

United States Senate

WASHINGTON, DC 20510

February 14, 2018

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530

Dear Attorney General Sessions:

Recent weeks have brought to our attention a number of alarming stories concerning inappropriately awarded contracts during the disaster relief response in Puerto Rico. Last week *The New York Times* reported on a \$156 million Federal Emergency Management Agency (FEMA) contract for food supplies awarded to an egregiously underqualified and ill-suited contractor. And this week, we learned that a contractor may have misled Puerto Rico officials in obtaining a \$133 million contract to rebuild homes.¹ We write demanding a swift and thorough investigation into the government contracting process around goods and services for the relief and recovery efforts underway in Puerto Rico.

The saga of scandalously awarded government contracts begins with Whitefish Energy. As we understand, Whitefish is a two-year old Montana-based company that had only two full-time employees at the time of the hurricane. Whitefish was awarded a \$300 million contract to repair and rebuild large portions of Puerto Rico's electrical infrastructure that allowed it to charge the Puerto Rico Electric Power Authority (PREPA) \$319 an hour for linemen, a rate that industry experts say is exorbitant even for emergency work.²

Then, the American people discovered that FEMA awarded \$30 million in contracts to Bronze Star LLC to provide emergency tarps and plastic sheeting for tens of thousands of damaged homes in Puerto Rico. There was just one problem: we understand that Bronze Star was a new company based out of a residential home in Florida, formed by two brothers with no prior experience in disaster relief, and no history of government contract work. Bronze Star was unable to procure and deliver the emergency supplies. FEMA eventually terminated the contracts without paying any money, but in the weeks it took to reach that point thousands of Americans in Puerto Rico went without basic shelter.³⁴

Now, *The New York Times* reveals that FEMA awarded a \$156 million contract to Tribute Contracting LLC (Tribute) to provide 30 million meals in Puerto Rico. Tribute is an

¹ Jonathan Levin and Yalixa Rivera, *Puerto Rico Review Finds \$133 Million Contract Was Improperly Given*, BLOOMBERG, February 13, 2018, <https://www.bloomberg.com/news/articles/2018-02-13/puerto-rico-review-finds-133-million-contract-improperly-given>.

² Frances Robles, *The Lineman Got \$63 an Hour. The Utility Was Billed #319 an Hour*, THE NEW YORK TIMES, November 12, 2017, <https://www.nytimes.com/2017/11/12/us/whitefish-energy-holdings-prepa-hurricane-recovery-corruption-hurricane-recovery-in-puerto-rico.html?mtrref=undefined>.

³ Tami Abdollah, *Big contracts, no storm tarps for Puerto Rico*, THE ASSOCIATED PRESS, November 28, 2017, <https://www.apnews.com/cbeff1a939324610b7a02b88f30eafbb>.

⁴ See also, Sen. Elizabeth Warren, et al. to Acting Inspector General John Kelly, December 5, 2017, https://www.warren.senate.gov/files/documents/2017_12_05_Letter_to_DHS_IG_on_Bronze_Star_LLC.pdf.

Atlanta-based company with no employees except the owner, no experience in disaster relief, and a history of canceled government contracts. We understand, in an attempt to fulfill the contract for ready-to-eat meals, Tribute subcontracted with an Atlanta wedding caterer – Cooking With a Star LLC – and a Houston food bank – Breedlove Foods Inc. Tribute only delivered 50,000 meals of 18.5 million that were due. According to the *Times*, FEMA canceled the contract when it discovered that the meals were not packaged with heating pouches as required by the contract.⁵⁶

That Tribute would be unable to fulfill the largest direct meals contract of the 2017 hurricane season should not have been a surprise had FEMA done a cursory check on the company. Public records show that the government has canceled five contracts with Tribute in the past. Four of those cancellations were for contracts with the Federal Prison System, and involved a failure to deliver food products to correctional facilities. The company FEMA hired to provide meals to Puerto Ricans devastated by natural disaster failed to provide food products in *four* prior government contracts. The fifth canceled contract on Tribute’s record was with the Government Publishing Office (GPO) for 3,000 tote bags to be printed with the Marine Corps logo on both sides. Tribute failed to fulfill the contract as stipulated, and after an investigation by the Inspector General of the GPO, was prohibited from receiving any contracts over \$35,000 with the GPO until January 2019. Information about Tribute’s government contracts history is publicly available on USAspending.gov, the Federal Awardee Performance and Integrity Information System (FAPIIS), and the System Award Management (SAM) system.

The Federal Acquisition Regulation (FAR) stipulates that a contractor must have adequate financial resources to perform the contract, be able to comply with the required performance schedule, and have a satisfactory performance record. The owner of Tribute, Tiffany Brown, told reporters that she did not have sufficient funds to finance the project and that “They probably should have gone with someone else...” There were numerous red flags indicating that Tribute was not up to the task, yet FEMA chose them anyway. Rudimentary due diligence should have revealed Tribute’s unfitness for this contract. It is impossible to believe that Tribute, Bronze Star, and Whitefish are anomalies. Rather they are canaries in a coalmine indicating that where there are three improvidently awarded contracts, there are bound to be more.

The path to recovery for Puerto Rico is long. Hundreds of millions have already been spent and billions more will be needed to restore normalcy to the island. Taxpayers deserve to know that their money is going to bona fide entities. It is clear that internal investigations via inspector generals’ offices and existing procedures – while critical – are likely insufficient for the grim scale of unacceptable misconduct in the contracting process.

The issue here is not restrained to contracts and cost. Despite the official account placing the death toll in Puerto Rico at 64, independent reviews put the human loss of the hurricane

⁵ Patricia Mazzei and Agustin Armendariz, *FEMA Contract Called for 30 Million Meals for Puerto Ricans. 50,000 Were Delivered.*, THE NEW YORK TIMES, February 6, 2018, <https://www.nytimes.com/2018/02/06/us/fema-contract-puerto-rico.html>.

⁶ See also, Sen. Elizabeth Warren, et al. to Action Inspector General John Kelly, February 7, 2018, https://www.warren.senate.gov/files/documents/2018_02_08_Letter_to_DHS_IG_on_Tribute_Contracting_LLC.pdf


around 1,052.⁷⁸ Any disaster response expert will tell you that time matters. Responding quickly, appropriately, and efficiently is vital to the safety of Americans caught in the midst of natural disaster. With all that is at stake in Puerto Rico, it is imperative that recovery funds do not go to waste; that companies do not fraudulently acquire government contracts; that the laws regulating the contracting process are duly enforced.

We write to you today demanding an investigation into the contracting process and the companies that are abusing it at the expense of the American public. Importantly, your investigation should assess the degree to which the awarding of inappropriate contracts influenced the delay of aid and exacerbated the human cost of the natural disaster in Puerto Rico. In light of Congress's recent authorization of additional recovery funds these questions have increased urgency and importance. We expect you will work closely with any investigations the Inspector General of the Department of Homeland Security conducts to ensure that their evidence gathering aligns with your requirements, and that you put special emphasis on the possibility of prosecuting cases. Additionally, your investigation should coordinate with the General Services Administration (GSA) as there is a glaring hole in the government contracting process around the disaster relief efforts. We expect those companies that are found to have abused the contracting process during a time of disaster and national emergency to face suspension and debarment and criminal penalties where warranted.

Thank you for your attention to this matter.

Sincerely,


RICHARD BLUMENTHAL
United States Senate


ELIZABETH WARREN
United States Senate

⁷ Frances Robles, Kenan Davis, Sheri Fink and Sarah Almkhtar, *Official Toll in Puerto Rico: 64. Actual Deaths May Be 1,052.*, THE NEW YORK TIMES, December 9, 2017, <https://www.nytimes.com/interactive/2017/12/08/us/puerto-rico-hurricane-maria-death-toll.html>.

⁸ See also, Sen. Elizabeth Warren, et al. to Acting Secretary Elaine C. Duke, October 19, 2017, https://www.warren.senate.gov/files/documents/2017_10_19_DHS_Puerto_Rico.pdf.