  - b. all bids submitted for the contract; and
  - c. all communications relating to the contract, including FEMA communications with the Department of Homeland Security, with Tribute Contracting LLC, or with others outside the Department;
2. All documents relating to any other contracts (including modifications) that have been cancelled or terminated, or that have been or are currently in default, relating to Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands;
3. All documents and communications regarding mass graves found in Puerto Rico, including all documents and communications referring or relating to a September 29, 2017, email exchange from the Department of Defense reporting the discovery of mass graves in Puerto Rico; and
4. All communications referring or relating to Hurricanes Irma and Maria that involve then-Administrator Long or other senior FEMA officials, senior officials at the Department of Homeland Security and its components, senior officials from other federal agencies, and White House officials.

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<sup>2</sup> Letter from Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform, to William B. Long, Administrator, Federal Emergency Management Agency (Dec. 14, 2018) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Response%20to%20Hurricanes%20in%20Puerto%20Rico%20and%20the%20U.S.%20Virgin%20Islands\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Response%20to%20Hurricanes%20in%20Puerto%20Rico%20and%20the%20U.S.%20Virgin%20Islands_0.pdf)).

Please produce the documents by May 20, 2019. If all responsive documents are not produced by this date, the Committee will consider alternative means to obtain compliance.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



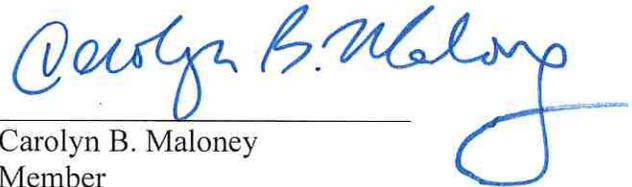
Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform



Harley Rouda  
Chairman  
Subcommittee on Environment



Stacey E. Plaskett  
Member



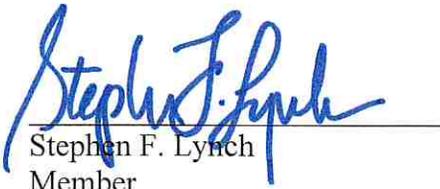
Carolyn B. Maloney  
Member



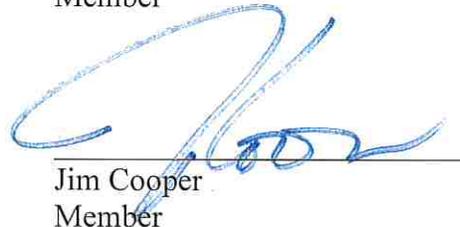
Eleanor Holmes Norton  
Member



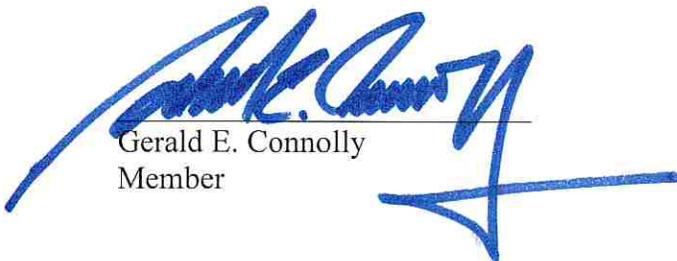
Wm. Lacy Clay  
Member



Stephen F. Lynch  
Member



Jim Cooper  
Member



Gerald E. Connolly  
Member



Raja Krishnamoorthi  
Member



Jamie Raskin  
Member



Katie Hill  
Member



Debbie Wasserman Schultz  
Member



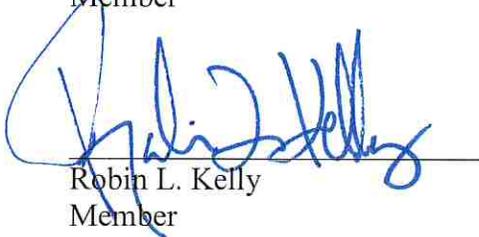
John P. Sarbanes  
Member



Peter Welch  
Member



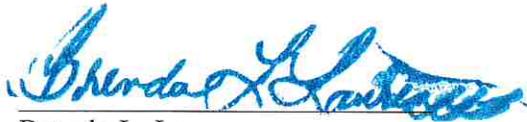
Jackie Speier  
Member



Robin L. Kelly  
Member



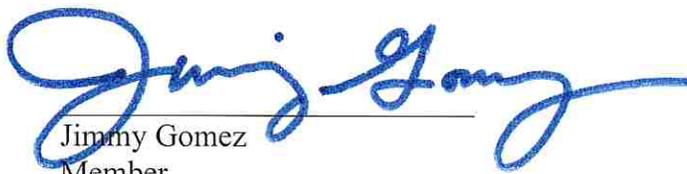
Mark DeSaulnier  
Member



Brenda L. Lawrence  
Member



Ro Khanna  
Member



Jimmy Gomez  
Member



Alexandria Ocasio-Cortez  
Member



Ayanna Pressley  
Member



Rashida Tlaib  
Member

Enclosure

The Honorable Peter Gaynor  
Page 5

cc: The Honorable Jim Jordan, Ranking Member,  
Committee on Oversight and Reform

The Honorable James Comer, Ranking Member,  
Subcommittee on Environment

## Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.