



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

Sam Graves
Chairman

Rick Larsen
Ranking Member

Jack Ruddy, Staff Director

Katherine W. Dedrick, Democratic Staff Director

January 23, 2023

The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, DC 20024

Dear Administrator Criswell,

The Committee on Transportation and Infrastructure is continuing to conduct oversight of the authorities, personnel, and resources of the Federal Emergency Management Agency (FEMA) diverted to assist in dealing with the Southern border crisis. As stated in both the April 9, 2021, and July 27, 2022, letters to Secretary Alejandro Mayorkas and yourself, respectively, we are concerned about the use of FEMA authorities and personnel to carry out other Federal agencies' responsibilities to secure our Southern border.¹ I reemphasize the Committee's concerns that FEMA's resources are being diverted as the Nation is dealing with a record number of disasters.² As we begin the 118th Congress, now as the Chairman of the Committee on Transportation and Infrastructure, I write to reiterate, renew, and resubmit these questions and requests for documents and submit additional questions.

To date, FEMA has failed to substantively respond to all our inquiries. Specifically, your response to the July 27, 2022, letter was received 82 days after the requested deadline and failed to include responses to all questions. The response indicated that additional data and information would be provided in November and December 2022.³ However, to date, FEMA has failed to

¹ See Letter from Rep. Sam Graves, Ranking Member, H. Comm. on Transportation and Infrastructure & Rep. Daniel Webster, Ranking Member, Subcomm. on Economic Development, Public Buildings, and Emergency Mgmt., H. Comm. on Transportation and Infrastructure, to the Hon. Alejandro Mayorkas, Sec'y, Dep't of Homeland Security (Apr. 9, 2021) (on file with Comm.), Letter from Sam Graves, Ranking Member, H. Comm. on Transportation and Infrastructure, to the Hon. Deanne Criswell, Administrator, Fed. Emergency Mgmt. Agency (July 27, 2022) (on file with Comm.).

² See Letter from Sam Graves, Ranking Member, H. Comm. on Transportation and Infrastructure, to the Hon. Deanne Criswell, Administrator, Fed. Emergency Mgmt. Agency (July 27, 2022) (on file with Comm.).

³ See Letter from the Hon. Deanne Criswell, Administrator, Fed. Emergency Mgmt. Agency, to Rep. Sam Graves, Ranking Member, H. Comm. on Transportation and Infrastructure (Oct. 31, 2022) (on file with Comm.).

provide that information to the Committee. For your convenience, a copy of that original request is attached to this letter and the Committee's specific requests are reiterated below. Additional questions are also included in this letter. Please ensure that all the documents requested in the July 27, 2022, letter includes searches for all responsive records up through the date of this letter.

Further, since our initial requests and your previous responses, there have been additional developments at the Southern border. Specifically, the U.S. Customs and Border Protection (CBP) was authorized to transfer nearly \$800 million to FEMA for the Emergency Food and Shelter Program (EFSP).⁴

Based on the Committee's correspondence, FEMA should be aware of the Committee's interest in investigating FEMA's role in the Southern border crisis and the appropriateness of that role due to the potential impact on FEMA's core mission and authorities. Given the ample time you have had to prepare since our initial request, we expect that you will work diligently to ensure a prompt and complete response to our reiterated inquiries and additional questions. Therefore, we request you provide the Committee with written answers and relevant materials to the following, as soon as possible, but no later than 5:00 p.m., February 6, 2023:

Reiterated Requests from July 27, 2022, letter:

1. Provide a breakdown of activities and funding that has been spent on humanitarian relief for individuals encountered by the Department of Homeland Security (DHS) versus activities and funding spent for traditional EFSP activities unrelated to such encounters from 2020 to the present.
2. Provide a breakdown of the number of individuals and families assisted through EFSP by an encounter with DHS versus those assisted through traditional EFSP activities unrelated to such encounters with DHS.
3. Has DHS consulted FEMA about the migrant crisis? In what way? What assistance has FEMA provided to DHS?
 - a. Please provide the Committee with copies of all records referencing, referring to, discussing, or citing FEMA's involvement regarding the above question.

Additional Requests:

1. In response to questions in the July 27, 2022, letter requesting detailed information on administrative costs, you failed to provide the Committee an accounting statement and fund allocation document; specifically, a breakdown of administrative expenses. While FEMA does not receive any part of the administrative allowance, 42 U.S.C. §11333 (b)(3) requires FEMA to conduct annual audits of the National Board. Please provide the Committee with copies of FEMA's annual audits for 2020, 2021, and 2022.

⁴ See Pub. L. No. 117-328, Div. F, Title II, §211 (a) (2022).

2. Please provide a document sufficient to describe the communications FEMA had related to the border crisis and migrants, including communications with:
 - a. The White House,
 - b. Federal departments and agencies outside of DHS,
 - c. The Secretary of DHS, and
 - d. Any other components of DHS.

For each communication, please provide the date of the communication; copies of any emails and meeting notes related to the communication; a list of all individuals party to the communication, including title and agency affiliation; and any other records reflecting such communications.

3. In response to the question in the July 27, 2022, letter regarding what other ways FEMA is involved in the migrant crisis, you listed FEMA's support of EFSP, support to the DHS Southwest Border Coordination Cell, and staff deployments to support mobilization of the DHS Volunteer Force.

Therefore, please provide an update on FEMA's support for each of these programs, including:

- a. A description of each of the missions highlighted and FEMA's specific role,
 - b. The costs associated with these missions and deployments and whether they are reimbursed, and
 - c. The regular posts and assignments of the FEMA employees deployed if they were not supporting the border mission.
4. In responses to the April 9, 2021, letter, DHS Secretary Mayorkas indicated that he directed FEMA to support CBP and the Department of Health and Human Services Office of Refugee Resettlement on a reimbursable basis, citing the legal precedence of President Obama's 2014 Presidential Memorandum based on the Homeland Security Act of 2002 and the Homeland Security Presidential Directive-5 (HSPD-5).⁵ Yet, 6 U.S.C. §316 requires FEMA to be maintained as a distinct entity in DHS and prohibits the DHS Secretary from diverting any FEMA asset, function, or mission unless details and assignments do not reduce the capability of FEMA.
 - a. What analysis did FEMA conduct to determine whether this direction from the DHS Secretary would not reduce the capability of FEMA? Please provide the Committee with a copy of this analysis, as well as any documents, emails, or other information that references such assessments and determinations.
 - b. Was there any analysis or discussion within FEMA or between FEMA and DHS regarding the nature of the Southern border crisis? If so, please provide a document sufficient to describe FEMA's analysis, including whether the

⁵ See Letter from the Honorable Alejandro Mayorkas, Sec'y, Dep't of Homeland Security, to Rep. Sam Graves, Ranking Member, H. Comm. on Transportation and Infrastructure (Aug. 20, 2021) (on file with Comm.).

Administration characterized the Southern border crisis as a significant domestic incident as HSPD-5 presumes or as a national emergency.

Thank you for your attention to this matter. If you have any questions, please contact Johanna Hardy, Majority Staff Director, Subcommittee on Economic Development, Public Buildings, and Emergency Management at (202) 225-3014 or Johanna.Hardy@mail.house.gov. An attachment contains additional instructions for responding to this request.

Sincerely,



Sam Graves
Chairman
Committee on Transportation
and Infrastructure

cc: The Honorable Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure

Enclosures:

Attachment A – Requirements for Responding to the House Committee on Transportation and Infrastructure Records Requests in the 118th Congress

Attachment B – 117th Letters as Ranking Member Graves to DHS and FEMA

- Ranking Member Graves July 27, 2022 letter to FEMA Administrator Criswell
- Ranking Member Graves April 9, 2021 letter to DHS Secretary Mayorkas