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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

MAJORITY (202) 225-2927
FACSIMILE (202) 225-2525
MINORITY (202) 225-3641

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July 6, 2010

The Honorable Martha N. Johnson
Administrator
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

The Honorable W. Craig Fugate
Administrator
Federal Emergency Management Agency
400 C Street, SW
Washington, DC 20472

Dear Administrators Johnson and Fugate,

On June 30, 2010, The New York Times reported that the formaldehyde-contaminated trailers originally provided by FEMA as temporary housing to victims of Hurricane Katrina are once again being used as housing in the wake of another Gulf Coast disaster.¹ We are writing to learn how and why this occurred.

In April, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing concerning the sale of over 100,000 Temporary Housing Units, originally procured by the Federal Emergency Management Agency (FEMA) to provide housing for victims displaced by Hurricane Katrina, by the General Services Administration (GSA).² At the hearing, representatives from FEMA and GSA assured the Subcommittee that "rigorous measures" were being implemented to ensure that the trailers would not be used for housing. In particular, purchasers of the trailers were required to certify that they understood the trailers may contain elevated levels of formaldehyde, that the trailers would not be used for housing

¹ *Banned Trailers Return for Latest Gulf Disaster*, The New York Times (June 30, 2010).

² House Subcommittee on Commerce, Trade, and Consumer Protection, *Public Sales of Hurricane Katrina/Rita FEMA Trailers: Are they Safe or Environmental Time Bombs?* 111th Cong. (Apr. 28, 2010).

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and that they would pass on these notices to any subsequent buyers or recipients. Additionally, each sales listing included links to three brochures jointly developed by FEMA, the Centers for Disease Control, the Environmental Protection Agency, and the Department of Health and Human Services providing information on indoor air quality and the presence of formaldehyde in mobile homes. Finally, stickers were placed on trailer windows warning purchasers of potentially elevated formaldehyde levels and stating that the trailers were not to be used for housing.

Despite these precautions, it appears that these toxic trailers are once again being used for housing in the Gulf Coast. The need for cheap housing to accommodate the influx of disaster relief workers involved in the clean up of the Deepwater Horizon oil spill appears to have made the trailers, which were sold for a fraction of what FEMA originally paid to procure them, an attractive option for contractors. The Times article reported that many buyers said they were unaware of any prohibition of using the trailers for housing.

Several months ago, FEMA and GSA suggested in briefings to Committee staff that they believed the units no longer contained dangerous levels of formaldehyde, since significant time had passed since their manufacture and any formaldehyde would have somehow dissipated by now. But since the agencies had failed to test the actual units, this claim could not be verified. Now, a different story is emerging. The *New York Times* article cited at least one instance of a unit “reeking” of formaldehyde.⁴ Such reports appear to directly contradict the assumptions offered by FEMA and GSA as justification for the public sale of these units.

When the Subcommittee called the April hearing, we had no idea – none of us did – how tragically the Gulf oil spill would unfold and how far its harm would extend. But even then, it was easy to anticipate what we are now seeing – buyers using these trailers for housing, and doing so with no warning or understanding of the serious health risks associated with formaldehyde.

It leads to a very simple question that FEMA and GSA have yet to answer: If we all saw this coming, why did it happen anyway?

Please respond to the following questions:

1. Why did FEMA decide not to test the trailers, or at least a representative sample of the trailers, to ensure that they did not contain hazardous levels of formaldehyde before deciding to sell them to the public? What would have been the cost to the Agency of conducting such tests?

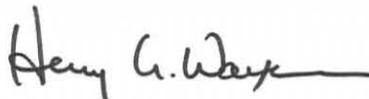
⁴ *Banned Trailers Return for Latest Gulf Disaster*, The New York Times (June 30, 2010).

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2. Why did you rely on certifications that these units would not be used for housing, rather than require notices to be permanently affixed to the units themselves, stating that they were not safe for use as housing?
3. Given your statements that GSA was taking adequate steps to safeguard against misuse of these units, how do you explain the current situation?
4. Having heard concerns from members of Congress, health advocates, and the public that the measures implemented by GSA and FEMA would be inadequate to prevent the trailers from being used as housing, what measures did you have in place to take action in the event that trailers were used for housing in violation of the terms of sale?
5. What steps are GSA and FEMA now taking to address the ongoing situation in the Gulf and the apparent use of these units for prohibited purposes?
6. What steps are GSA and FEMA taking to address the apparent willful violation of the terms of sale of the units?

Thank you for your assistance and cooperation in this matter. We ask that you provide a full and complete response no later than July 16, 2010. Should you have any questions regarding this request, please have your staff contact Tim Robinson or Robin Appleberry at 202-226-2424.

Sincerely,



Henry A. Waxman
Chairman



Bobby L. Rush
Chairman
Subcommittee on Commerce, Trade and
Consumer Protection

cc: The Honorable Joe Barton
Ranking Member

The Honorable Ed Whitfield
Ranking Member
Subcommittee on Commerce, Trade,
and Consumer Protection

Congress of the United States

House of Representatives

Washington, D.C. 20515

Responding to Document Requests from the Committee on Energy and Commerce

In responding to the document request from the Committee on Energy and Commerce, please apply the instructions and definitions set forth below.

Instructions

1. In complying with the request, you should produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. When you produce documents, you should identify the paragraph or clause in the Committee's request to which the documents respond.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.
9. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

Documents produced in an electronic format should also be produced in a searchable format.

10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. 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, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 316 of the Ford House Office Building, and the minority set should be delivered to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee staff regarding the method of delivery prior to sending any materials.
16. Upon completion of the document production, you should 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 which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided 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, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, 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). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, 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 “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. 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 face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
4. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures,

proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms “referring” or “relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.