

Congress of the United States
Washington, DC 20515

September 10, 2020

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

Dear Secretary Azar:

We are writing to request documents and information about a \$250 million coronavirus-related communications contract awarded to Fors Marsh Group by the Department of Health and Human Services (HHS).¹ According to recent reports, the contract will support public service advertisements to “defeat despair and inspire hope” amid the coronavirus pandemic.²

We have grave concerns that, rather than focus on planning and executing a national strategy to contain the coronavirus, the Trump Administration is using a quarter of a billion dollars in taxpayer money to fund what appears to be a political propaganda campaign just two months before a presidential election.

A death toll of more than 190,000 Americans is not merely a public relations problem; it is a man-made catastrophe. The spread of the coronavirus cannot be stopped by a political marketing campaign. To address the despair many Americans are experiencing during this pandemic, the Administration needs to be honest about the risks Americans face and promote science-based solutions—not political spin—to finally contain the virus and prevent more unnecessary infections and deaths.

The contract’s “performance work statement” reportedly states that a goal of the contract is to “defeat despair and inspire hope, sharing best practices for businesses to operate in the new normal and instill confidence to return to work and restart the economy.”³

We believe the Administration must disseminate accurate public health information

¹ *Fors Marsh Group Wins \$250M-Plus HHS Contract for Campaign to ‘Defeat Despair’*, PRWeek (Sept. 1, 2020) (online at www.prweek.com/article/1693206/fors-marsh-group-wins-250m-plus-hhs-contract-campaign-defeat-despair); *HHS Hands D.C. Consultants \$250M to ‘Inspire Hope’ with Pandemic Campaign*, FiercePharma (Sept. 2, 2020) (online at www.fiercepharma.com/marketing/hhs-awards-d-c-consultancy-250-million-coronavirus-public-health-effort).

² *HHS Bids \$250 Million Contract Meant to ‘Defeat Despair and Inspire Hope’ on Coronavirus*, Politico (Aug. 31, 2020) (online at www.politico.com/news/2020/08/31/hhs-contract-coronavirus-despair-hope-406361).

³ *Id.*

to all Americans on the coronavirus, but this contract does not appear to be designed with that goal in mind. Instead, the Department appears to be accepting the ongoing pandemic as the “new normal” while seeking to shape public opinion in the midst of a presidential campaign.

The public relations firm hired by HHS will report to Assistant Secretary for Public Affairs Michael Caputo, who is a former campaign operative for President Trump and not a public health professional.⁴

This is not the first example of the Administration putting political spin over science in responding to the coronavirus crisis. In August, you, along with the Commissioner of the Food and Drug Administration (FDA) Stephen Hahn and President Trump, presented an inaccurate description of the effectiveness of convalescent plasma at a press conference announcing emergency authorization for the treatment. Following criticism about the inaccurate information you presented, FDA Commissioner Hahn was forced to apologize, and two political appointees who reportedly played a role in developing the inaccurate information were removed from their positions.⁵

The Centers for Disease Control and Prevention (CDC) has also retreated on science-driven guidance and policy at the behest of the White House. CDC recently changed its position to recommend against testing people without symptoms of coronavirus—reportedly in response to pressure from the White House. This new guidance is directly at odds with the unified scientific consensus that asymptomatic or pre-symptomatic individuals are a major driver of virus outbreaks and widespread testing is necessary to identify contagious individuals without symptoms.⁶

Recent reports also indicate that a senior adviser to Assistant Secretary Caputo has demanded that Dr. Anthony Fauci, the nation’s top infectious disease expert, make statements in media interviews that contradict the science on containing the coronavirus outbreak. For example, this senior advisor called on National Institutes of Health staff to “ensure Dr. Fauci indicates masks are for the teachers in schools. Not for children”—even though research shows children can contract and transmit the coronavirus.⁷

In light of our serious concerns that the Administration may use this contract as a vehicle for taxpayer-funded political propaganda, we call on you to suspend the contract until the Department has provided us with information showing that adequate safeguards

⁴ *Fors Marsh Group Wins \$250M-Plus HHS Contract for Campaign to ‘Defeat Despair’*, PRWeek (Sept. 1, 2020) (online at www.prweek.com/article/1693206/fors-marsh-group-wins-250m-plus-hhs-contract-campaign-defeat-despair).

⁵ *FDA Shake-up Continues as Another Comms Official Removed from Top Role*, Politico (Sept. 2, 2020) (online at www.politico.com/news/2020/09/02/fda-shake-up-comms-team-407688).

⁶ *Top U.S. Officials Told C.D.C. to Soften Coronavirus Testing Guidelines*, New York Times (Aug. 26, 2020) (online at www.nytimes.com/2020/08/26/us/politics/coronavirus-testing-trump-cdc.html).

⁷ *Emails Show HHS Official Trying to Muzzle Fauci*, Politico (Sept. 9, 2020) (online at <https://www.politico.com/news/2020/09/09/emails-show-hhs-muzzle-fauci-410861>).

are in place to ensure the contract will be used solely to provide accurate public health information—rather than political spin intended to boost the President’s reelection prospects.

To assist in our review of this contract and the Department’s coronavirus communications strategy, please provide the following documents and information by September 24, 2020:

1. The complete and unredacted contract file ultimately awarded to Fors Marsh Group, LLC, and all documents and communications referring or relating to the contract award process;
2. All bids or proposals submitted in response to the request for proposal from the Office of the Assistant Secretary for Public Affairs, including all analyses of these bids and proposals to include evaluations and comparisons;
3. All drafts of any request for proposal, “performance work statement,” or other related documents that were sent to contractors for the communications contract;
4. All documents showing the source of funding for the contract with Fors Marsh Group LLC, including the account and budget line appropriated;
5. All strategies or plans prepared by HHS, the Executive Office of the President, or Operation Warp Speed regarding mass advertising, public service advertisements, or social media campaigns related to the coronavirus; and
6. A written explanation of measures to avoid political messaging and ensure alignment with public health recommendations, including required review or approval of ad campaign materials by officials in HHS and its sub-agencies; and conflicts-of-interest recusal and disclosure requirements.

In addition, the Committees respectfully request a staff briefing by September 28, 2020, to address these issues.

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. House Resolution 935 established the Select Subcommittee on the Coronavirus Crisis “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus crisis.”

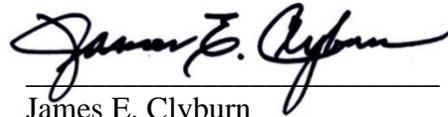
An attachment to this letter provides additional instructions for responding to the Committee’s request. Consistent with these instructions, these requests are to be construed as continuing in nature.

If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

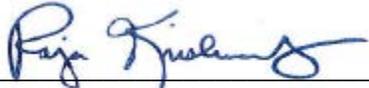
Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus
Crisis



Raja Krishnamoorthi
Chairman
Subcommittee on Economic and Consumer Policy

Enclosure

cc: The Honorable James R. Comer, Ranking Member, Committee on Oversight and Reform

The Honorable Steve Scalise, Ranking Member, Select Subcommittee on the Coronavirus
Crisis

The Honorable Michael Cloud, Ranking Member, Subcommittee on Economic and
Consumer Policy

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.