



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

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Chairman

Katherine W. Dedrick
Staff Director

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Ranking Member

Paul J. Sass
Republican Staff Director

April 29, 2020

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

Dear Administrator Gaynor:

The COVID-19 (coronavirus) pandemic has spread rapidly over the past few months with more than three million confirmed infections worldwide and nearly one million cases, more than 55,000 deaths and more than 126,000 people hospitalized in the United States alone.¹ This rapid and devastating spread of the disease has been marred by the equally slow and unwieldy response by the Trump administration. For four decades, the Federal Emergency Management Agency (FEMA) has been the Federal entity responsible for coordinating the Federal response to and recovery from hazard events that exceed the capabilities of state, local, tribal, and territorial governments.

However, the ongoing Federal response to COVID-19 has been stunted, opaque, and there have been several allegations that critical decisions being made at FEMA and impacting the health and safety of all Americans have been clouded by political influence from the White House. We are concerned about recent media reports of FEMA's redirection and/or reprioritization of orders for urgently needed protective gear and medical equipment to help respond to the COVID-19 pandemic placed by state and local officials, as well as FEMA's ongoing lack of complete transparency in its atypical coordination with the private sector on sourcing and distribution of urgently needed supplies.

Although President Trump has questioned the needs expressed by states for critical medical supplies, FEMA has acknowledged the reality of these needs.² "There is an increasing shortage of

¹ COVID-19 Dashboard, Center for Systems Science and Engineering (CSSE), Johns Hopkins University (JHU) accessed here: <https://coronavirus.jhu.edu/>.

² Allyson Chiu and Timothy Bella, "I don't believe you need 40,000 or 30,000 ventilators': Trump questions New York's plea for critical equipment," *The Washington Post*, March 30, 2020, accessed here: <https://www.washingtonpost.com/nation/2020/03/27/coronavirus-trump-fox-ventilator/>.

medical resources to support COVID-19 operations in local and state communities,” FEMA declared in a recent publication on requesting COVID-19 related medical equipment.³

Reports regarding the Federal redirection of these critical and limited supplies abound. For example, earlier this month it was reported that PeaceHealth – a not-for-profit hospital system serving many communities in Oregon and the greater Pacific Northwest – saw an order of testing supplies disappear due to a Federal seizure.

In Arizona, Phoenix Fire Chief Kara Kalkbrenner recently complained, “We have ordered millions of dollars of personal protective equipment that keeps getting hijacked before getting to the City of Phoenix.”⁴

In Massachusetts, the Department of Homeland Security was reportedly considering redirecting Baystate Health’s order for personal protective equipment, until Baystate asked House Committee on Ways & Means Chairman Richard Neal for help, and he intervened.⁵

In Colorado, Governor Jared Polis, a Democrat, complained earlier this month that FEMA redirected an order the state had placed for 500 ventilators from a manufacturer.⁶ Days later, President Trump tweeted that he would be sending 100 ventilators to Colorado at the request of Senator Gardner, a Republican.⁷

While FEMA has contested some of these reports, multiple similar stories persist due to the opaqueness of the Agency’s coordination with the private sector on its COVID-19 response. For example, FEMA’s Project Air Bridge is shipping critical supplies into the United States with 50 percent of the supplies delivered via this method being distributed at the direction of the Federal government and 50 percent being, “fed into distributors’ normal supply chain...”⁸ However, while FEMA has provided state-specific data to governors, it has failed to share information with Congress regarding the non-FEMA-directed 50 percent that distributors have discretion to sell from these taxpayer funded cargo flights.

³ “COVID-19 Best Practice Information: Requesting Medical Resources,” Federal Emergency Management Agency (FEMA), accessed here: <https://www.fema.gov/media-library-data/1586011228339-ee9dd63af03bc879168c827bf922cb90/COVID19RequestingMedicalResources.pdf>.

⁴ Joe Dana, “Phoenix fire chief: protective gowns getting 'hijacked',” KPNX-TV 12news.com (April 14, 2020), accessed here: <https://www.12news.com/article/news/local/valley/phoenix-fire-chief-protective-gowns-getting-hijacked/75-e1b5ca67-daa5-4575-86a8-d89f8d9b9121>.

⁵ Rachel Levy, “Volunteers in Coronavirus Response Ruffle Some at FEMA,” Wall Street Journal, April 21, 2020, accessed here: <https://www.wsj.com/articles/volunteers-in-coronavirus-response-ruffle-some-at-fema-11587489141?redirect=amp#click=https://t.co/DP8zxAZpSA>.

⁶ Sam Tabachnik, “‘Either be in or out’: Feds swooped in on Colorado’s ventilator order, Polis says,” Denver Post (April 4, 2020), accessed here: <https://www.denverpost.com/2020/04/04/coronavirus-colorado-polis-ventilators-fema/>.

⁷ Jonathan Allen, Phil McCausland and Cyrus Farivar, “Want a mask contract or some ventilators? A White House connection helps,” NBC News (April 24, 2020), accessed here: <https://www.nbcnews.com/politics/white-house/political-influence-skews-trump-s-coronavirus-response-n1191236>; see also Justine Coleman, “Trump: 100 ventilators 'immediately' being sent to Colorado,” the Hill (April 8, 2020), accessed here: <https://thehill.com/homenews/administration/491728-trump-100-ventilators-immediately-being-sent-to-colorado>.

⁸ <https://www.fema.gov/news-release/2020/04/08/fema-covid-19-supply-chain-task-force-supply-chain-stabilization>.

A recent article in *The Wall Street Journal* has also raised questions about the participation of eight analysts from the investment fund Insight Partners, part of a larger program that included employees from technology company Flatiron Health Inc. and private-equity firm Welsh, Carson, Anderson & Stowe, in the sourcing of urgently needed protective gear and test kits for medical workers.⁹ According to the report, these individuals used personal Gmail accounts while communicating with vendors on FEMA's behalf, raising not only security and accountability issues, but also causing confusion among vendors and within FEMA itself. Using personal e-mail accounts for Federal business may also violate the Federal Records Act.

"In one case, FEMA advised a vendor to report the contact to police, not realizing that the e[-]mail had come from one of the volunteers."¹⁰

There was reportedly also confusion about the individuals' status as volunteers. FEMA staff were told they were part of the White House's Coronavirus Task Force, and the staff understood that to mean they were Federal employees.¹¹

While the unprecedented challenge posed by the coronavirus pandemic will invariably require cooperation between both the public and private sectors, it is essential that proper procedures be followed to protect public health, security, and taxpayer funds. Having a transparent process is also a fundamental tenet of the public's ability to understand the government's role in helping to protect U.S. citizens and the U.S. Congress's ability to provide oversight of the Executive Branch. Likewise, Congress must also ensure that the Administration is not, "picking winners and losers based in part on personal relationships, ideological affinity and partisan loyalty," as an *NBC News* analysis has suggested the Administration is doing.¹²

With that in mind, we respectfully request the following records and information:

1. Please provide a list of all suppliers and distributors who have participated in Project Air Bridge, identifying what items have been supplied, the number of items that have been supplied, and which organizations these items have been distributed to, including the city and state where each organization that has received these items are located – for both FEMA-directed sales as well as sales through suppliers' normal supply chains.
2. Please provide 1) a detailed list of Requests For Assistance (RFA) from each state or tribal government for COVID-19-related supplies that FEMA received when it was tasked as the lead Federal coordinating agency for the pandemic response; 2) a complete accounting of

⁹ Rachel Levy, "Volunteers in Coronavirus Response Ruffle Some at FEMA," *Wall Street Journal*, April 21, 2020, accessed here: <https://www.wsj.com/articles/volunteers-in-coronavirus-response-ruffle-some-at-fema-11587489141?redirect=amp#click=https://t.co/DP8zxAZpSA>.

¹⁰ Rachel Levy, "Volunteers in Coronavirus Response Ruffle Some at FEMA," *Wall Street Journal*, April 21, 2020, accessed here: <https://www.wsj.com/articles/volunteers-in-coronavirus-response-ruffle-some-at-fema-11587489141?redirect=amp#click=https://t.co/DP8zxAZpSA>.

¹¹ Rachel Levy, "Volunteers in Coronavirus Response Ruffle Some at FEMA," *Wall Street Journal*, April 21, 2020, accessed here: <https://www.wsj.com/articles/volunteers-in-coronavirus-response-ruffle-some-at-fema-11587489141?redirect=amp#click=https://t.co/DP8zxAZpSA>.

¹² Jonathan Allen, Phil McCausland and Cyrus Farivar, "Want a mask contract or some ventilators? A White House connection helps," *NBC News* (April 24, 2020), accessed here: <https://www.nbcnews.com/politics/white-house/political-influence-skews-trump-s-coronavirus-response-n1191236>.

revisions to each state or tribe's RFAs list, including any FEMA-directed partial fulfillments responsive to the RFAs (to include the date assistance was approved and the type and quantity of supply approved).

3. Please explain how FEMA solicits and selects volunteers for work involving the Supply Chain Task Force, and what FEMA is doing to ensure that its use of volunteers is supplementing FEMA's work and not inadvertently duplicating work that is already being performed. Additionally, please share any past examples of when FEMA has sought or utilized non-governmental volunteers to supplement the efforts of Federal personnel or contractors employed by or detailed to FEMA for a response or recovery operation.
4. Please provide a roster of all Federal personnel and contractors currently or previously detailed to the Supply Chain Task Force, including the name and location of the agency or organization in which they worked prior to being detailed.
5. Please provide a list of all volunteers who have signed "voluntary service agreements" and/or "gratuitous service agreements" with FEMA or the Department of Health and Human Services and have conducted work for or with the Supply Chain Task Force during the COVID-19 response, the name and location of any private business for which they were employed during their volunteer work at FEMA, and whether they performed their volunteer work at FEMA headquarters or at an off-site location. If they worked at an off-site location please provide the name and place of the site where they worked.
6. Please provide copies of all non-disclosure agreements signed by volunteers who have worked for FEMA and worked for or with the Supply Chain Task Force during the COVID-19 response, as well as the name and location of any private business for which they were employed during their volunteer work at FEMA.
7. Please provide copies of all e-mails, text messages, instant messages, and any other correspondence between FEMA employees and all those who volunteered at FEMA or the Department of Health and Human Services for COVID-19-related work between approximately March 13, 2020 to present, including emails to and from the volunteers' personal Gmail or other private e-mail accounts and personal mobile phones concerning COVID-19-related work.
8. Please provide copies of all legal and/or ethical analyses, memorandum, and internal FEMA correspondence regarding the use of volunteers at FEMA headquarters as part of the COVID-19 response.
9. Please provide copies of all submissions to any FEMA Ethics Counselor including the word "COVID-19" or "COVID" or "coronavirus" or "corona virus" or "personal protective equipment" or "PPE" or "medical supplies," from January 1, 2020 to present. This response should include any subsequent correspondence between the FEMA Ethics Counselor to or from the complainant as well as all correspondence from any FEMA Ethics Counselor, including -- but not limited to -- e-mail communications that includes any of the key words cited from January 1, 2020 to present.

10. Please provide all FEMA e-mails (e-mails sent to or received from an address ending in “fema.dhs.gov” or “fema.gov”) as well as text messages sent to or received from a FEMA-owned mobile device that was sent to or received from either the professional or private e-mails, text messages, or instant messages of the individuals listed:

- Rachael Baitel
- Adam Bohler
- Dave Caluori
- Brian Cavanaugh
- Jared Kushner
- Peter Navarro
- Deven Parekh
- ADM. John Polowczyk
- Andy Slavitt
- Brad Smith
- Nat Turner

We request that delivery of these records begin on May 13, 2020. We will consider a rolling production of these records if you are unable to complete this response by this date. However, your staff must coordinate a timeline for any delay beyond May 13th with the Committee’s staff. If FEMA encounters any issues it believes will hold up production of these records to the Committee please have your staff discuss these issues with the Committee’s staff in a timely basis.

Please deliver one set of these responses electronically to the Majority and one set of records electronically to the Minority Staff. To make arrangements for electronic delivery of the records, or if you have any other questions regarding this request, please have your staff contact Matthew Weisman, Majority Counsel or Aaron Davis, Professional Staff.

Sincerely,



PETER A. DeFAZIO
Chair



DINA TITUS
Chair
Subcommittee on Economic
Development, Public Buildings, and
Emergency Management

cc: The Honorable Sam Graves, Ranking Member

The Honorable John Katko, Ranking Member, Subcommittee on Economic Development,
Public Buildings and Emergency Management