

Congress of the United States
Washington, DC 20515

October 27, 2017

The Honorable John Roth
Inspector General
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528-0305

Dear Inspector General Roth:

As Ranking Members of Committees with jurisdiction over the Federal Emergency Management Agency (FEMA) and the territories of the United States, we write to express our serious concerns regarding the \$300 million no-bid contract¹ (“Contract”) entered into between the Puerto Rico Electric Power Association (PREPA) and Whitefish Energy Holdings, LLC (“Whitefish”) to restore energy to Puerto Rico after Hurricane Maria. The Contract specifically states that FEMA reviewed and approved the Contract and is using FEMA funds to pay for it. We request that you immediately conduct a comprehensive investigation and audit of the Contract, FEMA’s or other Federal agencies’ participation in it, and whether the Contract is an appropriate use of taxpayer dollars.

On September 20, 2017, Hurricane Maria made landfall on Puerto Rico as a Category 4 hurricane destroying Puerto Rico’s electric grid. Since then, most of Puerto Rico’s 3.4 million residents have been without electricity. In fact, as of today, only approximately 25 percent of PREPA’s customers have had electricity restored and this fluctuates daily.

On September 20, President Trump declared a Major Disaster for Puerto Rico (DR-4339), making debris removal and emergency protective measures available, including direct Federal assistance under FEMA’s Public Assistance program. Normally, after a disaster that affects the electrical grid, the owner of the grid relies on mutual aid agreements to restore electricity.² Under these agreements, other utility companies send their workers to assist the affected area with restoring electrical services. After FEMA reimburses the affected utility, the utility reimburses the assisting companies.

In this instance, instead of activating mutual aid agreements, PREPA chose to contract with an intermediary to hire workers to restore electricity to the island. It is not clear how much this Contract will cost compared to the costs if PREPA had activated the mutual aid agreements although the Contract provides that Whitefish is billing from \$330 to \$462 per hour for a supervisor, \$228 to \$319 per hour for a journeyman lineman, and more than \$20,000 per hour for a helicopter.³

¹ First Amendment to Emergency Master Service Agreement for PREPA’s Electrical Grid Repairs – Hurricane Maria, entered into between Puerto Rico Electric Power Authority (PREPA) and Whitefish Energy Holdings, LLC (Whitefish) dated October 17, 2017.

² Marcus Stern, *Puerto Rico Turns to Unproven Montana Company for Massive Power Restoration Job, But No One Knows Why*, THE WEATHER CHANNEL (Oct. 17, 2017), <https://weather.com/news/news/puerto-rico-power-whitefish>.

³ *Supra* note 1, Exhibits A & B. See also Steven Mufson & Aaron Davis, *Puerto Rico’s Electric Utility Likely to Get Emergency Manager Amid Criticism Over Contract to Small Montana Firm*, THE WASHINGTON POST (Oct. 25, 2017),

Beginning on October 25, 2017, PREPA is contractually obligated to use FEMA financial assistance to fund the contract.⁴ Further, the Contract provides that PREPA, by executing the Contract, “represents and warrants that FEMA has reviewed and approved”⁵ this Contract and FEMA has acknowledged receiving the Contract between Whitefish and PREPA.⁶ Given that funding for this Contract is envisioned to come from FEMA’s Public Assistance program, the American taxpayer must be assured that costs associated with this Contract are eligible, fair, and reasonable, especially given the availability of workers through a mutual aid agreement.

At the time PREPA entered into the Contract, Whitefish had two employees, and extremely limited experience with Federal contracting.⁷ In fact, it appears that only two Federal agencies have awarded contracts totaling about \$1.5 million to Whitefish since its incorporation in 2015.⁸ This lack of experience raises serious concerns about Whitefish’s capacity to perform the \$300 million contract in a manner sufficient to restore power to 3.4 million Puerto Ricans.

Moreover, on October 25, 2017, Whitefish publicly threatened to pull its workers out of San Juan, Puerto Rico.⁹ The San Juan Mayor is an open critic of the Federal Government’s handling of the disaster response and recovery efforts underway in Puerto Rico. The Mayor suggested that the Whitefish Contract should be voided given the lack of transparency used to award it. In response, Whitefish threatened to pull its subcontractors from San Juan and not complete work the company was contracted to perform. This is inappropriate conduct for a Federal contractor, and insensitive to the citizens of San Juan and all of Puerto Rico, many of whom are still suffering without electricity, drinking water, and other necessities in the aftermath of Hurricane Maria.

Finally, we also request that you investigate whether there was any political impetus behind the Contract. It has come to our attention that Whitefish is headquartered in Whitefish, Montana (pop. 7,000), the hometown of Secretary of the Interior Ryan Zinke.¹⁰ Whitefish’s Chief Executive Officer, Mr. Andy Techmanski, acknowledges that he knows Secretary Zinke.¹¹ At one point, Secretary Zinke’s son worked for Whitefish.¹² Moreover, HBC Investments and Flat Creek Capital are financial backers of Whitefish. HBC Investments was founded by Mr. Joe Colonna, a major

https://www.washingtonpost.com/investigations/puerto-ricos-electric-utility-likely-to-get-emergency-manager-amid-criticism-over-contract-to-small-montana-firm/2017/10/25/c71e9dac-b99b-11e7-be94-fabb0f1e9ffb_story.html?utm_term=.9a2ec7f5214d.

⁴ *Supra* note 1, Art. 29.

⁵ *Id.*, Art. 69.

⁶ Paul Blake, *Puerto Rico to Audit Power Contract for Montana Firm*, BBCNEWS (Oct. 25, 2017), <http://www.bbc.com/news/world-us-canada-41738955>.

⁷ Steven Mufson et al., *Small Montana Firm Lands Puerto Rico’s Biggest Contract to Get the Power Back On*, THE WASHINGTON POST (Oct. 23, 2017), https://www.washingtonpost.com/national/small-montana-firm-lands-puerto-ricos-biggest-contract-to-get-the-power-back-on/2017/10/23/31cccc3e-b4d6-11e7-9e58-e6288544af98_story.html?utm_term=.193209e0904c.

⁸ *Id.*

⁹ Donna Borak, *San Juan’s Mayor Takes on Small Montana Firm Over Puerto Rico Power Contract*, CNN (Oct. 25, 2017), <http://money.cnn.com/2017/10/25/news/economy/whitefish-san-juan-mayor/index.html>.

¹⁰ *See* Mufson et al., *supra* note 4.

¹¹ *Id.*

¹² *Id.*

contributor to President Trump's campaign, the Republican National Committee, and many other Republican candidates.¹³

We strongly urge you to conduct a comprehensive audit and investigation of the Contract to determine:

- 1) the propriety of using no-bid authority to award this Contract;
- 2) what role, if any, FEMA or any other Federal agency had in the approval and award of this Contract;
- 3) whether Whitefish has the capacity to perform this Contract;
- 4) whether the costs of this Contract are reasonable and appropriate given the availability of workers through a mutual aid agreement and Whitefish's lack of experience;
- 5) whether Whitefish violated any terms of the Contract and the appropriateness of its public statement when it threatened to not perform services in San Juan, Puerto Rico; and
- 6) whether there was any political consideration in the award of the Contract.

Thank you for your attention to this matter.

Sincerely,



PETER DeFAZIO
Ranking Member
Committee on Transportation
and Infrastructure



RAUL GRIJALVA
Ranking Member
Committee on Natural Resources

¹³ *Id.*