

Congress of the United States
House of Representatives
Washington, DC 20515

November 9, 2005

The Honorable Tom Davis
Chairman
Select Bipartisan Committee to Investigate the
Preparation for and Response to Hurricane Katrina
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On November 2, 2005, the Select Committee held a hearing on "Hurricane Katrina: The Federal Government's Use of Contractors to Prepare for and Respond to Catastrophic Events." Unfortunately, the government and contractor witnesses who testified were unable to answer many basic questions about the scope, price, and terms of contracts awarded after Hurricane Katrina struck the Gulf Coast.

Over two dozen times, the witnesses stated that they would research the information and provide it to the Committee as soon as possible – in some cases by the end of the day. Recognizing that their lack of information was beginning to "frustrate this committee," one witness promised: "I will assure you that people are in this room taking notes on what is being asked." To date, however, we have not received any follow-up responses.

It is essential that we obtain the requested information in order to conduct a full and thorough investigation of the problems associated with the massive contracts that were awarded in Katrina's wake. For this reason, I request that the Committee send written Questions for the Record to each witness who committed to providing information. For your convenience, I am attaching a list of 27 specific requests and commitments made at the hearing, along with relevant excerpts from the hearing transcript.

I appreciate your cooperation on this matter.

Sincerely,



Charlie Melancon
Member of Congress

Attachment

**Transcript Excerpts:
Select Committee Hearing on Katrina Contracting
November 2, 2005**

WITNESS: COLONEL NORBERT DOYLE
ACTING PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING
U.S. ARMY CORPS OF ENGINEERS

- 1) CHAIRMAN DAVIS: [O]n Friday, September 2, former FEMA Director Brown received an e-mail that showed that Mississippi would be getting 60 trucks of ice and 26 trucks of water, but their requirements were for 450 trucks of ice and 450 trucks of water. Why wouldn't they be getting their requirement, because some of this was -- we had everything ready, we knew what the need was, and they just didn't get it. Do they not have contracts to get those kind of requirements? Could there have been operational difficulties? And are you aware of difficulties getting water and ice to Mississippi at that time, this is September 2, and the efforts that they had to overcome? ...

DOYLE: Sir, I'm not familiar with this specific incident, but I know we ordered and delivered literally thousands of truckloads of ice and water.

CHAIRMAN DAVIS: Well, this was on Friday. Let me just give it to you again. This is September 2, for the storm, that they'd need 60 trucks of ice and 26 trucks of water were coming, but the requirements were for 450 each. Why wouldn't they have been able to get those requirements there early? Do you know what logistically could have happened or anything? And who was the contractor we were using at that point to get the ice and the water?

DOYLE: Sir, the contractor for the ice mission, I believe, was IAT (ph), but I would need to get back to the record to double check that.

CHAIRMAN DAVIS: I'll let you get back to the record.

- 2) REP. ROGERS: I'm referring to an October 25 story in the New Orleans Times Picayune newspaper that relates to the local contractors being allowed to have contracts for the removal of debris. According to the story, there are several New Orleans parishes that made contracts with local contractors to remove debris, and they're paying, I think, around \$14 or so a ton, and the Corps of Engineers, I'm told, is being paid roughly 30 or so dollars a ton to contractors for the Corps of Engineers, and now the Corps, according to the story, is going to the local parishes saying, "You need to go through us and void your contracts with the local contractors."

Well, the difference between \$14 and \$30 a ton ain't chicken feed. Now, is this true or is it not true? Colonel?

DOYLE: Sir, I'm not familiar with that article, but we'll take it and check it to see if it's true or not.

- 3) REP. ROGERS: I want to know, though, what is the difference between what you're paying contractors to remove debris compared to what the parishes are paying direct

contractors to remove debris?

DOYLE: Sir, it's hard to answer because I don't know what that story said, and I don't know if those quotes are accurate or not.

REP. ROGERS: No, no. Do you know what you're paying -- what are you paying...

DOYLE: Sir, what I know right now is we're paying our Mississippi debris contractors \$17 a cubic yard. I don't know if that pertains to the debris contractors in Louisiana.

REP. ROGERS: Well, who does know?

DOYLE: I'll have to get back to our contracting officers in the field and get back to you, sir.

4) DOYLE: Sir, we are reimbursed for our labor to support our customers.

REP. MELANCON: Is it a percentage of the cost of the contract?

DOYLE: No, sir.

REP. MELANCON: How is that determined?

DOYLE: Through labor rates for our district offices, administrative expenses that support those personnel.

REP. MELANCON: And do you know what the average of that cost is per district office?

DOYLE: No, sir, but I can get it back to you with our resource management folks.

REP. MELANCON: If you could.

DOYLE: Yes, sir.

5) REP. BONILLA: According to one report, the government is paying an average of \$2,480 for in many cases less than two hours of work, even though the government is providing the blue sheeting for free. The government pays by the square foot. The Shaw Group is getting paid the most to install the tarp at \$1.75 per square foot. The other two contractors are Simon Roofing, getting \$1.72 per square foot, and LJC, getting \$1.49 per square foot. Shaw is also billing the government at \$155 per hour for its operation manager while Simon bills at \$150 and LJC at \$65.

Is that what it costs? It seems, I would think, especially to the average person, that this is an incredibly large amount of money per roof, even, again, assuming or recognizing that the government is supplying the material.

DOYLE: Yes, sir. Our contracting officers in the field are under an obligation to get with those contractors, and they do have to verify their costs. As for those specifics, we would have to get back with the contracting officer to make sure those are the specifics that they have been told.

- 6) REP. MYRICK: [H]ow do you justify almost \$2,500 for two hours of work to put a blue tarp on a roof when the government furnishes the blue tarp anyway? I don't know if that's the Corps, for FEMA or who this is. I mean, doesn't it just ring a bell with somebody that this is an excessive amount of money? Who in the world at home would pay that kind of money to have two hours of work done?

I mean, you know, putting on a tarp, yes, it's hard, but a lot of us have done it before and it isn't \$2,500 hard. I mean, I'm just really -- the frustration, I guess, I'm expressing is, doesn't anybody look and say, "Hey, gee, this seems like it's a lot of money," other than the inspector general after the fact?

DOYLE: No, ma'am; you're absolutely correct. That does seem like a lot of money, and what I'm going to do is go back to our program people and our contracting people and have a paper put together to explain what we think the average cost per roof really is to verify that number that seems to be bantered about.

- 7) REP. MYRICK: The advanced contracting initiative for quicker response, what kind of time requirement do you set out in the beginning for people who are supposed to provide the ice or the water or the roofing or whatever it is? Do you have specific requirements that they have to follow, and if they don't follow them, are there any penalties for not following them?

DOYLE: Ma'am, are you referring to, like, delivery times and how fast they have to be mobilized and working or deliver a truckload of ice? Is that...

REP. MYRICK: Right, to finish, from start to finish.

DOYLE: Yes, ma'am. I'm sure there are delivery times in each of those aspects, in mobilization ramp-up times. What they are off the top, I don't know off the top of my head.

REP. MYRICK: Can you find that out, please...

DOYLE: Yes, ma'am.

REP. MYRICK: [A]nd let me know, as well as if there are any penalties if they don't do it?

- 8) REP. TAYLOR: I think what you're going to find based on experience is a couple things. In some instances, you're just putting a small blue tarp over a small patch that lost the shingles. There will be other instances that actually involve putting the plywood down over what's left of the frame, patching a hole. Remember, the reason a lot of these roofs are gone is that a tree fell into someone's house, so you've got the tree removal. It's certainly complicated whether a flat roof, got a slight pitch or a very steep pitch, which makes it a heck of a lot harder to stay on there.

So I would hope that the Corps has a sliding scale of pricing based on all these different possibilities, but I would hope the colonel would get back to us.

Again, we deserve to know. If it's just putting out an 8-by-12 tarp for \$2,500, obviously, we, as a nation, have been taken advantage of, but if the incidents you make reference to

involves removing the tree, replacing the plywood, possibly even fixing the frame, then that might justify it. But I'm sure hopefully the colonel would get back to us with all that.

DOYLE: Sir, we will get back to you. I mean, that \$2,500 could be an average figure they used for planning purposes.

- 9) REP. MCCAUL: One, I wanted to go back to the Operation Blue Roof issue. The news reports I've read suggest that the government was paying close to \$3,000 for these plastic blue tarps, when the going rate, according to these news reports, was about \$300. So that's about a tenth of what the government's paying. When you calculate that with 300,000 homes, you're looking at a cost differential of \$900 million versus \$90 million. That's extraordinary.

And what I'm looking for you to tell me is that that's not accurate. Can you answer that question?

DOYLE: Sir, I can't tell you whether that's accurate or not, but what I have committed to is we will do a paper that lays out how those costs were established and how we set that average cost or where that average cost number comes from.

- 10) REP. TAYLOR: Mr. Rothwell, one of the remaining unmet needs is both the Biloxi Bridge that links Biloxi and Ocean Springs and the bridge that links Bay St. Louis and Pass Christian along U.S. Route 90 that were destroyed in the storm. Under ideal circumstances, they'll be replaced in two years.

My question is, whose job is it to try to establish some sort of ferry service, either for automobiles or passengers between those two points for the two years? Does that fall under FEMA or does that fall under the United States Department of Transportation?

DOYLE: Sir, I don't know. I mean, you're really asking a question -- this is a great question.

REP. TAYLOR: Would you get back to me?

DOYLE: I will. I will try to find you an answer and get back to you, sir.

.....
WITNESS: GREG ROTHWELL
CHIEF PROCUREMENT OFFICER
HOMELAND SECURITY DEPARTMENT

- 11) REP. TAYLOR: I see just the opposite with the sprouting of the travel trailers. It's like these guys are going to be paid by the career rather than by the task, and they have absolutely no urgency to get it done, and I've got 14,000 people begging for a place to stay. So what is going to happen hopefully in the near term to fix that?

Yes, we ought to be using every single manufacturer that's available in the states, even if means recontracting just on short order.

But I don't see that. And I see a lot of people who are willing to let this drag out past January. And, again, I really would invite you to come down and see the thousands of people who are still living in two-men igloo tents, and I think this nation ought to be able to do better than that for those folks. So if you're not in a position, I accept that. And Ms. English isn't in a position to fix that. Then who is?

ROTHWELL: Well, again, I'm going to ask Mrs. English to respond, but I will assure you that people are in this room taking notes on what is being asked. To the extent that we can get answers back to you on these questions, we absolutely will.

- 12) REP. ROGERS: Well, the question is, does it cost us more, us taxpayers more, for the Corps to insist that all removal contracts go through the Corps and be reimbursed at 100 percent or is it better that we let local parishes contract with local contractors who have their equipment on hand to remove this debris?

ENGLISH: I really don't know if it's costing us more, if we should use local contractors. I'm just not familiar with that.

REP. ROGERS: Is anybody at the table familiar with it?

DOYLE: Sir, may I add? As I said, the Corps is officially neutral. I mean, counties and parishes are allowed to do their own debris removal. As for the cost, I don't know...

REP. ROGERS: But they're only reimbursed at 75 percent after November 29, correct?

DOYLE: There is a sunset clause. I don't know if it's November 29.

REP. ROGERS: Yes. And the Corps is reimbursed at 100 percent. If you contract with the Corps, you're reimbursed at 100 percent. So if you're a contractor, local contractor, looking for a contract, are you wise to take a chance and contract directly with the parish and maybe only get 75 percent of your money or would you go through the Corps and be assured of 100 percent? ...

REP. ROGERS: Yes. My time has expired, but, Mr. Chairman, I want to ask the FEMA people to respond, and all of you to respond, the Corps as well, to respond to other questions raised in the news account that I just cited to you, and I'll be happy to give you a copy of the story [*See quote 2*].

CHAIRMAN DAVIS: Without objection. Is there any problem with getting that, Mr. Rothwell?

REP. ROGERS: And, finally, I want to ask the FEMA people as well, and I'll be talking to the director about it personally, I want to know if the policy is going to change, and if so, when? And why can't you change it for a disaster beyond anyone's expectations? This debris is going to take two or three years. Normally, you have a few days to clean out the debris with a regular storm. But this is extraordinary and we're talking about saving \$4 or \$5 billion by changing this crazy policy. Can you respond to that?

ROTHWELL: No, sir. I think we will agree to get back to you and try to figure out how to respond to it.

- 13) REP. MELANCON: Mr. Pickering, Mr. Taylor, Mr. Jindal and I wrote to FEMA -- and, of course, this will go to the FEMA people too -- on October 24 to ask for a clarification on the fact that the Corps or the FEMA people were coming in and saying, "If you don't task the Corps for the cleanup work, then you'll have to pay a 90-10 share of the cleanup after the date of the expiration of the extension that has just been done."

Is that in fact the case? Is that written somewhere that those parishes, those counties that task their own contractors have been -- and I can verify that they've been told -- that their contractors will have to be paid 90 percent by the feds, 10 percent by the parish or the county after the extension if they don't task the Corps' prime contractor or tier 1 contractor?

REP. ROGERS: I have a copy of the guidance number 4150-E of FEMA, issued September 26, 1995, which sets out this policy, which I am told was in the process of being changed as Katrina hit to correct the discrepancy that I've described so that local counties, local officials could contract directly for debris removal or other things and be reimbursed equally, as would the overall contractor of the Corps of Engineers.

And all it would require changing would be to add four words, which I can discuss with you, but those four words are worth \$1 billion apiece. And I don't see why you can't change that now. In fact, this policy, in my judgment, is contrary to the Stafford Act itself and therefore null and void. So if you want to get into a discussion of that, step outside. ...

ROTHWELL: No, I will just have to get back. This is a very important issue. We're just not the right panelists to be responding to it, but we have written this down. I've got it written right here, 4150-E. We promise to get back to Chairman Rogers on it and to the rest of the committee.

- 14) REP. MELANCON: On another issue, in a similar situation where the parish officers or government officials were told if they didn't task the Corps, they would have to pay a percentage of cleanup, this particular parish, for fear that they didn't have the money, which they don't, tasked the Corps and has consequently since the beginning been asking them for an accounting of what it is costing to dispose of and do the cleanup, to which they have not gotten an answer.

To the extent that the parish president of one of my parishes had to, under the Freedom of Information Act, make a request to get that information and has still not received it, and that's several weeks old, why is it that we can't and they can't get simple information of how much it is costing? By now they know how many trailers are coming in, you know how many cubic yards of debris has gone out, you know how much you've expended on those items. Isn't it possible, even parish by parish, to get that information?

ROTHWELL: We will try to get you that information as quickly as possible.

- 15) REP. TAYLOR: How soon do you think you might be able to get us some information about these two... [percentage of workers from each state -- Louisiana, Mississippi and Alabama -- who are working on contracts down there now and the percentage of contractors from each state, from Mississippi, Alabama and Louisiana, working under the aegis of DHS]

ROTHWELL: I believe by the end of next week we could probably get you that

information.

REP. TAYLOR: That would be great.

ROTHWELL: I will tell you that we've actually started asking that information from our companies. So I'm sure we could get it to you by the end of next week.

- 16) REP. MCCAUL: One other criticism out there that I'd like for you to address, and I hope disprove, is with respect to the Carnival Cruise Line. The approximate cost is \$120,000 for a family of four, for six months. It's reported that an average house in New Orleans has a value of about \$87,000.

Also, it was reported that the profit under the government contract is higher than what they actually received per passenger on a regular cruise line.

And then, finally, it was reported the EU said that Greece had offered us, the United States, to donate two cruise ships to deal with this, but we turned that down.

Could you, perhaps, Colonel, of whoever is in the best position to answer that -- actually, Mr. Rothwell is probably in the best position to address those allegations.

ROTHWELL: I guess I'm in the best position to respond. This was a contract negotiated by NAVSEA. The Department of the Navy negotiated that. We, in our department, will commit to get you answers to that, but this was negotiated by NAVSEA, and you do have the company actually going to be here in the following panel. But we will get you an answer back.

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WITNESS: PATRICIA ENGLISH
SENIOR PROCUREMENT EXECUTIVE
FEDERAL EMERGENCY MANAGEMENT AGENCY

- 17) ENGLISH: I can address your issue as it relates to, to some degree, setting up the trailers. Going forth, what we're going to do is when we do the recompetes of these major contracts, the setup of the trailers, the maintenance of the trailers, the deactivation of trailers, everything, will be on a fixed unit price.

So we will negotiate a fixed price, and this is what you have to do, and it's going to be performance based where we will have also time standards in there, and there will be penalties for non-performance. In the current contracts, we don't have those.

But what we did do under the current contracts...

REP. TAYLOR: Ms. English?

ENGLISH: Yes.

REP. TAYLOR: Can we change the current contracts to require that? Because, again, I'm seeing too many folks who take a flushed toilet for granted, who take electricity for granted, who take a bed to sleep under and not getting rained on, not being cold at night.

I'm seeing a room full of people who take all those things for granted. Every weekend when I go home I'm seeing folks who would consider that a luxury and aren't being told that this is going to get fixed for over 60 days.

So how do we change that? I understand what you just said, but is there room in that contract for this to be changed so that somebody will fix that?

ENGLISH: Sir, there's room, and we'll look into seeing what we can do to change it. I will work with our housing folks to see how we can change this and make things happen a little faster.

REP. TAYLOR: OK. Can someone get back to me today?

ENGLISH: I will try.

- 18) ENGLISH: Those contracts are the ones that setting up the mobile homes, those contracts are the ones that are helping hopefully getting the victims back on their feet. We didn't have those contracts in place.

But for the most part, we had contracts in place. Did we have them to the magnitude that we could have adequately responded to this disaster? No.

REP. JEFFERSON: Because you didn't, a lot of these had to put in place in a hurry. Were a lot of these done by just oral orders over the telephone and that sort of thing?

ENGLISH: No, not really, sir. What happened is, we did put those contracts in place very quickly, but let me tell you how we did that. We were in the process of looking at putting individual technical assistance contracts in place. We were conducting market research. We were meeting with contractors, talking about the contracts, so we were well on the procurement process.

Then the hurricane hit, and we recognized immediately that we needed these type of contracts in place. What we did, the companies that we had conducted market research with we were familiar with, we knew that they could do the work, and we also knew that they could hit the ground running. So we did contact those companies, made arrangements for them to prepare themselves to hit the ground for us.

We did not actually verbally tell them to go immediately. We gave them what was called preauthorization notices. That way they had contract notices to proceed, go to the areas of devastation, work with our folks on the ground and define clearly what was needed to get the job done, to get it done immediately.

REP. JEFFERSON: OK. For the ones that had to put together in this way, how much of the work that was to be done was taken up by these sort of contracts? I mean, what percentage of the work had to be taken up on this emergency basis by contracts that weren't taken care of by the contingency contracts? More than half of the work or less than half of the work? What would you guess?

ENGLISH: I would say less than half, but to be sure, let me check into that and I'll get back to you.

- 19) CHAIRMAN DAVIS: [H]ow many of the travel trailers have been delivered to FEMA but are at a staging area and not delivered to the hurricane victims? Do you have any idea?

ENGLISH: No, sir, but I can get back to you on that.

- 20) REP. PICKERING: Should we expect, as we look at all of our numbers, that a government overhead is going to be somewhere between 20 and 25 percent?

ENGLISH: I really can't address that. When you asked me about the Corps, I only gave you that data because that was what we were getting from our financial folks, that it was around 21 percent, and I heard that just recently, just prior to coming to a meeting.

As far as our overhead is concerned, I really don't know, but I can certainly check into it and get back to you.

- 21) REP. PICKERING: Ms. English, you can renegotiate contracts. You currently do not have a time incentive or performance incentive with Bechtel on the housing. If you wanted to renegotiate that, how long would it take you to put an incentive?

And, Colonel Doyle, how long would it take you to make sure that all of the current contracts have incentives for local hires with specific benchmark targets and enforcement mechanisms in those contracts? How long does that take you to do?

ENGLISH: Right now, we're in the process of negotiating with Bechtel. That's something we could try to incorporate into our current negotiations.

REP. PICKERING: And so you would complete that negotiation, change that, and it could be done next week, two weeks, Christmas, January, February, perhaps winter, spring, when?

ENGLISH: No, I'll have to get back to you on that, and the reason is, right now we have several task orders outstanding with Bechtel that have to be negotiated. So I would have to go back and look at those task orders, look at the ones that directly impact the housing to see what we can do about those.

- 22) ENGLISH: Right after the disaster when we started to buy trailers very early in September, it was very difficult to get through to a lot of vendors and so forth in the disaster-prone area. So we did go outside of the area.

Right now, though, we are only buying trailers from the disaster-prone area. We are buying trailers in Mississippi and Louisiana and Texas. Just about a week ago, we had a requirement for over 3,000 units. We bought all of those units out of the state of Louisiana.

REP. MELANCON: If I could get a list of the dealers that you've dealt with.

ENGLISH: Yes.

- 23) REP. MELANCON: There were thousands of trailers bought, I believe, last year for Florida. Is it true that FEMA auctioned off a number of those trailers after they were

finished being used?

ENGLISH: Yes, sir; that is true.

REP. MELANCON: Is there some reason we don't -- I mean, as said earlier, this is not going to be disaster every five or 10 years. We've got them every year. Is there some reason we don't clean them up and stockpile them or hold them, as they did with ice at some of the military bases? We probably auctioned them off, and people would die for them right now.

ENGLISH: We do stockpile a certain number, sir. I don't know that exact number. And why we don't stock more, I really don't know, but I can try to find out for you.

REP. MELANCON: If we can look into policy and see that...

ENGLISH: Sure.

- 24) REP. TAYLOR: And folks are grateful for getting the trailers, believe me, but there have been, apparently, in the speed to build these there have been some quality problems. I'm hearing this quite often. Could you please get for me, for Congressman Melancon, Congressman Jefferson, all the other affected areas, a list of those manufacturers so that if someone calls up, and I won't name the name, but I'll just say Trailer X Company, that we can put the people in touch with them, because there are more complaints along that than I think any of us would like to hear.

ENGLISH: OK.

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WITNESS: RICHARD SKINNER
INSPECTOR GENERAL
HOMELAND SECURITY DEPARTMENT

- 25) REP. MCCAUL: Mr. Skinner, do you have any information [with regard to quote 16]?

SKINNER: Congressman, we are in fact looking at that as well with the DOD IG. The DOD IG is looking at it from a compliance with federal acquisition regs perspective. We're looking at it from a program perspective. We anticipate having both reports out within the next 30 to 45 days as to whether, one, was it a wise decision, and, two, did we follow the proper procurement mechanisms to award that particular contract? And did we take into consideration such as the offer from the government of Greece to provide ships free of charge?

- 26) REP. TAYLOR: Mr. Skinner, my question to you is, I do appreciate that at least FEMA tried to be creative in getting a heck of a lot of people into housing in short order with the cruise contract. It was way too expensive, but what I'm told that is the most troubling to me is that the contracts were written in a way that automatically excluded American suppliers, like the Delta Queen, the Mississippi Queen, the American Queen, that the contracts were written to require that the ship had thousands of berths rather than hundreds of berths, and just that simple phrasing automatically excluded American flag,

American-owned, American crude vessels in favor of foreign flag, foreign-owned, foreign crude. Why is that?

SKINNER: We're looking at that.

REP. TAYLOR: OK. Again, this isn't the last storm we're every going to have.

SKINNER: Yes, and we're aware of that. And, yes, those terms were in those contracts, and those are the questions that we're asking as well.

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WITNESS: TERRY THORNTON
VICE PRESIDENT, MARKETING-PLANNING
CARNIVAL CRUISE LINES

27) REP. BUYER: Mr. Thornton, there's a question with regard to whether or not, in negotiations on the contracts, whether Carnival Cruise Lines had requested from the government to waive 10 years of fines? Is that true or not true?

THORNTON: Early on in the negotiations, the very first day, Thursday before we got too far into this, and based really on our lack of knowledge about how this was going to work from a contracting standpoint, we sent general business terms of what we constructed as he deal to an official at FEMA -- without contract price at that point in time, just general business terms. And we did include in that a waiver of Jones Act fines. But as we went forward with the official contract with the MSC, that provision was never pursued.

REP. BUYER: What is your outstanding Jones Act fine?

THORNTON: I'm not aware of that number right off the top of my head, but I could get back to you with that.

REP. BUYER: Must be a pretty big number.

THORNTON: Well, we've had a couple of incidents, specifically in the New Orleans area, related to the river being closed, and having to terminate cruises in a different port that we've left from. They've all been because of catastrophic kind of events, where we had to move ships, and technically violate the Jones Act to accommodate really getting people on and off the ships.