9/11 HEALTH: WHY DID HHS CANCEL CONTRACTS TO MANAGE RESPONDER HEALTH CARE?

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION, AND PROCUREMENT

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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9/11 HEALTH: WHY DID HHS CANCEL CONTRACTS TO MANAGE RESPONDER HEALTH CARE?

TUESDAY, JANUARY 22, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
ORGANIZATION, AND PROCUREMENT,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
New York, NY.

The subcommittee met, pursuant to notice, at 10:35 a.m., at the Daniel Moynihan Federal Courthouse, 500 Pearl Street, New York, NY, Hon. Edolphus Towns (chairman of the subcommittee) presiding.

Present: Representatives Towns and Maloney.

Also present: Representatives Nadler and Fossella.

Staff present: Velvet Johnson, counsel.

Mr. TOWNS. The committee will come to order. As we begin our business here today, we should remember back 6 years ago when toxic clouds of smoke from the World Trade Center hung over lower Manhattan, Brooklyn and other parts of the city. Everyone in America has their own story about that day, where they were, what they were doing, what they were thinking or feeling on September 11, 2001. But for the emergency responders and recovery workers who worked in and around Ground Zero that day, it does not just haunt them. For some, it is killing them.

Six and a half years since the attack, we now know that the toxic environment created when the towers collapsed exposed first responders, rescue and clean-up workers to a range of dust, smoke and toxic pollutants. These heroes from across the Nation are still dealing with the long-term health effects from 9/11. Many are suffering from disease and disability and require medical care. It is our duty as a nation to make sure that they get the care they need. Unfortunately, the Federal effort to provide health care to these workers has been plagued by false starts, incomplete programs and funding shortfalls.

In Congress, we have been fighting for permanent, long-term health care for 9/11 workers. My colleagues here today—Congresswoman Maloney, Congressman Nadler, of course along with Congressman Fossella—wrote a bipartisan bill that would guarantee health care for these heroes, and I want to salute them for that. Last year I held three oversight hearings to bring attention to this issue and to hold the administration accountable for its lack of progress. Last year Congress approved more than $100 million of

funding for 9/11 health care programs, and last fall the administration solicited bids for a center that would manage medical pharmacy care for 9/11 workers nationwide. So we thought we were finally on the right track.

Then in December, the administration pulled the plug on this contract just 2 days before the bids were due. It is really a baffling decision and they can't even get their stories straight for why it happened. First they said that the bidders were confused. That is very interesting. Well, we have talked to bidders who had invested a lot of time and money in their proposals, and they said they were ready to go and they were not confused. Then the administration said there wasn't enough funding. Well, how could they know that before the bids came in? And what about the $108 million that Congress provided? Let me tell you, this does not make any sense and that's why I called this hearing today to get the bottom of it.

And let me inform those that say let's stall. Well, let me tell you, we are not going to go away. You might be able to stall, but I want to let you know, there is an empty chair at the witness table today because you refused to come. Well, let me just say what we are going to do next if you refuse to come: we are going to ask for all the memos, we are going to ask for all the telephone records, we are going to ask for the e-mails, we are going ask for the letters and then we are going to ask another question: Was the White House involved in this decision?

We are going to raise these questions, because we are not going to let people suffer who came in and responded in a very efficient manner to protect the lives of so many—and then we are just going to leave them and neglect them. I will not stand for it as the Chair of this committee. And, of course, I want to let the word go forth that we will not stand by and allow you to stall. We are going to get the information that we need.

As Chair of the Government Management Subcommittee, I try to be fair. I give people the benefit of the doubt. I try to give the administration the benefit of the doubt. But, I've done oversight on a lot of programs and I'm sorry to say that the HHS program for 9/11 health care is one the worst managed programs that I have ever seen in my 26 years of being in the U.S. Congress.

The lack of action for these heroes as sheroes and the bureaucracy they've had to go through is simply unacceptable. It is a disgrace and it must be stopped.

I would like to unanimous consent for members of the New York City Delegation not on the subcommittee to participate in today's hearing.

Hearing no objection, it is so ordered.

[The prepared statement of Hon. Edolphus Towns follows:]

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SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION AND PROCUREMENT

"9/11 Health: Why Did HHS Cancel Contracts to Manage Responder Health Care?"
10:30 a.m., Tuesday, January 22, 2008
Daniel Patrick Moynihan Federal Court House
New York, NY

OPENING STATEMENT OF
Chairman Edolphus Towns

As we begin our business here today, we should remember back six years ago when toxic clouds of smoke from the World Trade Center hung above lower Manhattan, Brooklyn and other parts of our city. Everyone in America has their own story about that day—where they were, what they were doing, thinking, or feeling on Sept. 11, 2001. But for the emergency responders and recovery workers who worked in and around Ground Zero, that day doesn't just haunt them. For some, it's killing them.

Six and a half years since the attack, we now know that the toxic environment created when the towers collapsed exposed first responders, rescuers, and clean-up workers to a range of dust, smoke, and toxic pollutants. These heroes from across the nation are still dealing with the long term health effects from 9/11. Many are suffering from disease and disability and require medical care. It is our duty as a nation to make sure they get the care they need. Unfortunately, the federal effort to provide health care to these workers has been plagued by false starts, incomplete programs, and funding shortfalls.

In Congress, we've been fighting for permanent, long-term health care for 9/11 workers. My colleagues here today – Congresswoman Maloney, Congressman Nadler, and Congressman Fossella – wrote a bipartisan bill that would guarantee health care for these heroes. Last year, I held three

oversight hearings to bring attention to this issue and hold the Administration accountable for its lack of progress. Last year, Congress approved more than $100 million of funding for 9/11 health care programs. And last fall, the Administration solicited bids for a center that would manage medical and pharmacy care for 9/11 workers nationwide. So we thought we were finally on the right track.

Then in December, the Administration pulled the plug on this contract just two days before the bids were due. It is really a baffling decision, and they can't even get their stories straight for why it happened. First they said that the bidders were confused. Well, we talked to bidders, who had invested a lot of time and money in their proposals, and they said they were ready to go. Then the Administration said there wasn't enough funding. Well, how could they know that before the bids came in? And what about the $108 million that Congress provided? The whole thing doesn't make any sense, and that's why I called this hearing today, to get to the bottom of it.

You'll notice there's an empty chair at the witness table. That's because we invited HHS to explain themselves, and they refused to send a witness. They told us nobody was available. This is just unacceptable, and I'm not going to stand for it. Today the Oversight Committee is sending a demand letter for all e-mails, memos, and other documents related to the termination of this contract. If I don't get this information promptly, there will be a subpoena. And then once we've figured out who is responsible, that person will be summoned to testify at another hearing, by subpoena if necessary. We're going to move forward today, and hear from real people who are affected by this HHS decision. It's a shame nobody from the Administration is here to listen.

In my role as Chairman of the Government Management Subcommittee, I try to be fair, and give people the benefit of the doubt. But I've done oversight on a lot of issues, and I'm sorry to say that the HHS program for 9/11 health care is one of the worst managed programs I've seen. The lack of action for these heroes, and the bureaucracy they've had to go through, is simply unacceptable. It is shameful.

***

Mr. TOWNS. I will now yield to my colleagues for their opening statements. No more than 5 minutes each, starting with you, Congresswoman Maloney, who has really been very involved in this issue, and, of course, had done a remarkable job of making certain that it stays alive and that people are treated fairly. I salute you for that this morning, Congresswoman Maloney.

Mrs. MALONEY. Thank you, Chairman Towns, for those kind words, and, really, for your leadership in convening this important hearing today. And to my colleague, Jerry Nadler, for his steadfast work on this issue.

Chairman Towns, this is the fourth hearing that he has held, and he is determined to get answers, and I congratulate your leadership and your determination. I do want to thank the members here that will be testifying. Many of them are among the thousands of responders who came to New York City with a minute's notice. They were here quickly to help our city, to help try to save lives, to help in recovery. Yet, the administration, HHS, with 2 week's notice could not get anyone on a shuttle or an airplane or here in any way to answer questions and to provide the appropriate testimony. So I congratulate you, Mr. Chairman, to being determined to get the answers to the questions and to hold them accountable for their actions.

I also really very much want to express my gratitude to the U.S. Court of Appeals Second Circuit. They have generously agreed to provide us this room for this hearing and to the Moynihan Courthouse. As many of you may know, more than 70,000 Americans have signed up for the World Trade Center Health Registry because they are concerned about their exposure to the deadly toxins on 9/11. About 60,000 of those registered hail from the tri-State area and most have access to health clinics operated by the local Centers of Excellence. What many of you may not know is that the other 10,000 registrants live outside of the New York City area and these Americans come from every State in our union, including Alaska and Hawaii. And, perhaps even more amazing, 431 of our 435 congressional districts nationwide, they all had people working at Ground Zero.

Today we are joined by three responders who live outside the New York metropolitan area, and these three heroes were all at Ground Zero. They all have health challenges from their service and they all need the help that a national program would provide.

Chief Fraone from Menlo Park, CA, who led urban search and rescue teams from California at Ground Zero, will tell his story and talk about the difficulties he had in getting help, treatment, or just plain getting information he needs to take care of his health concerns.

Joseph Libretti, an ironworker from Pennsylvania, who spent the first months responding to the attack and is now seriously ill; in fact, over the weekend we were afraid he wouldn't be able to come because of health challenges from his exposure at Ground Zero. He can no longer work and has to travel 100 miles one way to see his doctor here in New York.

We will also hear from Kevin Mount, a former heavy equipment operator with the New York City Department of Sanitation, who worked on the pile and had to retire to Florida on disability due

to injuries caused by his service, and who now must come back to New York City several times a year to see his doctors at Mt. Sinai.

These responders represent thousands of rescue and recovery workers who came from around the country to help New York and are now in need of help from the Federal Government.

However, just before Christmas, right before Christmas, the Bush administration abruptly terminated a Request for Contracts to set up a World Trade Center Business Processing Center which would have been the hub of a national program to provide care for Americans who have 9/11 related illnesses.

I used to Chair the Contracts Committee on the City Council and I work on contracts on this committee for the Federal Government. Never in my entire history of studying and working on accountability in contracts have I heard of one terminated 2 days before it was due. The administration's abrupt and ill-advised decision essentially ended the hope that sick 9/11 responders from around the country could any time soon get long-term, federally funded medical monitoring and treatment without traveling to the New York City area. The Request for Contracts for the national program was first put out in October and the final December 19th deadline to submit contracts was fast approaching when they just pulled the plug and put it out of commission.

Senators Clinton and Schumer and the entire delegation sent a letter to Health and Human Resources Secretary Michael Leavitt looking for answers about this abrupt change in course. The letter is available at the sign-in desk.

The reasons given at the time just did not make any sense. First they said there wasn't enough money. Now if that were true, it would mean that the Department failed to ask for enough money. Yet, the fact is that the money was there. We just put in $108 million for 9/11 health care, which added to the $50 million we approved earlier that year.

They also said their was bidders' confusion. We talked to several of the bidders and they said they weren't confused at all. They wanted to submit their contract. We wanted to know why the decision was made and who made it and what alternative plans the administration may have in store if they don't reinstate their Request for Contracts. We had asked for an answer before Friday, December 21st. We did not get one. It is now January 22nd and we still do not have an answer.

And as Chairman Towns stated, he asked Secretary Leavitt to testify today, or at least have the common courtesy to send someone to do so, but apparently neither he, nor any of the thousands of people who work for him, could spend a few hours of their time for the heroes of 9/11. It seems that while thousands came to New York with no notice in our hour of need, no one at HHS could get on a shuttle or a train and be here today with 2 weeks' notice to answer the questions of the sick responders.

Dr. Melius will have to explain the situation to us, since the government decided not to show. And, as I mentioned earlier, the consequences of the administration's decision will be felt not just in States like California and Florida, but right here in New York as well. And, while this committee deals with government contracting and grants all the time, I think I need to explain in greater detail

the problem that we may be facing at the local level because of the administration's decision.

My time for opening statements is up. I obviously feel very passionate about this, so I will put the remainder of my comments in the record, because we need to get to the witnesses and hear their stories.

Mr. TOWNS. Thank you, Congresswoman Maloney.

[The prepared statement of Hon. Carolyn B. Maloney follows:]

14th District • New York

Congresswoman

Carolyn Maloney

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Opening Remarks of Congresswoman Carolyn Maloney
Field Hearing on 9/11 Health: Why Did HHS Cancel Contracts
to Manage Responder Health Care?
Tuesday, January 22nd, 10:30am

Good morning. I'd like to thank Chairman Ed Towns for his leadership in convening this hearing today, and to my colleagues Jerry Nadler and Vito Fossella for their steadfast work to provide proper care and compensation for everyone whose health was compromised by the attacks of September 11, 2001.

I'd also like to express my gratitude to the U.S. Court of Appeals for the Second Circuit, who generously agreed to move their previously scheduled hearing so that we could convene here in the Moynihan Courthouse.

As many of you may know, more than 70,000 Americans have signed up for the World Trade Center Health Registry because they are concerned about their exposure to the toxic aftermath of the 9/11 attacks. About 60,000 of those registered hail from the tri-state area and most have access to health clinics operated by the local Centers of Excellence, including Mt. Sinai, the FDNY and others.

What many of you may not know, however, is that the other 10,000 registrants live outside the New York area, and these Americans -who come from every state in our union, even Alaska and Hawaii, and, perhaps even more amazing, 431 of 435 Congressional districts nationwide- do not have access to federally-funded care in their own communities.

Today we are joined by three responders who live outside the New York metropolitan area; these three heroes were all at Ground Zero, they all have health effects from their service and they all need the help that a national program would provide.

Chief Fraone from Menlo Park, California, who led urban search and rescue teams from California at Ground Zero, will tell his story and talk about the difficulties he has had in getting help, treatment or even just information.

Joseph Libretti, an iron worker from Pennsylvania, who spent the first months responding to the attack and is now seriously ill from his exposure to toxins at Ground Zero, can no longer work and has to travel 100 miles one way to see his doctor here in New York.

We will also hear from Kevin Mount, a former heavy equipment operator from the NYC Department of Sanitation who worked on the pile and had to retire to Florida on disability due to injuries caused by his service, and who must now come back to New York several times a year to see his Mt. Sinai doctor.

These responders represent thousands of rescue and recovery workers who came from around the country to help New York and are now in need of help from the federal government.

However, just before Christmas, the Bush Administration abruptly terminated a Request for Contracts to set up the World Trade Center Business Processing Center, which would have been the hub of a national program to provide care for Americans who have 9/11-related illnesses but do not live in the New York metro area.

The Administration's abrupt and ill-advised decision essentially ended the hope that sick 9/11 responders from around the country could any time soon get long-term, federally-funded medical monitoring and treatment without traveling to the New York area.

The Request for Contracts for the national program was first put out in October, and the final December 19th deadline to submit contracts was fast approaching when the Administration suddenly decided to pull the plug.

Senators Clinton and Schumer and Jerry and Vito and I sent a letter to Health and Human Services Secretary Michael Leavitt looking for answers about this abrupt change of course. The letter is available at the sign in desk.

The reasons given at the time just did not make any sense.

First, they said there wasn't enough money to fund the contract. Now, if this were true, it would mean that the Department failed to ask for enough money to cover its own programs, which would certainly be odd, but in fact it was not true that there wasn't enough money, since the proposed contract was flexible, and since, within days, Congress appropriated another $108 million for 9/11 health care, which, added to the $50 million we approved earlier in the year, would have been more than enough to fund the contract.

They also said there was "bidders' confusion," but in fact one potential bidder has publicly stated that not only were they not confused, but they were ready and willing to submit a bid.

We wanted to know why the decision was made, who made it, and what alternative plans the Administration may have in store if they don't reinstate their request for contracts. We've had asked for an answer before Friday, December 21st. We didn't get one. It is now January 22nd and we still do not have an answer.

As Chairman Towns stated, he asked Secretary Leavitt to testify today, or at least send someone to do so, but apparently neither he nor any of the thousands of people who work for him could spare a few hours of their time for the heroes of 9/11. It seems that while thousands came to New York with no notice in its hour of need, no one at HHS could get on the shuttle or the train and be here today with two weeks notice.

The Secretary's silence on this matter is part of a pattern that would almost be funny if the stakes weren't so serious.

So today we have an empty chair instead of getting the answers we need. Dr. Melius will have to explain this situation to us since the Government decided not to show.

As I mentioned earlier, the consequences of the Administration's decision will be felt not just in states like California and Florida, but right here in New York, as well.

While this committee deals with government contracting and grants all the time I think I need to explain in greater detail the problem that we may be facing on the local level because of the administration's decision.

Under normal government grant making procedures, contracts and grants are drafted with a limit on how much can be spent and that is what was done with the federal grants made to the Centers of Excellence, which provide medical monitoring and treatment to 9/11 responders in the New York area.

Without the business center that NIOSH was attempting to set up, (or, rather, that the administration stopped,) clinics like Mt. Sinai that are operating under current grant arrangements will need their spending limits modified in the next few months or they will not be able to operate.

Once these spending caps are reached, federal funds that we struggled to get, basically over the administrations' objections, will have to sit in a bank account, rather than be used to provide care to 9/11 responders and others.

Now, had the proposed business center gone through as planned, the current grant arrangements and spending caps for the local Centers of Excellence would have been superseded by a new arrangement to pay costs through the national business center and no further procedures would have been necessary.

But when the Administration pulled the plug on the national program, it also pulled the plug on the way the local programs were going to operate.

My concern now is that this administration, which never supported the clinics, or the effort to medically monitor and treat 9/11 responders, will let them shut down.

While the administration chose not to be here to answer our questions I am grateful that our witnesses today were able to be here and testify.

Thank you, Chief Fraone, Mr. Libretti and Mr. Mount for your service.

Thank you, Mr. Chairman.

Mr. TOWNS. Now I yield to Congressman Nadler, who has been working very hard on this issue for quite some time. I want to thank him, too, for helping keep this alive, because people are suffering and, of course, we have an obligation to respond, to make certain that we do everything that we can to alleviate that suffering.

Congressman Nadler.

Mr. NADLER. Thank you. Let me begin by thanking you, Chairman Towns, for holding this hearing today and for the unanimous consent of the committee for permitting me, a non-committee Member, to participate up here in this hearing regarding the Federal Government's continued malfeasance in the years after September 11th.

I am outraged to have to say it again, that the Bush administration has turned its back on the heroes of 9/11.

When the World Trade Center collapsed on September 11, 2001, people came from every State in the Nation to aid in the massive rescue and recovery effort at Ground Zero. FEMA deployed 20 Urban Search and Rescue task forces from 14 States, some as far away as California, Arizona, Texas and Florida, to dig through the rubble looking for survivors.

The first responders—firefighters, police officers, emergency medical personnel, ironworkers and others—did this amidst hundreds of tons of asbestos, nearly half a million pounds of lead in the air, and untold amounts of glass fibers, steel and concrete that formed a massive cloud of toxic dust and smoke. Now, 6 years later, many of these selfless men and women are sick as a result of their work at Ground Zero. They are scattered across the country, many hundreds or thousands of miles away from the medical experts who are best qualified to treat them. Others who once lived in New York City have moved away, often because their illnesses were so severe.

For six long years, since shortly after 9/11 we have fought every single day to force the Federal Government to acknowledge its own responsibility and to provide health care for those people who have become sick from 9/11. After six long years of shirking its responsibilities and denying the obvious facts, it seemed like the Bush administration was finally poised to take the first step toward establishing a coordinated treatment mechanism for rescue and recovery workers who live outside the New York metropolitan area. The department of Health and Human Resources issued an RFP, Request for Proposal, for a World Trade Center Business Process Center, which would manage the enormously complicated task of medically monitoring people outside the New York area who are suffering from 9/11 related illnesses.

But now the administration has dropped the plan. It says Congress has not provided enough money. If saving the lives of first responders requires more funds, the administration should have asked Congress for more money. Look what it did. In the budget request it made in January of last year, a year ago now, the administration asked for only $25 million when the estimates of the costs were far higher. They asked for only $25 million. They said this was a placeholder; that is to say, that they would come in with a larger figure when they figured out what that figure should be.

Needless to say, they were lying. They never came in with another figure. That placeholder was the only figure they ever came in with. Congress, Carolyn, myself, others worked and got the House of Representatives and the Senate to vote $52½ million last spring. Senator Clinton got another $56 million, a total of $108 million. The administration asked for $25, we got $108 million. When it stood at $52 million, the administration said we are $56 million short of being able to fund this proposal. We got another $56 million dollars because of Senator Clinton. They still killed the proposal.

The administration shows itself to be hypocritical. It wasn't a shortage of money. We got them the money and they still killed the proposal and withdrew the RFP. The administration is yet again ignoring its obligation to the living victims of 9/11. The White House is again revictimizing the victims of that tragedy. The White House is making itself complicit with the terrorists in victimizing the victims who live here and elsewhere in the country.

Furthermore, providing health care to sick first responders across the country is only one of several programs that must be put in place if we are to fully recover from the environmental effects of 9/11. We recently fought tooth and nail to provide funding for the Centers of Excellence, who are doing such an incredible job of providing care for people with a myriad of 9/11 related diseases.

And as I said, we got $108 million of this year's budget—the first money to be provided in a regular appropriations bill—and for the first time this Federal funding will be available not only to first responders but to everyone, residents, students and area workers, whose health was affected by 9/11.

But this is not enough. Last year, Congresswoman Maloney and Congressman Fossella and I introduced 9/11 Health and Compensation Act, which provides comprehensive health benefits to everyone whose health was affected 9/11, and we still need a comprehensive testing and cleaning plan to ensure that no one else will be harmed by contamination in their homes, schools and offices in Manhattan, Brooklyn, Queens and Jersey City, which have never been properly decontaminated.

The World Trade Center Business Process Center is a crucial piece of providing health care to thousands of people across the country whose health was affected by 9/11.

As a Congressman who represents this area where the World Trade Center once stood, I saw firsthand the incredible work the first responders from all over the country did in the wake of 9/11. We have a moral obligation to the living victims of 9/11. I urge the administration to honor its commitment and move forward with this program.

And I would simply observe, I don't believe this is the worse managed program. I believe this is the most deliberately sabotaged program by the administration. Dr. John Agwunobi, who was an excellent appointee, he tried to do his job; he is no longer there. Dr. Howard tried to do his job. He has been summarily undermined, we don't know by whom. And, that's why they won't show up today.

We have a record of the lies, evasions, deceit and absence, and that is why I think that Chairman Towns is going to have to utilize the subpoena power in order to get to the bottom of this and begin

to get to the truth of why this administration, why the Bush administration wants the victims of 9/11 to continue suffering without adequate health care.

Thank you. I yield.

Mr. TOWNS. Thank you very much, Congress Nadler.

[The prepared statement of Hon. Jerrold Nadler follows:]

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TESTIMONY OF U.S. REPRESENTATIVE JERROLD NADLER (D-NY)

Submitted to

The House Oversight and Government Reform Subcommittee on Government Management, Organization, and Procurement

January 22, 2008

9/11 Health: Why Did HHS Cancel Contracts to Manage Responder Health Care?

Thank you, Chairman Towns. I would like to thank you for holding this hearing today, and for inviting me to testify, regarding the federal government's continued malfeasance in the years after September 11.

I am outraged to stand here yet again to say that the Bush Administration has turned its back on the heroes of 9/11.

When the World Trade Center collapsed on September 11, 2001, people came from every state in the nation to aide in the massive rescue and recovery effort at Ground Zero. FEMA deployed 20 Urban Search and Rescue task forces from 14 states, as far away as California, Arizona, Texas, and Florida to dig through the rubble, looking for survivors.

These first responders – firefighters, police officers, emergency medical personnel, and others - did this amidst hundreds of tons of asbestos, nearly half a million pounds of lead, and untold amounts of glass fibers, steel and concrete that formed a massive cloud of toxic dust and smoke. Now, six years later, many of these selfless men and women are sick as a result of their work at Ground Zero. They are scattered across the country, many hundreds or thousands of miles away from the medical experts who are best qualified to treat them. Others who once lived in New York City have moved away, often because their illnesses were so severe.

For six long years, we have fought every single day to force the federal government to provide health care for those people who have become sick from 9/11. And after six long years of shirking its responsibilities, it seemed like the Administration was finally poised to take the first step toward establishing a coordinated treatment mechanism for rescue and recovery workers who live outside the New York metropolitan area. The Department of Health and

Human Services issued a Request for Proposals for the World Trade Center Business Process Center, which would manage this enormously complicated task.

But now, the Administration is dropping the plan – because, it says, Congress has not provided enough money. If saving the lives of first responders requires more funds, the Administration should have asked Congress for more funds. It is outrageous to kill this program before its birth. The lives of the first responders should be worth more than the $56 million the Administration says that it is short. The Bush Administration is yet again ignoring its moral obligation to the living victims of 9/11 – the White House is re-victimizing the victims of that tragedy.

Furthermore, providing health care to sick first responders across the country is only one of several programs that must be put in place if we are to fully recover from the environmental effects of 9/11. We recently fought tooth and nail to provide funding for the Centers of Excellence, who are doing such an incredible job of caring for people with a myriad of 9/11-related diseases. I am proud to say that we secured $108 million for 9/11 health, the first money to be provided in a regular appropriations bill. And for the first time, this federal funding will be available not only to first responders, but to everyone – residents, students, and area workers – whose health was affected by 9/11.

But this is not enough. Last year, I introduced the *9/11 Health and Compensation Act* with several of my colleagues, which would provide comprehensive health benefits to everyone whose health was affected by 9/11. And we still need a comprehensive test and clean plan to ensure that no one else will be harmed by contamination in their homes, schools, or offices.

The World Trade Center Business Process Center is a crucial piece in providing health care to the thousands of people across the country whose health was affected by 9/11. As the Congressman who represents the area where the World Trade Center once stood, I saw first hand the incredible work they did in the wake of 9/11. We have a moral obligation to the living victims of 9/11, and I urge the Administration to honor its commitment and move forward with this program.

Mr. TOWNS. At this time I would like to ask the witnesses to please stand. We swear all our witnesses in.

Please raise your right hands.

[Witnesses sworn.]

Mr. TOWNS. Let the record reflect that all witnesses have been sworn.

Let me give a little background on the witnesses. Joseph Libretti is an ironworker. He worked on Ground Zero to recover body parts and cut steel from September 11th to December 2001. He worked 90 hours a week. In 2002, he was diagnosed as suffering from chronic lung disease and severe post traumatic stress disorder. Now, he is too sick to work and has to travel more than 100 miles from Pennsylvania to Mt. Sinai to get medical care.

Kevin Mount was a heavy equipment operator with the New York City Department of Sanitation. He operated equipment at Ground Zero and Fresh Kills landfill from September 11th to February 2002, when he was rushed to the hospital unable to breathe.

Frank Fraone is fire chief in Menlo Park, CA who came to Ground Zero after 9/11 as part of Federal Urban Search and Rescue Team. He worked at Ground Zero for several weeks and now has chronic breathing difficulties.

Cynthia Bascetta is currently the Director of Health Care Issues for the Government Accountability Office. She has a wealth of experience in terms of analyzing and reporting on 9/11 issues and other related issues relating to our Nation's health.

Dr. Jim Melius is an occupational health physician and epidemiologist. He currently serves as the Chair of the Steering Committee for the World Trade Center Medical Monitoring and Treatment Program.

I will ask all the witnesses to summarize the testimony in 5 minutes, because I don't think we have the lights—oh, we do have the lights. Well, let me just explain the lights. It starts off on green, and then it goes to yellow. Yellow means sum up and red means stop. We've got the lights. OK, so we will start with you, Mr. Libretti. Please proceed; 5 minutes.

STATEMENTS OF JOSEPH LIBRETTI, IRONWORKER, LOCAL 580, PENNSYLVANIA; KEVIN MOUNT, RETIRED HEAVY EQUIPMENT OPERATOR, NYC DEPARTMENT OF SANITATION; CYNTHIA BASCETTA, DIRECTOR, HEALTH CARE, GOVERNMENT ACCOUNTABILITY OFFICE; JIM MELIUS, CHAIR, ADVISORY BOARD, WTC MEDICAL MONITORING AND TREATMENT PROGRAM; AND FRANK FRAONE, OPERATIONS CHIEF, MENLO PARK, CA, FIRE DEPARTMENT AND FEDERAL URBAN SEARCH AND RESCUE TEAM

STATEMENT OF JOSEPH LIBRETTI

Mr. LIBRETTI. Congressman, I thank you for the pleasure of being here. I want to thank you for your help.

Mr. TOWNS. Pull the mic a little closer to you, please.

Mr. LIBRETTI. Thank you for your support and your help in our problems.

My name is Joseph Libretti. On September 11th, I was a rescue and recovery worker volunteer. I resided in Pennsylvania, and ar-

rived at the World Trade Center the morning of the attack. We immediately started looking for survivors. We were provided paper masks, which we used. We were told the air quality was safe all along and that there were no problems.

I soon learned my brother Danny, a firefighter, responded too, and now he was missing. We recovered him a month later. As a result, I have lung disease and airway disease and suffer from post traumatic stress syndrome. I had attempted suicide. I had to leave my job as an ironworker, resulting in numerous financial hardships.

Basically, I don't think of myself as hero. Most of the people I worked with don't think of themselves as heroes. The people that died that day were the heroes, because they knew what was happening. Every year there is a parade and the workers are told, "Don't march with the firemen. March over here." That's all well and good. And I understand that most people don't really understand what was going on down there.

But, this is my medication. This is what I take every morning: three different breathers, a travel one if it gets worse. I have good days, and I have bad days. People trying to help the rescue workers are going out of their way. I don't understand what the big problem is. We have boys dying overseas, why? In my opinion, because of September 11th.

We send billions of dollars to other countries. Are you going to tell me that you can't remember the people that did the work? I don't know who lied and I don't care. As a result, the complications damaged my health, my family. I don't have insurance coverage for my wife who can't go to the doctor who has heart problems. That's one of those little glitches, but that's my problem.

For 5 years, I had to fight to get medical coverage for myself. When I couldn't get things, I had to put it on my credit card, so now I am in more debt. Traveling to New York, just to come to this hearing, arrangements were made by people for this hearing, I appreciate it. But, to give you an idea: I took a bus. I started out at 4. The bus was packed. I waited for the next one. I had to take it. No seats. I finally got on a bus at 7:30 and stood to come here and got to Manhattan at 10:30.

Other days, I get up, I have a medical appointment, I don't want to go through that. I don't even care. I shouldn't have to. The paperwork and the runaround I get, it is like no one knows what is going on.

I found out about a program that was put in by people like Senator Maloney and other Congressmen is over and done, and we don't know about it. I don't see what the big problem is with this government today. It is supposed to be our government. We are supposed to protect Americans. We are not heroes. We are Americans. Americans went down to help Americans. All we are asking is for to you do the right thing by us.

I would like to know why they didn't show up or why they can't provide services. Basically, I don't think it is fair at this point. Six years later and you are still trying to fight for rights that you should have. I don't think I should have had to fight for 3 years to get workers' comp, because if you can't get one thing, you can't

get the other. Without the help of Senator Maloney and other people, I probably would be flipping, and I don't think this is right.

I am not a hero, I just want to be taken care of the way I tried to take care of other people. And everyone I know that worked with me feels the same way. We are not asking you for a handout. We are not asking anybody for a handout. I want what is fair. I want to be able take care of family like I have always done.

My quality of life has gone down. My family's quality of life has gone down. They are entitled to coverage; I can't afford it. My kids are entitled to go to college; I can't afford it. That's my problem, but my problem was made by 9/11. Those little glitches, they caused bigger problems. Somebody should know what to do. It is 6 years later. How much longer do you need?

Thank you.

Mr. TOWNS. Thank you, Mr. Libretti. Thank you so much for your testimony and thank you for being here as well.

[The prepared statement of Mr. Libretti follows:]

Good Afternoon,

I am Joseph Libretti, a September 11th rescue recovery worker. I reside in Pennsylvania.

I arrived at the World Trade Center site the morning of the attack. We immediately started looking for survivors. We found paper masks to use.

I soon learned my brother, Firefighter Daniel Libretti, was in the North Tower. He was recovered one month later.

As a result I have chronic lung disease, airway disease, and suffer from post traumatic stress disorder. I have attempted suicide. I had to leave my job as an ironworker, resulting in financial hardship.

I had to take a loan on my house, and use credit cards to pay for bills. My family has no medical coverage. Their health is being neglected. My wife needs testing on her heart, which we cannot afford. I have to travel to New York to receive my medical care, which is a financial and physical burden. At times, I am not well enough and cannot cope with traveling. As a result, I miss my appointments.

I feel this bill being presented to you should receive great consideration. It would help a lot of 9-11 families receive the care I feel we need and deserve.

Thank you

Mr. TOWNS. Mr. Mount.

STATEMENT OF KEVIN MOUNT

Mr. MOUNT. Good morning. Thank you for allowing me the opportunity to speak on behalf of the injured disabled 9/11 workers and to address the need for the continuation of the World Trade Center Medical Monitoring and Treatment Program.

I began working as a heavy equipment operator for the city of New York Sanitation Department in 1980. I worked primarily at the Fresh Kill landfill in Staten Island. When the World Trade Center was attacked, I was 47 years old and just a few years away from enjoying my retirement. Just prior to the attack, I had had a complete physical and blood work and was found to be in excellent health. I was physically fit and enjoyed participating in a number of sports primarily with my two sons who were 19 and 20 years old at the time.

On September 11, 2001, after the Twin Towers collapsed, I was asked to participate in the rescue and recovery efforts at Ground Zero. It was with a profound sense of patriotism and compassion for the thousands of victims and their families that I immediately agreed to help in whatever way I could. Needless to say, the task was monumental.

I arrived at Ground Zero on September 12th, and the amount of destruction caused by the brutal attack was overwhelming. In addition to the collapse of the World Trade Center towers, numerous other buildings at the site were destroyed or badly damaged. The streets appeared war torn with tons of debris spread as far as I could see. The air was thick with dust and smoke from the surrounding fire, made breathing very difficult. And although there has been much speculation regarding the availability of respirators and other Hazmat gear, I was offered nothing more than a paper dust mask.

I worked 14 hours a day, 7 days a week. The state-of-the-art decontamination tank built on the site was used strictly by the privileged workers. Never anyone from my department. The dust picked up by us while we worked, came home with us at the end of the shift.

My primary responsibility while at Ground Zero was to remove debris that had been hand searched by other first responders and transport it several blocks away where it was eventually shipped by barges and by trucks to the Staten Island landfill. Two weeks after the attack, I and my coworkers were transferred from Ground Zero to Fresh Kills to continue the search and recovery operation. I had expected working conditions to improve from Ground Zero, but in actuality, they were much worse. 1.4 million tons of World Trade Center debris was processed at the landfill at a rate of approximately 5,000 tons a day. The air was so thick with concrete dust and other particles that there were times that I couldn't see more than a couple of feet in front of me. Despite requests for protective gear, I continued to work with nothing more than a paper dust mask.

On October 26, 45 days after the attack, heavy equipment operators where issued respirators. By this time, I and most of my coworkers were already sick with continuous coughing, sinus prob-

lems, gastric problems, nose bleeds, etc. I continued to work 12 hours a day, 7 days a week. My first day off was Thanksgiving, 72 days after the collapse of the World Trade Center. If I am not mistaken, my second day off was Christmas.

While at the landfill, I was assigned to work in a restricted, spreading debris from Building 7. Once it was spread, workers from different city, State and Federal agencies would sift through it for evidence and personal property, etc. When they were done sifting and searching, the layer of debris was removed and another layer was spread. Before its collapse, Building 7 had been a temporary morgue and included in its debris numerous body parts. The machine that I had been assigned to work with had been at Ground Zero since 9/11 and was covered inside and outside with dust. It was an old machine and not equipped with proper air filtration system and was neither cleaned nor decontaminated before I began using it.

Although I had been coughing since sometime in September, I had begun to feel extremely sick and I suffered from intense weakness, fatigue and headaches, shortness of breath and difficulty breathing. The coughing became relentless. On February 19, 2002, I was brought to the emergency room of our local hospital and was admitted for difficulty breathing, extreme fatigue, a burning sensation in my trachea and a temperature of 103. I was treated with IV antibiotics and steroids and received daily lung treatments. I was diagnosed with asthma, acute Hepatitis C and sinusitis. The discomfort in my trachea was determined to be burns from the caustic materials I had been inhaling. I remained in the hospital for 5 days and left knowing that my life would never be the same. I knew I was too sick to continue working and my dreams for the future were irrevocably changed.

When I returned home from the hospital, my life was in turmoil. I had just been diagnosed with major health problems and had to find a way to accept it. It wasn't easy. For the first time in my life, I had to rely on daily medications and inhalers to breathe. I was inundated with doctors appointments, lab appointments and test appointments. Adding to my problems, my sinuses were impacted due to the heavy volume of dust that I had been breathing and the pressure from the impacted sinuses caused my left eardrum to collapse, leaving me with diminished hearing and constant ringing in my ear. I became distraught with the knowledge that had protective equipment been afforded me, I would still be in good health. I started feeling depressed and later became filled with rage. I now suffer from psychological trauma, which to this day I continue to take medication for.

Initially I placed my health problems in the hands of local specialists. Although they were competent physicians and leaders in their fields, they had no idea how my involvement in the 9/11 aftermath could have caused such major health problems. They had no knowledge of the toxins released into the air after the collapse of the towers and were unable to adequately answer my questions. I began to feel like a lab experiment and that my care was based on trial and error.

Mr. TOWNS. Mr. Mount, could you summarize.

Mr. MOUNT. Well, you guys went past—I'm sorry.

I began to feel like a lab experiment. Sometime in early March, my wife testified on my behalf at a hearing held by Congressman Nadler and listened to testimony given by Dr. Steven Levin, Chairman of the World Trade Center Medical Monitoring Program. She spoke with him regarding my condition, and he agreed to see me.

I thank God every day for his presence in my life. If not for his care and concern for my well being, I don't know where I would be today. He not only treated my pulmonary and gastric problems, he referred me to doctors within the program who addressed my other needs. For the first time since I had become ill, there was coordination of health care among my health care professionals.

Do you want me to just hand this in?

Mr. TOWNS. Yes. Your entire statement will be included in the record.

Mr. MOUNT. OK, so you want me to stop?

Mr. TOWNS. Yes, so we have time to ask some questions later on. Thank you.

[The prepared statement of Mr. Mount follows:]

Testimony of Kevin Mount
1/22/08

Thank you for allowing me the opportunity to speak on behalf of injured and disabled 9/11 workers and to address the need for continuation of the World Trade Center Medical Monitoring and Treatment Program.

I began working as a heavy equipment operator for the City of NY Sanitation Department in 1980 and worked primarily at the Fresh Kill landfill in Staten Island. When the World Trade Center was attacked, I was 47 years old and just a few years away from enjoying my retirement. Just prior to the attack, I had had a complete physical with blood work and was found to be in excellent health. I was physically fit and enjoyed participating in a number of sports primarily with my two sons who were 19 and 20 years old at the time.

On September 11, 2001, after the twin towers collapsed, I was asked to participate in the rescue and recovery efforts at Ground Zero. It was with a profound sense of patriotism and compassion for the thousands of victims and their families that I immediately agreed to help in whatever way I could. Needless to say, the task was monumental. I arrived at Ground Zero on September 12th. The amount of destruction caused by this brutal attack was overwhelming. In addition to the collapse of the two World Trade Center towers, numerous other buildings at the site were destroyed or badly damaged. The streets appeared war torn with tons of debris spread as far as I could see. The air was thick with caustic dust and the smoke from the surrounding fires made breathing very difficult. Although there has been much speculation regarding the availability of respirators and other haz mat gear, I was offered nothing more than a paper dust mask. I worked 14 hour shifts, 7 days a week. The "state of the art" Decontamination Tent built on the site was used strictly by privileged workers, never by anyone from my department. The dust that covered us while we worked, came home with us at the end of each shift.

My primary responsibility while at Ground Zero, was to remove debris that had been hand searched by other first responders and transport it several blocks away where it was eventually shipped by barges and trucks to the Staten Island Landfill.
Two weeks after the attack, I and my co-workers were transferred from Ground Zero to the Fresh Kill landfill to continue with the search and recovery operation. I had expected the work conditions to be improved from Ground Zero, but in actuality, they were much worse. 1.4 million tons of WTC debris was processed at the landfill at the rate of approximately 5,000 tons per day. The air was so thick with concrete dust and other particles that there were times I couldn't see more than a couple of feet in front of me. Despite requests for protective gear, I continued to work with nothing more than a paper dust mask.

On October 26, forty five days after the attack, the heavy equipment operators were issued respirators. By this time, I and most of my co-workers were already sick with continuous coughing, sinus problems, gastric problems, nose bleeds, etc. I continued to

work 12 hour shifts, 7 days a week. My first day off was Thanksgiving, 72 days after the collapse of the WTC. If I'm not mistaken, my second day off was Christmas.
While at the landfill, I was assigned to work in a restricted area spreading the debris from Building 7. Once it was spread, workers from different city, state and federal agencies would sift through it for evidence, personnel property, etc. When they were done sifting and searching, the layer of debris was removed and another layer was spread. Before its' collapse, Building 7 had been used as a temporary morgue and included in the debris were numerous body parts. The machine I had been assigned to work with had been at Ground Zero since 9/11 and was covered inside and out with "dust." It was an old machine and not equipped with the proper air filtration system and it was neither cleaned nor decontaminated before I began using it.

Although I had been coughing since sometime in September, I had begun to feel extremely sick. I suffered with intense weakness, fatigue, headaches, shortness of breath and difficulty breathing. The cough became relentless. On February 19, 2002, I was brought to the emergency room of our local hospital and was admitted with difficulty breathing, extreme fatigue, a burning sensation in my trachea and a temperature of 103. I was treated with IV antibiotics and steroids and received daily lung treatments. I was diagnosed with Asthma, acute Hepatitis C and sinusitis. The discomfort in my trachea was determined to be burns from the caustic material I had been inhaling. I remained in the hospital for 5 days and left knowing that my life would never be the same. I knew I was too sick to continue working and that my dreams for the future had been irrevocably changed.

When I returned home from the hospital, my life was in turmoil. I had just been diagnosed with major health problems and had to find a way to accept it. It wasn't easy. For the first time in my life I had to rely on daily medication and inhalers to breathe. I was inundated with doctor appointments, lab appointments, test appointments, etc.
Adding to my problems, my sinuses were impacted due to the heavy volume of dust I had been breathing. The pressure form the impacted sinuses caused my left eardrum to collapse, leaving me with diminished hearing and a constant ringing in my ear. I became distraught with the knowledge that had protective equipment been afforded me, I would have still been in good health. I started feeling depressed and later became filled with rage. I now suffered from psychological trauma which, to this day, I continue to take medication for.

Initially, I placed my health problems in the hands of local specialists. Although they were competent physicians and leaders in their fields, they had no idea how my involvement in the aftermath of 9/11 could have caused such major health problems. They had no knowledge of the toxins released into the air at the collapse of the towers and were unable to adequately answer my questions. I began to feel like a lab experiment and that my care was based on trial and error. Medication was changed on a regular basis and there was no coordination of care amongst the doctors. The right hand never knew what the left hand was doing. It was truly disconcerting.

Sometime in early March, my wife testified on my behalf at a hearing held by Congressman Nadler and listened to the testimony given by Dr. Steven Levin, chairman of The World Trade Center Medical Monitoring and Treatment Program. She spoke with him regarding my condition and he agreed to see me. I thank God every day for his presence in my life. If not for his care, his guidance and his genuine concern for my well being, I don't know where I'd be today. He not only treated my pulmonary and gastric problems, he referred me to several doctors within the program who addressed my other needs.

For the first time since I had become ill, there was a coordination of health care amongst my health care professionals. Dr. Levin also referred me to doctors outside the program who treated my ear and liver problems. I am happy to say that after an 18 month course of interferon injections, I am free of Hepatitis C. Unfortunately, I was not so lucky with the ear problem. After 2 surgeries, I still have limited hearing and constant ringing in my left ear. I've also had sinus surgery to clear my sinuses and to diminish the headaches. Although I still have headaches and sinus infections, they are much less frequent.

The World Trade Center Medical Monitoring Program has been a lifeline to the many thousands of responders who now suffer as a result of their commitment to their jobs, their fellow man and their country. I don't think there is a person in this room who knows what the future holds for those of us who experienced prolong exposure to the multitude of air born toxins released when the buildings collapsed. Needless to say, we must now consider how many of us were exposed to asbestos. The result of exposure to this toxin is deadly with symptoms not appearing for up to 10 or 20 years after exposure. For this reason alone, the program must be funded to allow its' continuance. There were countless mistakes made in the aftermath of this attack. Monitoring and tracking the health of the responders is crucial in preparing for a future emergency response should another attack occur. Allowing this program to fall by the wayside would only add to the list of mistakes made in the aftermath of 9/11.

In closing, I would like to state that not all the workers who responded to this emergency reside in the NYC area. There were thousands of workers who lived outside of NY and came to Ground Zero to help in any way they could. Unfortunately, the program is not available to them unless they spend a considerable amount of time and money traveling back and forth to NY. These workers were heroes who went above and beyond the call of duty and should not be penalized for their sacrifices. And lastly, there are those of us who have been forced to retire due to injuries sustained and have had to consider moving out of state. I was born and raised in NY and due to the difficulty I now have breathing in cold weather and the problems associated with air pollution, I have moved to southwest Florida.

Although I have researched available specialists in my area, there don't seem to be any who specialize in environmental occupational medicine. As a result, I travel four times a year to be seen by Dr. Levin and Dr. Malikoff. A national program would afford retirees like me who have been forced to consider moving to a warmer climate to

continue being monitored and treated by professionals such as those involved in this very worthwhile program.

Thank you.

Mr. TOWNS. Ms. Bascetta.

STATEMENT OF CYNTHIA BASCETTA

Ms. BASCETTA. Mr. Chairman and members of the subcommittee, thank you for inviting me to testify today about the continuing need for HHS to improve health services for World Trade Center responders including those who reside outside the New York City metropolitan area.

As you know, thousands of responders came from across the country and risked their lives in the aftermath of the September 11th attack. Like local responders, they need screening and monitoring to determine whether they have suffered any adverse health effects, and many of them also need treatment for illnesses that resulted from their rescue, recovery and clean-up activity.

We have reported several times about problems in the program established for these responders, including the national program intended to set up a network to provide services comparable to those available in the New York City area. In 2007, we found that NIOSH had once again taken steps toward expanding the availability of screening and monitoring for the national program but its efforts were not complete. Given its stop and start history, we were concerned that HHS might not succeed in establishing and sustaining a smoothly functioning national program.

Accordingly, we recommended that the Secretary take expeditious action to ensure the availability of health screening and monitoring services for all people who responded on September 11th, regardless of where they reside. In its comments on our draft report, HHS was silent about this recommendation and the Department has still not reported on whether it concurs, and, if so, how it intends to implement our recommendation.

The most recent solicitation to set up a business process center could have been a vehicle to begin to implement our recommendation and HHS may yet take other actions consistent with our recommendations; however, the fulfillment of the solicitation, especially without any other plan in place, raises serious questions about how HHS intends to prevent the same kind of service interruptions that have characterized its past performance, most importantly, how HHS plans to ensure continuous screening and monitoring now provided by QTC when its contract expires in June 2008, and how will HHS ensure treatment services for responders in the national program after March 2008 when Red Cross funding is due to run out.

In previous testimony and in our ongoing work for you and others on lessons learned from September 11th response, we noted, among other things, the importance of standardized exams and data collection for all responders to ensure the strongest epidemiological research base as well as equitable access to the best treatment across the country for all responders who may experience deterioration in their health.

While HHS could still achieve this in a national program, the steps they appear to be taking in this direction in the solicitation have now been, once again, placed on hold. It is incumbent upon the department to explain whether this approach would have im-

plemented our recommendation, and, if so, what it intends to do instead.

That concludes my statement. I would be happy to answer any of your questions.

Mr. TOWNS. Thank you very much, Ms. Bascetta.

[The prepared statement of Ms. Bascetta follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform, House of Representatives

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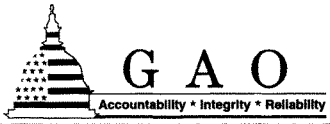
SEPTEMBER 11

Improvements Still Needed in Availability of Health Screening and Monitoring Services for Responders outside the New York City Area

Statement of Cynthia A. Bascetta
Director, Health Care



GAO-08-429T

January 22, 2008

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Highlights

Highlights of GAO-08-429T, a testimony before the Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform, House of Representatives

SEPTEMBER 11

Improvements Still Needed in Availability of Health Screening and Monitoring Services for Responders outside the New York City Area

Why GAO Did This Study

Six years after the attack on the World Trade Center (WTC), concerns persist about health effects experienced by WTC responders and the availability of health care services for those affected. Several federally funded programs provide screening, monitoring, or treatment services to responders. GAO has previously reported on the progress made and implementation problems faced by these WTC health programs.

This testimony is based primarily on GAO's testimony, *September 11: Improvements Needed in Availability of Health Screening and Monitoring Services for Responders* (GAO-07-1229T, Sept. 10, 2007), which updated GAO's report, *September 11: HHS Needs to Ensure the Availability of Health Screening and Monitoring for All Responders* (GAO-07-892, July 23, 2007). In this testimony, GAO discusses efforts by the Centers for Disease Control and Prevention's National Institute for Occupational Safety and Health (NIOSH) to provide services for nonfederal responders residing outside the New York City (NYC) area.

For the July 2007 report, GAO reviewed program documents and interviewed Department of Health and Human Services (HHS) officials, grantees, and others. GAO updated selected information in August and September 2007 and conducted work for this statement in January 2008.

What GAO Found

In July 2007, following a reexamination of the status of the WTC health programs, GAO recommended that the Secretary of HHS take expeditious action to ensure that health screening and monitoring services are available to all people who responded to the WTC attack, regardless of where they reside. As of January 2008, the department has not responded to this recommendation.

As GAO testified in September 2007, NIOSH has not ensured the availability of screening and monitoring services for nonfederal responders residing outside the NYC area, although it has taken steps toward expanding the availability of these services. In late 2002, NIOSH arranged for a network of occupational health clinics to provide screening services. This effort ended in July 2004, and until June 2005 NIOSH did not fund screening or monitoring services for nonfederal responders outside the NYC area. In June 2005, NIOSH funded the Mount Sinai School of Medicine Data and Coordination Center (DCC) to provide screening and monitoring services; however, DCC had difficulty establishing a nationwide network of providers and contracted with only 10 clinics in seven states. In 2006, NIOSH began to explore other options for providing these services, and in 2007 it took steps toward expanding the provider network.

To view the full product, including the scope and methodology, click on GAO-08-429T. For more information, contact Cynthia A. Bascetta at (202) 512-7114 or bascettac@gao.gov.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the implementation of federally funded health programs for individuals affected by the September 11, 2001, attack on the World Trade Center (WTC).[1] Tens of thousands of people served as responders in the aftermath of the WTC disaster, including New York City Fire Department (FDNY) personnel, federal government personnel, and thousands who came to New York City (NYC) from around the country. By responders we are referring to anyone involved in rescue, recovery, or cleanup activities at or near the vicinity of the WTC or the Staten Island site.[2] These responders were exposed to numerous physical hazards, environmental toxins, and psychological trauma. Six years after the destruction of the WTC buildings, concerns remain about the physical and mental health effects of the disaster, the long-term nature of some of these health effects, and the availability of health care services for those affected.

Following the WTC attack, federal funding was provided to government agencies and private organizations to establish programs for screening, monitoring, or treating responders for illnesses and conditions related to the WTC disaster; these programs are referred to in this testimony as the WTC health programs.[3,4] The Department of Health and Human Services (HHS) funded the programs as separate efforts serving different categories of responders—for example, firefighters, other workers and volunteers, or federal responders—and has responsibility for coordinating program efforts.

[1]A list of abbreviations used in this testimony is in app. I.

[2]The Staten Island site is the landfill that is the off-site location of the WTC recovery operation.

[3]In this testimony, "screening" refers to initial physical and mental health examinations of affected individuals. "Monitoring" refers to tracking the health of individuals over time, either through periodic surveys or through follow-up physical and mental health examinations.

[4]One of the WTC health programs, the WTC Health Registry, also includes people living or attending school in the area of the WTC or working or present in the vicinity on September 11, 2001.

We have previously reported on the implementation of these programs and their progress in providing services to responders,[5] who reside in all 50 states and the District of Columbia. We also previously reported that one of the WTC health programs, HHS's WTC Federal Responder Screening Program, which was established to provide onetime screening examinations for responders who were federal employees when they responded to the WTC attack, has had difficulties ensuring the uninterrupted availability of services.[6] HHS established the program in June 2003, suspended it in March 2004, resumed it in December 2005, suspended it again in January 2007, and resumed it in May 2007.[7] We also reported that the National Institute for Occupational Safety and Health (NIOSH), the component of HHS's Centers for Disease Control and Prevention responsible for administering most of the WTC health programs, had begun to take steps to provide access to screening, monitoring, and treatment services for nonfederal responders who resided outside the NYC metropolitan area.[8]

My testimony today is based primarily on testimony we issued in September 2007,[9] which in turn was based on a report we issued in July 2007.[10] As you requested, I will discuss the status of NIOSH's efforts to provide services for nonfederal responders residing outside the NYC metropolitan area.

[5]See, for example, GAO, *September 11: HHS Has Screened Additional Federal Responders for World Trade Center Health Effects, but Plans for Awarding Funds for Treatment Are Incomplete*, GAO-06-1092T (Washington, D.C.: Sept. 8, 2006). A list of related GAO products is included at the end of this testimony.

[6]See GAO, *September 11: Monitoring of World Trade Center Health Effects Has Progressed, but Not for Federal Responders*, GAO-05-1020T (Washington, D.C.: Sept. 10, 2005), and *September 11: Monitoring of World Trade Center Health Effects Has Progressed, but Program for Federal Responders Lags Behind*, GAO-06-481T (Washington, D.C.: Feb. 28, 2006).

[7]See GAO-06-481T and GAO, *September 11: HHS Needs to Ensure the Availability of Health Screening and Monitoring for All Responders*, GAO-07-892 (Washington, D.C.: July 23, 2007).

[8]In general, the WTC health programs provide services in the NYC metropolitan area.

[9]See GAO, *September 11: Improvements Needed in Availability of Health Screening and Monitoring Services for Responders*, GAO-07-1229T (Washington, D.C.: Sept. 10, 2007).

[10]See GAO-07-892.

To assess the status of NIOSH's efforts to provide services for nonfederal responders residing outside the NYC metropolitan area, we obtained documents and interviewed officials from NIOSH. We also interviewed officials of organizations that worked with NIOSH to provide or facilitate services for nonfederal responders residing outside the NYC metropolitan area, including the Mount Sinai School of Medicine in NYC and the Association of Occupational and Environmental Clinics (AOEC)—a network of university-affiliated and other private occupational health clinics across the United States and in Canada. In our review of the WTC health programs, we relied primarily on information provided by agency officials and contained in government publications. We compared the information with information in other supporting documents, when available, to determine its consistency and reasonableness. We determined that the information we obtained was sufficiently reliable for our purposes. We conducted our earlier work from November 2006 through July 2007, updated selected information in August and September 2007, and conducted work for this statement in January 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In brief, as we testified in September 2007, NIOSH has not ensured the availability of screening and monitoring services for nonfederal responders residing outside the NYC metropolitan area, although it has taken steps toward expanding the availability of these services. As a result of our assessment of the WTC health programs, we recommended in our July 2007 report that the Secretary of HHS expeditiously take action to ensure that screening and monitoring services are available for all responders, including federal responders and nonfederal responders residing outside of the NYC metropolitan area. As of January 2008, the department has not responded to this recommendation.

Background

The tens of thousands of individuals[11] who responded to the September 11, 2001, attack on the WTC experienced the emotional trauma of the disaster

[11]There is not a definitive count of the number of people who served as responders. Estimates have ranged from about 40,000 to about 91,000.

and were exposed to a noxious mixture of dust, debris, smoke, and potentially toxic contaminants, such as pulverized concrete, fibrous glass, particulate matter, and asbestos. A wide variety of health effects have been experienced by responders to the WTC attack, including injuries and respiratory conditions such as sinusitis, asthma, and a new syndrome called WTC cough, which consists of persistent coughing accompanied by severe respiratory symptoms. Commonly reported mental health effects among responders and other affected individuals included symptoms associated with post-traumatic stress disorder, depression, and anxiety. Behavioral health effects such as alcohol and tobacco use have also been reported.

There are six key programs that currently receive federal funding to provide voluntary health screening, monitoring, or treatment at no cost to responders.[12] The six WTC health programs, shown in table 1, are (1) the FDNY WTC Medical Monitoring and Treatment Program; (2) the New York/New Jersey (NY/NJ) WTC Consortium,[13] which comprises five clinical centers in the NY/NJ area;[14] (3) the WTC Federal Responder Screening Program; (4) the WTC Health Registry; (5) Project COPE; and (6) the Police Organization Providing Peer Assistance (POPPA) program.[15] The programs vary in aspects such as the HHS administering agency or component responsible for administering the funding; the implementing agency, component, or organization responsible for providing program services; eligibility requirements; and services.

[12]In addition to these programs, a New York State responder screening program received federal funding for screening New York State employees and National Guard personnel who responded to the WTC attack in an official capacity. This program ended its screening examinations in November 2003.

[13]In previous reports we have also referred to this program as the worker and volunteer WTC program.

[14]The NY/NJ WTC Consortium consists of five clinical centers operated by (1) Mount Sinai-Irving J. Selikoff Center for Occupational and Environmental Medicine; (2) Long Island Occupational and Environmental Health Center at SUNY, Stony Brook; (3) New York University School of Medicine/Bellevue Hospital Center; (4) Center for the Biology of Natural Systems, at CUNY, Queens College; and (5) University of Medicine and Dentistry of New Jersey Robert Wood Johnson Medical School, Environmental and Occupational Health Sciences Institute. Mount Sinai's clinical center, which is the largest of the five centers, also receives federal funding to operate a data and coordination center to coordinate the work of the five clinical centers and conduct outreach and education, quality assurance, and data management for the NY/NJ WTC Consortium.

[15]Project COPE and the POPPA program provide mental health services to members of the New York City Police Department (NYPD) and operate independently of the NYPD.

Table 1: Key Federally Funded WTC Health Programs, June 2007

Program	HHS administering agency or component	Implementing agency, component, or organization	Eligible population	Services provided
FDNY WTC Medical Monitoring and Treatment Program	NIOSH	FDNY Bureau of Health Services	Firefighters and emergency medical service technicians	• Initial screening • Follow-up medical monitoring • Treatment of WTC-related physical and mental health conditions
NY/NJ WTC Consortium	NIOSH	Five clinical centers, one of which, the Mount Sinai-Irving J. Selikoff Center for Occupational and Environmental Medicine, also serves as the consortium's Data and Coordination Center (DCC)	All responders, excluding FDNY firefighters and emergency medical service technicians and current federal employees[a]	• Initial screening • Follow-up medical monitoring • Treatment of WTC-related physical and mental health conditions
WTC Federal Responder Screening Program	NIOSH[b]	HHS's Federal Occupational Health Services (FOH)	Current federal employees who responded to the WTC attack in an official capacity	• Onetime screening • Referrals to employee assistance programs and specialty diagnostic services[c]
WTC Health Registry	Agency for Toxic Substances and Disease Registry (ATSDR)	NYC Department of Health and Mental Hygiene	Responders and people living or attending school in the area of the WTC or working or present in the vicinity on September 11, 2001	• Long-term monitoring through periodic surveys
Project COPE	NIOSH	Collaboration between the NYC Police Foundation and Columbia University Medical Center	New York City Police Department (NYPD) uniformed and civilian employees and their family members	• Hotline, mental health counseling, and referral services; some services provided by Columbia University clinical staff and some by other clinicians
POPPA program	NIOSH	POPPA program	NYPD uniformed employees	• Hotline, mental health counseling, and referral services; some services provided by trained NYPD officers and some by mental health professionals

Source: GAO analysis of information from NIOSH, ATSDR, FOH, FDNY, the NY/NJ WTC Consortium, the NYC Department of Health and Mental Hygiene, the POPPA program, and Project COPE.

Note: Some of these federally funded programs have also received funds from the American Red Cross and other private organizations.

[a]In February 2006, HHS's Office of the Assistant Secretary for Preparedness and Response (ASPR) and NIOSH reached an agreement to have former federal employees screened by the NY/NJ WTC Consortium. ASPR coordinates and directs HHS's emergency preparedness and response program. In December 2006 the Office of Public Health and Emergency Preparedness became ASPR.

[b]Until December 26, 2006, ASPR was the administrator.

[5]FOH can refer an individual with mental health symptoms to an employee assistance program for a telephone assessment. If appropriate, the individual can then be referred to a program counselor for up to six in-person sessions. The specialty diagnostic services are provided by ear, nose, and throat doctors; pulmonologists; and cardiologists.

The WTC health programs that are providing screening and monitoring are tracking thousands of individuals who were affected by the WTC disaster. As of June 2007, the FDNY WTC program had screened about 14,500 responders and had conducted follow-up examinations for about 13,500 of these responders, while the NY/NJ WTC Consortium had screened about 20,000 responders and had conducted follow-up examinations for about 8,000 of these responders. Some of the responders include nonfederal responders residing outside the NYC metropolitan area. As of June 2007, the WTC Federal Responder Screening Program had screened 1,305 federal responders and referred 281 responders for employee assistance program services or specialty diagnostic services. In addition, the WTC Health Registry, a monitoring program that consists of periodic surveys of self-reported health status and related studies but does not provide in-person screening or monitoring, collected baseline health data from over 71,000 people who enrolled in the registry.[16] In the winter of 2006, the registry began its first adult follow-up survey, and as of June 2007 over 36,000 individuals had completed the follow-up survey.

In addition to providing medical examinations, FDNY's WTC program and the NY/NJ WTC Consortium have collected information for use in scientific research to better understand the health effects of the WTC attack and other disasters. The WTC Health Registry is also collecting information to assess the long-term public health consequences of the disaster.

In February 2006, the Secretary of HHS designated the Director of NIOSH to take the lead in ensuring that the WTC health programs are well coordinated, and in September 2006 the Secretary established the WTC Task Force to advise him on federal policies and funding issues related to responders' health conditions. The chair of the task force is HHS's Assistant Secretary for Health, and the vice chair is the Director of NIOSH.

[16]The WTC Health Registry also provides information on where participants can seek health care.

NIOSH Has Not Ensured the Availability of Services for Nonfederal Responders Residing outside the NYC Metropolitan Area

NIOSH has not ensured the availability of screening and monitoring services for nonfederal responders residing outside the NYC metropolitan area, although it has taken steps toward expanding the availability of these services. Initially, NIOSH made two efforts to provide screening and monitoring services for these responders, the exact number of whom is unknown.[17] The first effort began in late 2002 when NIOSH awarded a contract for about $306,000 to the Mount Sinai School of Medicine to provide screening services for nonfederal responders residing outside the NYC metropolitan area and directed it to establish a subcontract with AOEC.[18] AOEC then subcontracted with 32 of its member clinics across the country to provide screening services. From February 2003 to July 2004, the 32 AOEC member clinics screened 588 nonfederal responders nationwide. AOEC experienced challenges in providing these screening services. For example, many nonfederal responders did not enroll in the program because they did not live near an AOEC clinic, and the administration of the program required substantial coordination among AOEC, AOEC member clinics, and Mount Sinai.

Mount Sinai's subcontract with AOEC ended in July 2004, and from August 2004 until June 2005 NIOSH did not fund any organization to provide services to nonfederal responders outside the NYC metropolitan area.[19] During this period, NIOSH focused on providing screening and monitoring services for nonfederal responders in the NYC metropolitan area. In June 2005, NIOSH began its second effort by awarding $776,000 to the Mount Sinai School of Medicine Data and Coordination Center (DCC) to provide both screening and monitoring services for nonfederal responders residing outside the NYC metropolitan area.[20] In June 2006, NIOSH awarded an

[17]According to the NYC Department of Health and Mental Hygiene, about 7,000 nonfederal and federal responders residing outside the NYC metropolitan area have enrolled in the WTC Health Registry.

[18]Around that time, NIOSH was providing screening services for nonfederal responders in the NYC metropolitan area through the NY/NJ WTC Consortium and the FDNY WTC program. Nonfederal responders residing outside the NYC metropolitan area were able to travel at their own expense to the NYC metropolitan area to obtain screening services through the NY/NJ WTC Consortium.

[19]In early 2004, AOEC applied to NIOSH to use its national network of member clinics to provide screening and monitoring for nonfederal responders residing outside the NYC metropolitan area, but NIOSH rejected AOEC's application for several reasons, including that the application did not adequately address how to coordinate and implement a monitoring program with complex data collection and reporting requirements.

[20]This award and subsequent awards for this purpose were made under a 5-year cooperative agreement between NIOSH and Mt. Sinai, which began in 2004.

additional $788,000 to DCC to provide screening and monitoring services for these responders. NIOSH officials told us that they assigned DCC the task of providing screening and monitoring services to nonfederal responders outside the NYC metropolitan area because the task was consistent with DCC's responsibilities for the NY/NJ WTC Consortium, which include data monitoring and coordination. DCC, however, had difficulty establishing a network of providers that could serve nonfederal responders residing throughout the country—ultimately contracting with only 10 clinics in seven states to provide screening and monitoring services.[21] DCC officials said that as of June 2007 the 10 clinics were monitoring 180 responders.

In early 2006, NIOSH began exploring how to establish a national program that would expand the network of providers to provide screening and monitoring services, as well as treatment services, for nonfederal responders residing outside the NYC metropolitan area.[22] According to NIOSH, there have been several challenges involved in expanding a network of providers to screen and monitor nonfederal responders nationwide. These include establishing contracts with clinics that have the occupational health expertise to provide services nationwide, establishing patient data transfer systems that comply with applicable privacy laws, navigating the institutional review board[23] process for a large provider network, and establishing payment systems with clinics participating in a national network of providers. On March 15, 2007, NIOSH issued a formal request for information from organizations that have an interest in and the capability of developing a national program for responders residing outside the NYC metropolitan area.[24] In this request, NIOSH described the scope of a national program as offering screening, monitoring, and

[21]Contracts were originally established with 11 clinics in eight states, but 1 clinic discontinued its participation in the program after conducting one examination. The 10 active clinics are located in seven states: Arkansas, California, Illinois, Maryland, Massachusetts, New York, and Ohio. Of the 10 active clinics, 7 are AOEC member clinics.

[22]According to NIOSH and DCC officials, efforts to provide monitoring services to federal responders residing outside the NYC metropolitan area may be included in the national program.

[23]Institutional review boards are groups that have been formally designated to review and monitor biomedical research involving human subjects, such as research based on data collected from screening and monitoring examinations.

[24]Department of Health and Human Services, *Sources Sought Notice: National Medical Monitoring and Treatment Program for World Trade Center (WTC) Rescue, Recovery, and Restoration Responders and Volunteers*, SSA-WTC-001 (Mar. 15, 2007).

treatment services to about 3,000 nonfederal responders through a national network of occupational health facilities. NIOSH also specified that the program's facilities should be located within reasonable driving distance to responders and that participating facilities must provide copies of examination records to DCC. In May 2007, NIOSH approved a request from DCC to redirect about $125,000 from the June 2006 award to establish a contract with a company to provide screening and monitoring services for nonfederal responders residing outside the NYC metropolitan area. Subsequently, DCC contracted with QTC Management, Inc.,[25] one of the four organizations that had responded to NIOSH's request for information. DCC's contract with QTC does not include treatment services, and NIOSH officials are still exploring how to provide and pay for treatment services for nonfederal responders residing outside the NYC metropolitan area.[26] QTC has a network of providers in all 50 states and the District of Columbia and can use internal medicine and occupational medicine doctors in its network to provide these services. In addition, DCC and QTC have agreed that QTC will identify and subcontract with providers outside of its network to screen and monitor nonfederal responders who do not reside within 25 miles of a QTC provider.[27] In June 2007, NIOSH awarded $800,600 to DCC for coordinating the provision of screening and monitoring examinations, and QTC was to receive a portion of this award from DCC to provide about 1,000 screening and monitoring examinations through May 2008. According to a NIOSH official, QTC's providers began conducting screening examinations in summer 2007.

Concluding Observations

Screening and monitoring the health of the people who responded to the September 11, 2001, attack on the World Trade Center are critical for identifying health effects already experienced by responders or those that may emerge in the future. In addition, collecting and analyzing information

[25]QTC is a private provider of government-outsourced occupational health and disability examination services.

[26]Some nonfederal responders residing outside the NYC metropolitan area may have access to privately funded treatment services. In June 2005 the American Red Cross funded AOEC to provide treatment services for these responders. As of June 2007, AOEC had contracted with 40 of its member clinics located in 27 states and the District of Columbia to provide these services. An American Red Cross official told us in September 2007 that funding for AOEC to provide treatment services would continue through June 2008.

[27]As of June 2007, DCC identified 1,151 nonfederal responders residing outside the NYC metropolitan area who requested screening and monitoring services and were too ill or lacked financial resources to travel to NYC or any of DCC's 10 contracted clinics.

produced by screening and monitoring responders can give health care providers information that could help them better diagnose and treat responders and others who experience similar health effects.

While many responders have been able to obtain screening and follow-up physical and mental health examinations through the federally funded WTC health programs, other responders may not always find these services available. Specifically, many responders who reside outside the NYC metropolitan area have not been able to obtain screening and monitoring services because available services are too distant. Moreover, HHS has repeatedly interrupted its efforts to provide services outside the NYC area, resulting in periods when no such services were available.

HHS continues to fund and coordinate the WTC health programs and has key federal responsibility for ensuring the availability of services to responders. HHS and its agencies have taken steps to move toward providing screening and monitoring services to nonfederal responders living outside of the NYC area. However, these efforts are not complete, and the stop-and-start history of the department's efforts to serve these responders does not provide assurance that the latest efforts to extend screening and monitoring services to them will be successful and will be sustained over time. Therefore we recommended in July 2007 that the Secretary of HHS take expeditious action to ensure that health screening and monitoring services are available to all people who responded to the attack on the WTC, regardless of where they reside. As of January 2008, the department has not responded to this recommendation.

Mr. Chairman, this completes my prepared remarks. I would be happy to respond to any questions you or other members of the subcommittee may have at this time.

Contacts and Acknowledgments

For further information about this testimony, please contact Cynthia A. Bascetta at (202) 512-7114 or bascettac@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Helene F. Toiv, Assistant Director; Hernan Bozzolo; Frederick Caison; Anne Dievler; Anne Hopewell; and Roseanne Price made key contributions to this statement.

Appendix I: Abbreviations

AOEC	Association of Occupational and Environmental Clinics
ASPR	Office of the Assistant Secretary for Preparedness and Response
ATSDR	Agency for Toxic Substances and Disease Registry
DCC	Data and Coordination Center
FDNY	New York City Fire Department
FOH	Federal Occupational Health Services
HHS	Department of Health and Human Services
NIOSH	National Institute for Occupational Safety and Health
NYC	New York City
NY/NJ	New York/New Jersey
NYPD	New York City Police Department
POPPA	Police Organization Providing Peer Assistance
WTC	World Trade Center

Related GAO Products

September 11: Improvements Needed in Availability of Health Screening and Monitoring Services for Responders. GAO-07-1229T. Washington, D.C.: September 10, 2007.

September 11: HHS Needs to Ensure the Availability of Health Screening and Monitoring for All Responders. GAO-07-892. Washington, D.C.: July 23, 2007.

September 11: HHS Has Screened Additional Federal Responders for World Trade Center Health Effects, but Plans for Awarding Funds for Treatment Are Incomplete. GAO-06-1092T. Washington, D.C.: September 8, 2006.

September 11: Monitoring of World Trade Center Health Effects Has Progressed, but Program for Federal Responders Lags Behind. GAO-06-481T. Washington, D.C.: February 28, 2006.

September 11: Monitoring of World Trade Center Health Effects Has Progressed, but Not for Federal Responders. GAO-05-1020T. Washington, D.C.: September 10, 2005.

September 11: Health Effects in the Aftermath of the World Trade Center Attack. GAO-04-1068T. Washington, D.C.: September 8, 2004.

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Mr. TOWNS. Let me just indicate the fact that we have been joined by Congressman Fossella. We will hear from him a little later on.

Dr. Melius.

STATEMENT OF JIM MELIUS

Dr. MELIUS. Thank you.

I am Jim Melius, an occupational health physician who currently works for the New York State Laborers' Health and Safety Trust Fund. Prior to this job, I spent over 15 years working for the governmental agencies, first for NIOSH, the National Institute for Occupational Safety and Health, and then the New York State Department of Health. While working for both of those agencies, I had experience developing, preparing and reviewing government contracts and grants, including contracts for occupational medical services of the type covered by this program.

I also for the past 4 years served as chairman for the Steering Committee for World Trade Center Medical Monitoring and Treatment Program. This committee meets monthly to oversee and review the program, so I am very familiar with the activities and what is happening with the current program that is underway.

On October 23rd of last year, CDC, on behalf of NIOSH, released a solicitation for a contract to provide various administrative and medical services for this program. A meeting with prospective bidders was held in New York City on November 7th. Applications were due on December 19th. As we all know, on December 13th, CDC abruptly canceled the solicitation, giving a variety of different reasons for its decision. This cancellation has potentially serious consequences on the ability of the Federal Government to provide the medical services needed by thousands of responders and other groups who worked at the World Trade Center site in the aftermath of September 11th.

I would like to briefly review the contents of the solicitation and the potential consequences of the cancelation for the many responders and other workers whose health has been endangered by their work at the World Trade Center.

Currently, the program is funded through grants through a variety of institutions, including the New York City Fire Death, Mt. Sinai and a number of other academic institutions to provide monitoring and treatment for the services. This solicitation from CDC and NIOSH was directed at outside firms. It was designed to supplement the current grants program, and it would do so by establishing a Business Processing Center that would administer reimbursements to medical institutions provided throughout the country who were providing monitoring or treatment services as part of this program.

It would encompass all of the current providers with the exception of the New York City Fire Department. This outside entity would also help locate providers across the country who provide these services. One of the problems that has been faced by the various entities involved—and we have been able to document this—has been difficulty in finding providers who are experienced and have the capability to help people from all 50 States that are involved in this program.

The program also provides pharmaceutical benefit services for people in the program and would also provide a number of other informational and member services that would assist in the program. As you have already reviewed, the CDC abruptly canceled the solicitation just 6 days before the applications were due. They gave a variety of reasons for that. In my testimony, I outline some of these reasons and really find them to be very weak and they really don't adequately explain the reasons for this, especially given the consequences of canceling this contract.

One reason was that funding wasn't available. As you have all already said, the full appropriation was passed only a few weeks after this cancelation, so the money would have been available. It is not unusual for the Federal Government to put out a solicitation for a contract in anticipation of moneys becoming available. If moneys aren't available, then they can go ahead and cancel that particular contract or not decide to award it.

There were also concerns raised about whether this program should be—whether the Federal money should be what we call the first payor. Currently, other than for workers' compensation payments, the Federal Government covers all the cost of medical care for World Trade Center related conditions. CDC was raising issues of whether people's health insurance shouldn't be involved. For a variety of reasons that have been testified to before the various committees, that doesn't make sense for the program. It would lead to serious deterioration in services for the program.

Most important and what I would like to spend my remaining time on is really the consequences of canceling this solicitation. As has been already said, the main impact of the cancelation will be on services for national responders. That's the several thousand people across the country who are currently getting monitored or receiving treatment through this program. Their treatment is being funded not by the Federal Government, but by the Red Cross.

The Red Cross has decided they will no longer support this program. They have already done it for many years and they have good reason to turn it over to the Federal Government at this point in time. Their money runs out in March. They may extend it an extra month to two, but for the several hundred people who are currently receiving treatment through that program, their funding will cease. They will no longer be able to get treatment unless they are willing to come to New York City to receive it from one of the institutions that are currently funded.

In fact, under the program, the organization arranging that care will have to send letters to all the responders in the program explaining to them that they will no longer be covered. And this will be very disruptive of their care and I think, will have serious medical consequences for many of the responders.

Funding for the monitoring of people living outside the New York City area is also jeopardized. As GAO has already said—Cynthia said—that funding is through a contract with an organization called QTC. That is done through a modification of the current grants program to Mt. Sinai. That will need to be renewed for a large amount of money. It is also probably not adequate to cover all current national responders. So it could very well be that by June of this year there will be, in addition to no treatment for na-

tional responders, there will be no monitoring for national responders. The examinations that they need to monitor their health to detect these conditions will not be available.

There are also some informational needs for the program to understand what the money is being spent on, what medical treatment and how much does it cost. Better information has been asked for by both HHS and by Congress. That information will not be available. The pharmaceutical benefits for the current responders are handled through each participating institution now. So there are six separate programs. That's not very efficient and setting up a single pharmaceutical benefit manager to handle everybody in the program would be much more efficient and more beneficial for the participants. They wouldn't have to travel as for to get prescriptions filled and it would be much easier for them.

Finally, there is, I think, the whole issue of what happens to the current program even in the New York City region. We have the institutions that provide that coverage. Their contracts or their grants were 5-year grants, they run out in roughly mid 2009. If the original funding program was not adequate, particularly the treatment parts of payments that were required for these institutions providing treatment, so these grants need to constantly be modified to provide additional moneys.

There are limitations. There are rules within the Federal Government in order to foster competition and make sure that the government money is being spent carefully and wisely, that usually limit how much modification can be done, particularly in the last year of the program. And if nothing is done, if these programs are just left in place, we face the possibility that modifications that are needed to provide for treatment, to pay for treatment, will not be made, and, therefore, these institutions will no longer be able to provide treatment.

We've already had one instance, it was a New Jersey Medical Center where that has taken place, where it required a modification for them to be able to continue treatment. We face that very shortly at Mt. Sinai Medical Center also. And we will face it, I think, several more times before these current grants run out.

We also have the issue that the current appropriations provides funding for residents and workers of the downtown area who are not eligible for the current program. That will require some sort of a new solicitation. If the current administration is not going to take any steps at all for any new grants or contracts for this program, then there is a budget on how will that money be made available to Bellevue, Elmhurst and the other institutions involved to provide monitoring and treatment services for the residents, students and those workers.

So I think with the failure of, you know, the cancelation of this solicitation, has really a dramatic potential for totally disrupting the program. We could face a crisis. I don't know when. I hope it doesn't occur, but we can very easily foresee at some time in the next several months, we will face a crisis, where there will not be adequate funding available at one of the institutions to provide the monitoring and treatment, where the patients are being treated at that facility will have to be told that they need to either rely on their health insurance or find some other source of reimbursement

for their care. And, I think this will have very serious consequences for, obviously, the overall program as well as for the health of the participants.

In summary, again, I would repeat some of what I said at the last hearing with you, Chairman Towns. We need a comprehensive solution to this problem. We need for the administration to take the steps over the next few months to make sure that the program can continue until some new arrangements can be made. We definitely have a crisis coming with the responders living outside the New York City area. There needs to be some arrangements made to provide them with treatment as well as with monitoring.

But even within the New York City area, we need to make sure that we can keep the program going, while we can establish both new arrangements for the current funding as well as a more permanent solution be put in place. I greatly appreciate all of your efforts in working, not only in keeping the present program going, expanding it to include the residents and downtown workers, but also looking for a permanent solution that will provide the kind of care and treatment that these people deserve.

I think that what we have heard already from the responders who came here today—you see how disruptive this will potentially be for them. We must take all steps that we can to avoid this.

Thank you.

Mr. TOWNS. Thank you, Dr. Melius. Thank you very much for your testimony.

[The prepared statement of Mr. Melius follows:]

TESTIMONY

Before

The United States House of Representatives

Committee on Oversight and Government Reform

Subcommittee on Government Management, Organization, and Procurement

Hearing on

9/11 Health Effects: Why Did HHS Cancel Contracts for Responder Health Care?

New York, New York

January 22, 2008

Presented by

James Melius MD, DrPH

Administrator, New York State Laborers' Health and Safety Trust Fund

Albany, NY

Honorable Chairman Towns and other members of the Subcommittee, I greatly appreciate the opportunity to appear before you at this hearing.

I am James Melius, an occupational health physician and epidemiologist, who currently works as Administrator for the New York State Laborers' Health and Safety Trust Fund, a labor-management organization focusing on health and safety issues for union construction laborers in New York State. During my career, I have spent many years working for the federal and state government on occupational and environmental health issues. This included 15 years working first for the National Institute for Occupational Safety and Health (NIOSH) and then for the New York State Department of Health. While working for both of those agencies, I had experience developing, preparing, and reviewing government contracts and grants. These included contracts for occupational medical services. For the past 11 years, I have worked on occupational safety and health issues for labor organizations.

I have been involved in health issues for World Trade Center responders since shortly after September 11th. Over 3,000 of our construction union members were involved in response and clean-up activities at the site. When the initial concerns were raised about potential health problems among responders at the site, I became involved in ensuring that our members participated in the various medical and mental health services that were being offered. For the past four years, I have served as the chair of the Steering Committee for the World Trade Center Medical Monitoring and Treatment Program. This committee includes representatives of responder groups and the involved medical centers (including the NYC Fire Department) who meet monthly to oversee the program and to ensure that the program is providing the necessary services to the many people in need of medical follow-up and treatment. I also serve as co-chair of the Labor Advisory Committee for the WTC Registry operated by the New York City Department of Health. Through my work with the International Association of Fire Fighters, I have also had the opportunity to meet with fire fighters from other areas in New York State and from around the country who worked at the WTC site in the immediate aftermath of September

11 and are now concerned about their health. These activities provide me with a good overview of the benefits of the current programs and the difficulties encountered by responders seeking to address their medical problems and other needs.

On October 23 of last year, the Centers for Disease Control and Prevention (CDC) on behalf of the NIOSH released a solicitation for a contract to provide various administrative and medical services related to the medical monitoring and treatment program for the WTC responders. An open meeting with prospective bidders was held in New York City on November 7, and applications were due on December 19. On December 13, CDC abruptly cancelled the solicitation giving a variety of reasons for this decision. The cancellation of this solicitation has potentially serious consequences for the ability of the federal government to provide the medical services needed by the thousands of responders and other groups who worked at the WTC site in the aftermath of September 11. I would like to briefly review the contents of this solicitation and the potential consequences of the cancellation for the many responders and other workers whose health has been endangered by their work at the WTC.

CDC Solicitation

The solicitation for proposals issued by CDC/NIOSH was directed at outside firms to establish a Business Processing Center that would administer reimbursements to the medical institutions and providers who were involved in the medical monitoring and treatment of people enrolled in the WTC Medical Monitoring and Steering Program. This claims processing and reimbursement would encompass all of the current medical providers in the program with the exception of the New York City Fire Department. The outside entity would also assist NIOSH in locating medical providers for people enrolled in the program who lived outside of the New York City area (so-called National Responders). The firm receiving this contract would also provide pharmaceutical benefits for people being treated for WTC-related conditions in this program (again with the possible exception of people being treated by the NYC Fire Department). Finally, the

firm receiving this contract would provide other member services for the people enrolled in the program including enrollment of new participants and dispute resolution.

Reported Reasons for Cancellation

In response to questions regarding the sudden cancellation, CDC has provided several different reasons. These include confusion over the solicitation and the lack of adequate funding to cover the contract. Although no firms had the opportunity to submit proposals for this solicitation (it was cancelled before the deadline), a number of firms who provide health insurance services and other services covered in the program attended the meeting on November 7. At least one firm was planning to submit a bid, and more may have intended to do so. Thus, there was definitely interest in the proposal based on the potential bidder's meeting on November 7. As a result of questions raised at the meeting and other requests for information, CDC/NIOSH issued three amendments to the original solicitation clarifying different aspects of the original announcement. These amendments are not unusual in awarding contracts, and none of the outside parties identified any major problems with the solicitation.

CDC also claimed that there was uncertainty about whether the government should be the primary payer for these health services or whether health insurance or workers' compensation should be utilized as the primary payer. As far as I know, this issue was not discussed at the pre-bid meeting or raised as a question by the outside vendors. Under the current program, the federal government is the primary payer except when the patient's medical treatment is covered by an approved workers' compensation claim. In that case, the WTC program institution bills the workers' compensation insurer. At the current time, this covers only a small percentage of the participants in the program. The personal health insurance provider (if they have one) for the WTC program participant is not billed for the care for WTC-related conditions. This approach is common to all federally funded and state workers' compensation programs. This arrangement had been in place since the federal funding for treatment of WTC-related conditions had been

initiated and was known to DHHS officials. It is difficult to see why this should be a rationale to suddenly cancel the solicitation.

CDC also claimed that the available funding was not adequate to cover the solicitation. Although this could have been correct at the time the contract was cancelled, full funding for the anticipated levels called for in the solicitation was approved by Congress and signed by the President shortly after the contract was cancelled and would have been in place by the time the contract would have been awarded. Given the length of time that it takes for a contract to be processed (usually several months) and the need for these services to be available for an ongoing medical care program, it is not unusual for a federal agency to prepare a contract solicitation in anticipation of an appropriations especially given that the fiscal year had already started. CDC/NIOSH had already identified substantial funding that would be available for the contract, and the full implementation date for all aspects of the contract was not specified in the contract. Thus, the rationale of inadequate funding as the reason for cancelling the contract appears to be quite questionable.

Consequences of Cancelling the Solicitation

The cancellation of this solicitation could have several consequences for the participants in the program. The group most immediately impacted will be the national responders. Currently, there are slightly over 2000 responders enrolled in the national program. These include emergency responders and other workers from all 50 states and Puerto Rico who came to NYC to assist after 9/11. Many were volunteers while others were there as part of their official duties or work assignments. Nearly nine hundred have received initial exams in the program, and close to 200 have received a follow-up monitoring exam. Over 350 of these people have been referred for treatment for WTC-related conditions. In addition to those enrolled, there are nearly 2000 federal workers who responded to the WTC who are now being referred to the program, and there are many other responders who have not yet enrolled in the program. There are also many participants in the current program who live in the NYC area but have retired or will be

retiring over the next several years. Many of them will leave the area and require services closer to their new homes.

For many reasons, the program for national responders has been difficult to establish. This issue has been reviewed by GAO and discussed at a previous hearing of this subcommittee (where I also testified). Currently, most of the examinations provided in this program are being conducted by a national firm that contracts with local medical providers for these types of exams. This firm does not provide medical treatment services. The only treatment services available to the national responders is through Red Cross funding to the Association of Occupational and Environmental Health Clinics (AOEC) who in turn arranges for local treatment services. This Red Cross funding is being discontinued and is only expected to last a few more months. Once that program ends or runs out of money, there will be no arrangements for providing treatment for national responders with WTC-related conditions. In fact, with the cancellation of this solicitation, the AOEC will need to notify the participants in the treatment program that there will no longer be funding available for their treatment and that the participants will have to make other arrangements. Their only choice under the current federal program will be to travel to the NYC area for treatment. This option is not feasible for many of these responders and is certainly not the intent of Congress when funding this program. Otherwise, the treatment program participants will have to pay for their treatment through their own health insurance or some other way. If this gap in treatment coverage is to be avoided, CDC/NIOSH will have to develop a new solicitation and award a new contract in the next few months. In my judgment, this will be quite difficult even if they start immediately.

There is also the potential for the loss in coverage for the monitoring exams being provided for the national responders and soon for the many federal workers. The current contract arrangements with the firm providing these examinations run out in the next few months. Their contract is awarded in conjunction with the grant award to Mount Sinai Medical Center, and the Mount Sinai grant award will need to be modified in order to extend the contract for the national responder examinations. Given that Mount Sinai will

soon be in the last year of their grant award, it is not clear whether this modification will be permitted especially in the absence of a longer term arrangement. In this case, the thousands of national responders due for medical monitoring examinations will not receive those exams unless they travel to the NYC area. If unable to come to New York, medical monitoring to detect WTC-related medical conditions will not be available to these responders.

There were a number of other potential benefits of the business processing center contract that are jeopardized by the cancellation. Currently, each of the six major medical centers provides separate prescription services for patients being treated in the program. This contract would have consolidated these into a single program serving all of the participants (except for the NYC Fire Department which has its own plan). The new contract would have reduced costs for the program and provided greater flexibility and services for the participants.

The business processing center contract would have also have provided better information on the medical utilization and costs of the current program. By processing all of the reimbursement for medical monitoring and treatment through a single center (rather than the separate grants), NIOSH would have better and more timely information on the types of treatment being provided and the costs of various types of treatment. DHHS and Congress have both asked for this type of information to help in planning for future program needs, and both have been critical of the medical cost information currently available to them. This contract would have helped to correct that information deficiency. It would have also improved the ability for the current program to add additional medical providers to the program by enabling a mechanism to reimburse these providers.

Finally, the cancellation of this contract potentially jeopardizes the overall medical monitoring and treatment program including the services provided in the NYC area. The original grant awards for this program only included medical monitoring presumed to be occurring every 18 months for a number of participants less than those currently enrolled.

The enrollment of additional participants and the appropriation of funding for treatment have required that these original grants be modified in order to include the additional funding needed for the expanded responsibilities. Given the cancellation of the contract solicitation, these awards will need to be modified again in the next several months to accommodate the additional funding for medical treatment. If these modifications are not allowed, then the programs could run out of funding. For some, this could happen in the next two or three months. Such a disruption of services would be disastrous for the participants and would seriously jeopardize the health of many of them.

All of the current grants expire about mid way through 2009. In order to leave ample time for preparing the new award announcements, obtain the necessary reviews and approvals, announce the application process for the new wards, allow time for the institutions to prepare new applications, review the applications, and make the awards, CDC/NIOSH will to start application process sometime in the summer of 2008. Unless, the Department determines how it intends to provide the funding for this program (either through the business processing center, through the current grant mechanism, or some other way) in the next few months, we face the real possibility that the medical monitoring and treatment for all WTC responders will end next year or that there will be a gap in coverage. Should this happen, the health and well being of thousands of WTC responders who willingly served their country in its time of need will be endangered by the inability of the Department of Health and Human Services to appropriately administer this important program.

Without this program, these brave men and women will be forced to rely on a fragmented medical system utilizing private philanthropy, health insurance, line of duty disability retirement, and workers' compensation to support the necessary medical monitoring and treatment for the thousands of people whose health may have been impacted by their WTC exposures. This fragmented approach will inevitably leave many of the ill and disabled rescue and recovery workers without necessary medical treatment by providers experienced in providing this care and will only worsen their health conditions. The delays and uncertainty about payments would discourage many of the ill rescue and

recovery workers from seeking necessary care and discourage medical institutions from providing that care. We need the federal government to immediately develop an administrative plan building on the current program to ensure that the money appropriated last year and this fiscal year for the WTC Medical Monitoring and Treatment program will be made available to fund a comprehensive monitoring and treatment for fire fighters, police, and all of the other workers who responded to 9/11 and that includes all of these workers, regardless of where they live.

Thanks you for your time. I would be glad to answer any questions.

Mr. TOWNS. Mr. Fraone.

STATEMENT OF FRANK FRAONE

Mr. FRAONE. I want to thank you, Congressman Towns, Congresswoman Maloney, Congressman Nadler, Congressman Fossella and the House of Representatives for supporting the issue of medical screening and workers' compensation for rescue workers.

My name is Frank Fraone, I am a 27 year veterans of the Menlo Park Fire District. Currently I hold the position of Division Chief in charge of Operations. I am also the program manager for the Homeland Security, FEMA, Urban Search and Rescue Team based out of Menlo Park, CA, California Task Force 3. I have been a member of California Task Force 3 since inception in 1991. As a member of California Task Force 3 and FEMA Urban Search and Rescue Incident Support Team, I have been deployed to many State disasters including the Northridge earthquake, Oklahoma City bombing, the California floods and the World Trade Center. I also was deployed to Hurricane Georges, Hurricane Charlie, Francis, Ivan, Dennis, Katrina, and most recently, the Greensburg, KS Tornado.

Each event in itself is significant to those affected and to the rescue workers who responded. For me, one event stands out overall because of the impact on my fellow firefighters and the lasting medical concerns that affected me.

On September 11, 2001, I was already deployed on a large scale wildland fire in Calaveras County, CA. I returned home on September 14th only to be deployed out on September 16th to the World Trade Center on the FEMA Incident Support Team as Branch Operations Chief. Prior to deployment, I received a medical exam. At that time I had no medical ailments, injuries or sickness.

I spent the next 12 days, 16 hours a day on the rubble pile at the World Trade Center. I was assigned nighttime operations between Buildings 4 and 5 in the West Sector. I was charged with coordinating the efforts of the both FEMA search and rescue teams, international rescue teams, State rescue teams, ironworkers with my colleague next to me that I worked on the pile with, and liaison with the Port Authority FDNY. I spent the majority of my time on the pile or between 4 and 5 at my command post. At about day 10, I started losing my voice, coughing and experiencing prolonged headaches.

After returning home, I was experiencing chronic coughing and shortness of breath. I was examined by three different physicians over a 6-month time period, placed on a variety of medications and breathing treatments. Eventually Dr. Joe Zammuto diagnosed me with lower respiratory disease. I continued the chronic coughing for 9 straight months before it subsided.

The shortness of breath and coughing are exacerbated when exposed to smoke, dust or strenuous activity. I currently have two different types of inhalers that I use when these episodes occur.

Of the 67 members who responded from California Task Force 3, 70 percent experienced illness, including shortness of breath, chronic coughing, pneumonia, nose bleeds and long-lasting severe colds. A few months after returning, our then program manager Chief Schapelhouman heard about the Mt. Sinai Medical Monitor-

ing Program. It took Chief Schapelhouman over a year before a phone call was returned to him. It took a second year before he could convince the program coordinators to accept us and allow a local physician to perform the evaluations.

Originally the only facility that they would allow us was in Napa, CA. Napa is a minimum 2-hour drive from our home facility. Eventually agreements were made with a local health care provider to perform the annual evaluations. I and many of our teammates currently participate in medical monitoring evaluation. Due to HIPPA issues, it has become increasingly more difficult to obtain the actual number of participants in the program.

In the Federal system approximately 1,414 FEMA and Urban Search Rescue members responded to the World Trade Center to support the search and rescue efforts. Approximately 592 responders opened Federal workers' comp claims. Many of these claims were closed out in just 2 months. Most of the claimants were frustrated and confused in working through this process. Many of the claimants abandoned the Federal workers' comp efforts and used their own health care provider. However, Federal workers' compensation only covers 66 and 2/3 percent of your claim.

On December 20, 2007, the Board of Directors of Menlo Park Fire Protection District passed a resolution declaring members of the District who respond to a Federal disaster will be covered under our department's workers' compensation and insurance. This will assure our department members are covered the same whether injured in Menlo Park, CA or New York City.

Chairman Towns, we need a national program that will provide responders who came to New York and were exposed to toxins at Ground Zero the medical monitoring and treatment we need. It is very disheartening to hear that the administration seems to be standing in the way and not working to get us the help we do need.

We need not only health care, we also need to be compensated for our injuries. I know that Representative Maloney, along with you, Chairman Towns, and Mr. Nadler and Mr. Fossella, are working on pushing legislation H.R. 3543 that will make sure that we have long term monitoring and treatment and be compensated for our injuries for everyone, including myself and those who came from across the country to help. This legislation is supported by the national firefighters union as well as AFL–CIO.

It is very important to myself, as well as the many rescue workers who responded to the World Trade Center, to continue the medical monitoring program. Although acute medical problems have been well documented this morning, the long-term effects are uncertain so we need a stable national program.

I also want to mention two other bills, H.R. 4158 and H.R. 4183 that will, also, help support and protect specifically Urban Search and Rescue workers like myself who were injured while on deployment.

In closing, it has been my distinct honor and privilege to serve the members of my community and the citizens of the United States in their times of greatest need. I hope that the Members of Congress will see fit to protect those who give their lives to protect and serve others.

Thank you, sir.

Mr. TOWNS. Thank you so much for your testimony. We really appreciate your coming all the way from California. Thank you so much.

[The prepared statement of Mr. Fraone follows:]

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Edolphus Towns, Chairman
Congress of the United States
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Committee on Oversight and Government Reform
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January 19, 2008

Honorable Towns

I want to start by thanking you, Chairman Towns, Congress Women Maloney and all the members from the House of Representatives who are supporting the issues of Medical Screening and Workers Compensation for rescue workers.

My name is Frank Fraone and I am a twenty-seven year veteran of the Menlo Park Fire Protection District. Currently I hold the position of Division Chief in charge of Operations. I am also the Program Manager for the Home Land Security, Federal Emergency Management Agency (FEMA) Urban Search & Rescue Team California Task Force Three (CA-TF3) based out of Menlo Park California. I have been a member of CA-TF3 since it's inception in 1991. As a member of CA-TF3 and FEMA US&R Incident Support Team (IST) I have been deployed to many federal and state disasters including: Northridge Earthquake 1994, Oklahoma City Bombing 1995, California Floods 1998 and the World Trade Center 2001. I also deployed to Hurricane Georges 1998, Hurricane Charlie 2004, Hurricane Francis, 2004, Hurricane Ivan 2004, Hurricane Dennis 2005, Hurricane Katrina 2005 and the Greensburg Tornado in 2007. Each event in itself was significant to those who were affected and to the rescue workers who responded. For me, one event stands out over all because the impact it had to my fellow firefighters and the lasting medical concerns that affected me.

On September 11, 2001 I was already deployed on a large scale wildland fire in Calaveras County California. I returned home on September 14th. On September 16th 2001 I was deployed to the World Trade Center as a member of the FEMA US&R IST as a Branch Chief. Prior to deployment I received a medical exam. At that time I did not have any medical ailments, injuries or sickness. I spent the next twelve days, sixteen hours a day on the rubble pile at the World Trade Center. I was assigned night time operations between buildings 4 & 5 in the West Sector. I was charged with coordinating the efforts of FEMA Rescue Teams, International Rescue Teams, State Rescue Teams, Iron Workers and liaison with the Port Authority and FDNY. I spent the majority of my time on the pile or between buildings 4 & 5 at my command post. At about day ten, I started loosing my voice, coughing and experiencing prolonged headaches.
After returning home, I was experiencing chronic coughing and shortness of breath. I was examined by three different physicians over a six month time period and was placed on a variety of medications and breathing treatments. Eventually, Joseph Zammuto M.D. diagnosed me with a lower respiratory airway disease. I continued the chronic coughing for nine straight months before it subsided.

The shortness of breath and coughing are exacerbated when exposed to smoke, dust or strenuous activity. I currently have two different types of inhalers that I use when these episode occur.

Of the sixty-seven members who responded from CA-TF3, Seventy percent experienced illnesses including; shortness of breath, chronic coughing, pneumonia, nose bleeds and long lasting severe colds. A few months after returning, our then Program Manger Chief Schapelhouman heard about the Mount Sinai medical monitoring program. It took Chief Schapelhouman over a year before he could convince the program coordinators to accept us and allow a local physician to perform the evaluations. Originally the only facility we could use was in Napa California. Napa is a minimum of two hour drive from our facility. Eventually, agreements were made with a local health care provider to perform the annual examinations. I and many of our teammates currently participate in this medical monitoring evaluation. Due to HIPPA issues, it has become increasingly more difficult attain the actual number of participants in the program.

In the federal system approximately, one thousand four hundred and fourteen FEMA US&R members responded to the World Trade Center to support the search and rescue efforts. Approximately five hundred and ninety two responders opened Federal Worker Compensation Claims. Many of these claims were closed out just two months after the event. Many of the claimants were frustrated and confused in working through this process. Many of the claimants abandoned the federal workman's comp and used their own health care insurance. However, Federal workers compensation only covers 66 2/3rd % of the claim.

On December 20, 2007, the Board of Directors from the Menlo Park Fire Protection District passed a resolution declaring members from the district who respond to a Federal disaster, will be covered under our departments workers compensation and insurance. This will assure that our department members are covered the same whether they are injured in Menlo Park or New York City.

Chairman Towns, we need a national program that will provide responders who came to New York and were exposed to toxins at ground zero the medical monitoring and treatment we need.

It is very disheartening to hear that the administration seems to be standing in the way of delivering and not working to get us the help we need.

We need not only health care but we also need to be compensated for our injuries.

I know that Rep. Maloney along with you Mr. Chairman, Mr. Nadler and Mr. Fossella are working on pushing legislation, HR 3543 that would make sure we have long term monitoring and treatment and be compensated for our injuries for every one including for those like my self who came from across the country to help. This legislation is supported by the national fire fighters union as well as the AFL-CIO.

It is very important to myself, as well as the many rescue workers who responded to the World Trade Center to continue the medical monitoring program. Although acute medical problems have been well documented to this point, the long term affects are uncertain so we need a stable national program.

I also want to mention two other bills HR 4158 & 4183 that will help support and protect specifically urban search and rescue team members like my self who are injured while working or on deployments.

In closing, It has been my distinct honor and privilege to serve the members of my community and the citizens of the United States of America in their times of greatest need. I hope that the members of this Congress will see it fitting to protect those who give their lives to serve others.

Sincerely,

Frank Fraone
Operations Chief
CA-TF3 program Manager

cc: Chief Schapelhouman
Board of Directors, Menlo Park Fire

Mr. TOWNS. At this time before we go on to questions, I would like it give Congressman Fossella an opportunity for an opening statement.

Congressman.

Mr. FOSSELLA. Thank you, Mr. Chairman. I will submit my formal remarks for the record. I would just like to thank the witnesses for coming once again. Thank you for holding this hearing, as well as my colleagues, Ms. Maloney and Mr. Nadler, being forceful advocates for putting in place what should have been put in place a long time ago, a comprehensive national plan.

Thank you, Chief, for coming across the country. Thank you for your service.

Mr. FRAONE. Thank you, sir.

Mr. FOSSELLA. The tragedy of 9/11 is a big book and there are many great chapters and there are going to be some sad chapters. And this is a sad, sad chapter in the history of September 11th; that is, the failure of HHS to adequately and appropriately step up and serve the needs of those who were willing to give their life on September 11th and the days and weeks that followed.

As has been mentioned, the possibility, the potential of a giant hole in which hundreds of thousands of individuals could fall into unless and until HHS comes forward—they should consider calling themselves Human Services, because the health aspect of their mission right now seems to be missing.

As we have stated repeatedly, rather than being dragged into, in this case a courtroom, to provide a solution to the problem, we find them running and hiding. And it's one thing to disagree with perhaps a suggestion as to how to solve the problem and to just say no may not be a nice public relations ploy, but to just say no to the men and women who risked their lives and now need our help is not an appropriate position for the Department of Health and Human Services.

So it is our intention to keep this fire glowing. It is our intention to impress upon HHS and anyone else who will listen that we need a specific Federal mandate here, and I would just like to thank you for convening this, and thank you all for coming.

Mr. TOWNS. Thank you very much, Congressman Fossella.

And I would also like to recognize Rabbi Nederman and the class from Williamsburg, the Williams School. That is an area that was affected by 9–11 smoke. Thank you for coming as well and being part of this hearing.

Let me just move along. I will begin with you, Ms. Bascetta. In 2004 you made recommendations to HHS, and in your statement today, you said that HHS has not yet responded to your recommendations.

What is HHS's obligation to respond to your recommendations?

Ms. BASCETTA. The first opportunity to comment is when we submit the draft report to them. As I mentioned, they were silent. But after our report is issued to any agency that contains recommendations from GAO, there is a statutory retirement that is laid out in 31, U.S. Code, Section 720, for HHS to report to the Senate, Homeland Security, Governmental Affairs Committee, and to your full committee, House Oversight and Government Reform, and they

have 60 days in which to make this response, so they are well overdue.

They, of course, don't need to agree with our recommendations, but if they don't, they need to say why they do not, and if they do concur, they need to lay out how they intend to implement the recommendations.

Mr. TOWNS. Thank you.

Can you discuss the importance of a national program and describe the current and future effects of the continuing problem in providing services for responders outside the New York City area?

Ms. BASCETTA. Yes. As you have heard from many of the other witnesses, the importance of covering the entire population who responded can't be understated, from both a research perspective, but, more importantly, from the perspective of the equity of access to screening, monitoring and treatment, if it's needed.

We are very concerned about the precedent that it would set for any future disasters to have such an ad hoc and uncoordinated approach, to taking care of the responders who risked their very lives and their health.

The other factor here, as has also been mentioned, is that many of the responders who live here will be retiring either for health reasons or other reasons and will be moving outside of the New York City area. So the impact in terms of the growth of the population on the monitoring and continuing to stay abreast of health effects to provide the best treatments possible will only grow overtime, so it's very important that this program be established.

Mr. TOWNS. Thank you very much for your work and thank you for your comments as well.

Chief Fraone, I am concerned because if firefighters learn about the treatment of those who came to the rescue, they learn about how you are being treated, do you think that they will be eager to continue with an Urban Search and Rescue Team? Will they still want to do this when they hear about how you have been treated?

Mr. FRAONE. That's our No. 1 concern right now, is to sustain the workers in the system, because of the workers' compensation issue and the coverage. We are losing firefighters and people are reluctant to join the team because of these issues that occur after the fact. It is an issue, a major issue.

Mr. TOWNS. I am concerned if they hear how you are being treated, if they would be interested in continuing to provide this kind of service. And, of course, that would be the worst things that could happen.

Mr. FRAONE. We are very dedicated men and women throughout the country. We have 5,000 members in the Urban Search and Rescue System and one of our difficulties right now is sustaining the system because of these particular issues of compensation, medical claims, the followups and just the effects of Federal funding.

Mr. TOWNS. Mr. Libretti, you have to come all way back from Pennsylvania to New York for treatment?

Mr. LIBRETTI. Yes, I did, until recently when I got Medicare, Social Security Medicare. I saw a pulmonologist in Pennsylvania and that became confusing, too, because he would send me bills to be paid and I would say "Why do I have to pay the bills?" After a while it becomes more difficult.

I get my medication from the Injured Workers Pharmacy, but that's only the medication from 9/11. And because there are glitches, they don't cover this. My diabetes medicine was not covered by 9/11. So up until I got Medicare, it was costing my $560 a month for pills, and that's on me. And when I had my union coverage and I worked, I had no problem with coverage, medical, dental, whatever. Now I am covered, but my family is not. I don't think that's fair.

Basically, I'd rather keep my family covered than me. My son is 16. He had braces when—it gets so frustrating because at 9/11, my daughter was in college, first year she got braces, the union would pick up half that cost. After 9/11, because I couldn't work, her braces had to come off. That cost falls on me. It's my daughter.

Same thing with my 16 year old son, that cost falls on me. From taking all this medication for the last 6 years, all my teeth fell out in the last 3 years. I go to another doctor, he says, "Yeah, that medication has side effects." You know what, I don't have dental. These things are not covered. No one addresses them.

It is not just victims, it's their families. They lose all their protection and you are told that's a glitch. It falls between the cracks. So if people get frustrated, it is like everything else, what do you do? You talk to this person. You talk to that person. No one has answers. It's depressing and it is not fair.

I am not saying there are not people out there trying to get something they don't deserve, but when people have medical records, why are they being jerked around basically? There is no reason for that. I can understand people trying to get over—that's the world. But when you go to your doctors and the doctors from Mt. Sinai say, "You have chronic lung disease from 9/11. You have this from 911," and now you have to fight to get everything else that you should get. Why did I have to fight 3½ years to get workers' comp?

If it wasn't for Congresswoman Maloney and Scotty Hill and some other people that were dedicated to the 9/11 workers. You have the mayor spending $225 million fighting people putting in claims for money that was issued to give workers' comp from 9/11. That don't make sense.

Yes, there is fraud in everything, but you know what, there is legitimacy too, and when you just white wash the whole thing, it ain't right.

Mr. TOWNS. Let me thank you again for your service and thank you for your commitment and dedication. This is the reason why HHS should be here. They need to hear the stories. They need to hear what is really going on.

And it really bothers me, the fact that they are not here. And when I listen to Ms. Bascetta in terms of how they have not responded to her, I need to make it very clear, HHS, we are not going to go away. As long as we hear stories like this, people being mistreated, you can be assured that we are going to be there for them. And, I am telling you, whatever it takes to bring you to the table, we are going to bring you to the table. And, I just want to make that clear so they will know that we are not going to go away.

They think the stalling tactic is going to work. It is not going to work. You are talking about people are dying; you are talking about their life, their family. I am not going to walk away from it.

On that note, I yield to my colleague, Congresswoman Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman, for that very strong statement. In line with your comments, at the State of the Union, which is this coming Monday, my colleagues and I on this panel have given our State of the Union tickets to sick workers from 9/11 so that their presence at the State of the Union address to Members of Congress, to the administration, to remind them that men and women, our heroes and heroines, are still sick.

When I tell people that I represent constituents and that there are people out there like the three panelists today that risked their lives and their health to help New York, to help save lives of others and to help us recover, and that they are sick, do not have health care, they can't believe it. They can't believe that the wealthiest and strongest country in the world is not providing health care to the men and women who rushed to save lives on 9/11.

Instead of fighting to provide health care, we see the administration fighting to end the program. Why else would they pull the Request for Proposal that sets up the business center that would provide the care? So I would like to ask the three responders—first, I would like thank you for your service and for your sacrifice and for being here today, but I would like to ask you if you think the response from the Federal Government has been adequate.

And I will start with Mr. Mount, Mr. Libretti and then Chief Fraone.

Mr. MOUNT. Well, as far as the Federal Government goes, the Victims Compensation Fund was probably the best run program or agency that I have come up against. Everybody else is built to send you away, they don't want you and they want you to just go away. I mean, I have gone to workers' comp I think it was 3½ years. I am still—well, you are asking me Federal?

Mrs. MALONEY. Federal.

Mr. MOUNT. I'm sorry.

The Victims Compensation Fund I thought was handled with a lot of dignity and a lot of respect. You have the proof and they accept it. But I don't see anything. All I hear is people are cutting funds off. Everything that they do, if you cutoff the funds off, there's another meeting; it's another month. But if you are dealing in true life, life goes on minute-to-minute and day-by-day.

It's discouraging and it makes you feel angry and sorry sometimes that you involved yourself.

Mrs. MALONEY. Mr. Libretti.

Mr. LIBRETTI. My feeling with the Federal Victims Compensation Board—I didn't even know about it. The only way I found out about it was 2 weeks before the cutoff, and the doctor from Mt. Sinai happened to be on vacation. He called Scotty Hill to ask him if I knew about it, which I did not.

When I found out about it, I was told to get a lawyer. Everyone I went to told me they wouldn't take the case. Plus I didn't have the rest of my medical records, so I filled out the papers. And from my understanding that I could read, if I was in the union and what

I would have if I worked for the next 20 years. And they sent me letters saying they were going to award me $60,000.

I thought that was absurd, because the Federal Victims Compensation Board did not take in any mental treatment; that was not considered illness. But I am not a lawyer. I went through the whole process and I couldn't get a lawyer. No one would take the case. They did give me $118,000 and I called them and said, "How am I going to live the rest of my life on $118,000?" I got no answer.

So I did what I thought would protect my family, I paid my house off. That lasted until 2006 when, finally, I had no more money and my understanding of everything was at least I would be compensated so that my family would have some sensibility of the life they had before this happened, which it was not.

So now I have to play catch up. I put everything on credit cards and I run around in circles. Do I think I was treated fairly? No. Do I think inadequate information was given to rescue workers? Yes, because I didn't even know about half these programs and then they were cutoff. Then they open them up. Meanwhile the people tell you, "Do that."

I was told not to come here today by people because they said the law case that I am on from 6 years ago could be jeopardized. I don't know. I am not here to make money because I want to get rich. I made a very good living as an ironworker, OK. When you are one-third of that, I guess I am not the mathematician I should be. I can't stretch $118,000 for 20 years.

Other people say I was nuts for going down the first time. I didn't know my brother was dead in the north tower at the time that I went down. I was on 172nd Street and Second Avenue and we watched the planes come over and we thought the first one was a joke. Then we watched the next one come over, and the one over Jersey hit the south tower and I watched the city go hysterical.

I walked down there and stayed there for 3 months. I went home twice. I lived, ate and slept on that site. I was told the air quality was fine. There was no protective gear. October 26th protective gear was issued, which was wrong. Wrong this, wrong that.

You know what? If something happened tomorrow, they would be right back down there. Other people with families told me, "You jeopardized your family, your livelihood, for what? To get kicked in the face."

I am old school. I am not perfect, but I believe I am an American. I am not a hero and all the guys I know that I worked with, they don't want to be called heroes, because we are not. We are Americans. The heroes are the guys that died because of what happened on 9/11. The young boys that get killed every day in Iraq, those are heroes. We are just Americans. All we want is to be taken care of.

Mrs. MALONEY. We need to take care of you.

Chief.

Mr. FRAONE. It reminds me of the large-scale insurance agencies that give you the run around, deny your claim until eventually you give up. One of the issues that plagued us was our team spent an additional $50,000 at that event for higher level respiratory protection for California Task Force 3. When we were denied reimbursement of that $50,000. Our fire department has eaten that, but we did provide a higher level than was recommended down there.

The simple answer to your question, did the Federal Government do enough for us, the answer is no.

Mrs. MALONEY. Thank you.

I would like to place in the record with unanimous consent the letter that my colleagues and I sent to Secretary Leavitt asking why he canceled this important Request for Proposal that would have gotten the money out through the Business Center to help people.

Mr. TOWNS. Without objection.

Mrs. MALONEY. Dr. Melius, I would like to ask you if you could explain the difference between the proposed Business Processing Center, that contract, and the current contracts that are with the Centers for Excellence?

Dr. MELIUS. Sure.

The current arrangement for the Centers for Excellence, Mt. Sinai, is basically through a grant, where they, the Federal Government, provides money to these institutions for carrying out programs that provide medical monitoring and medical treatment for the World Trade Center responders. And so, they provide an overall level of funding and they approve, for example, in the clinics, rather than reimburse per visit as much as they reimburse by a certain number of doctors in those clinics providing treatment. If they have to go to specialists, they have ways of providing that, but basically setting up the programs in the institutions to provide that, which works fine within the institutions. There are some issues regarding the need for information on costs and so forth that are more difficult than those arrangements, but, overall, that process can work within the institutions. However, when people need care outside that institution, then there is no mechanism for providing that care or it's extremely difficult. So in that case, it is a lot easier and provides better flexibility. In some ways, there are better controls on reimbursement if it's done under a contract mechanism, which is the Business Processing Center.

The Business Processing Center contract would have allowed them to set up an arrangement with any institution, hospital, medical practice or individual health care provider across the country to provide medical exams and to provide treatment for a variety of conditions.

Under the grant program, that is extremely difficult, if not impossible to do for the Centers of Excellence. Particularly, treatment, because treatment involves so many different specialists, different types of care. You have to locate people in different parts of the country and there are a number of national businesses that are set up to provide that care for insurance companies trying to health the welfare fund that business trades unions have with their employers that provide flexibility to reimburse physicians and so forth across the country. So the contract would have given much greater flexibility, just much better information on individual services that were being provided.

And, unfortunately, without that, as I have said, the treatment program for people outside of the New York City area is extremely difficult, if not impossible to set up. They needed other mechanisms. The Business Processing Center contract provided that

mechanism. It cannot be provided by the Centers of Excellence. They tried to do the Centers of Excellence; it just does not work.

Mrs. MALONEY. Do you mean to say that without the Business Processing Center, someone unrelated to one of the Centers of Excellence, some government bureaucrat could just cut the money for these Centers for Excellence and deprive service to people?

Dr. MELIUS. Absolutely. The other issue I raised is that with the grants, because this program has grown so much. When the original grants were given 5 years ago, they were really just for medical monitoring. Then the treatment money was provided.

They did not envision the level, the amount of money and the level of services that would need to be provided. So those constantly have to be supplemented and modifications made to those original grants to continue to provide money. Every time you make that modification or change, you have to follow the rules of the bureaucracy, which are set up to prevent fraud and be fair in terms of competition and so forth. So the rules have good reason for them; however, they do limit the ability of NIOSH to continue to fund the programs and make these modifications that are needed.

The current program this year, we are estimating for fiscal year 2008, just for the responders, not including residents and downtown workers and students, would cost something in the order of $215 million. The $180 million that was recently appropriated plus money already available would have covered that. I think it would have been adequate, would have been able to cover at least to start a program for residents and students and downtown workers also.

Mr. TOWNS. Thank you.

Congressman Nadler.

Mr. NADLER. Thank you.

Let me ask you, Ms. Bascetta, you said that the statute requires that the agency respond to your audit within 60 days, and the audit was completed when?

Ms. BASCETTA. July.

Mr. NADLER. And they have not yet responded.

Ms. BASCETTA. They have not.

Mr. NADLER. The 60 days was up in October?

Ms. BASCETTA. I don't have the exact date, but, yes, approximately.

Mr. NADLER. What has been your general experience with Federal agencies? Do they generally reply within the 60 days?

Ms. BASCETTA. We don't always get the letter to GAO. The letters go to the Center for Government Affairs and the House Reform Committee, but we hear from them and they are more than often on time.

Mr. NADLER. Would you say that this failure to respond by now is unusual?

Ms. BASCETTA. It has happened but it is not a typical situation.

Mr. NADLER. So it's unusual?

Ms. BASCETTA. Yes.

Mr. NADLER. And is there any mechanism that you or that anyone has to enforce them to respond.

Ms. BASCETTA. We do a repeat followup. The letter is not officially directed to us. It's directed to the two congressional committees.

Mr. NADLER. So the congressional committees would have to followup?

Ms. BASCETTA. Yes.

Mr. NADLER. Mr. Libretti, a number of questions from your testimony—and let me say that on behalf—I have no power, really, on behalf of the government, but, nonetheless, let me apologize. It is mortifying as a member of the Federal Government, albeit the legislative branch, not the executive branch, for me—every time we have a hearing to hear, every time I talk to a first responder, to hear the same shameful testimony of how we have victimized and continue to victimize people who are innocent and are, in fact, heroes, including yourself.

Now, you said that you were told the air was safe to breathe.

Mr. LIBRETTI. Right.

Mr. NADLER. Who told you that?

Mr. LIBRETTI. The officials that were monitoring the site.

Mr. NADLER. Were they Federal officials.

Mr. LIBRETTI. State, Federal, I don't know.

Mr. NADLER. And you were first issued protective equipment on October 26th?

Mr. LIBRETTI. October 25th someone brought in a trailer.

Mr. NADLER. Before that, they were not available to you?

Mr. LIBRETTI. There was no need for it they said.

Mr. NADLER. The same officials said there was no need for them?

Mr. LIBRETTI. There was nothing wrong with the air.

Mr. NADLER. So when they testified to my subcommittee in June that Federal officials were constantly warning all the workers that the air was not safe to breathe, that they must, in fact, wear protection, and that the big problem was that the workers refused to wear respiratory protection even though they had people walking around to make sure they did it, this was not your experience?

Mr. LIBRETTI. Let me make this really perfectly clear. I was at the site 9/11. I was one of the first group of people in the site. Until the 18th, is my best recollection——

Mr. NADLER. September or October?

Mr. LIBRETTI. September. Before that it was voluntary search and recovery, there was chaos, but controlled chaos. When they divided the site into four quarters and put four major companies in charge of clean-up, rescue and recovery——

Mr. NADLER. On the 18th.

Mr. LIBRETTI. On the 18th.

We could not be on the site as a volunteer unless you were with the Red Cross or one of the other volunteer groups, the Salvation Army. You could not work onsite unless you were with one of the companies.

I happened to go with AMAC which was doing the north tower, because that is where I was told my brother went down. At that time, guys were thinking there were still some survivors, you know, a week later, 2 weeks later. If you could find somebody, maybe they were trapped in a cavity. Guys did not take breaks to go to the trailer to eat, so I went to the boat that was parked on the dock and got the chef to make trays of food that I brought out to the crane.

Mr. NADLER. Getting back to the respirators.

Mr. LIBRETTI. I am getting back to that. Where we sat and we ate, up until October 25th, everybody ate, firemen, rescue guys, and nobody said nothing about a respirator until after October 25th. And 1 day we are sitting there eating and the Commissioners who came over said, "You can't eat out here." And we said, "Since when?" he said, "Since now."

I said, "We have been doing this for over a month."

"Well, you can't do it anymore."

Mr. NADLER. Let me ask you one other question, you said that the state of art decontamination tent that was built on the site was used strictly by privileged workers—I'm sorry, that's Mr. Mount's testimony.

Thank you, Mr. Libretti.

Mr. Mount, you said that you continued to work with paper masks until October 26th. You asked for respiratory equipment and you couldn't get it.

Who did you ask; do you know?

Mr. MOUNT. Well, we asked pretty much everybody. I spent 2 weeks downtown. The rest of the time I was in the landfill. And there was a tent there with supplies in it and the police department handed out whatever it was. And every time we went, which was daily, to get—the respirator they gave me in October, those filters were good for a half shift. So I got one filter change in 4 months.

Mr. NADLER. This is after October 26th?

Mr. MOUNT. Yes. The respirators were useless.

Mr. NADLER. And the Fresh Kills site was supervised by the city or by the Federal Government.

Mr. MOUNT. If you were a private contractor or came in privately, you were controlled by FEMA and OSHA, but I worked for the city of New York, almost like a kind of private contractor, because I don't have same benefits as a city worker.

Mr. NADLER. So it was the city people who were basically in charge there?

Mr. MOUNT. The city was in charge of me. FEMA and OSHA had nothing to do with me.

Mr. NADLER. But they were in overall charge?

Mr. MOUNT. Yes. Except for the city workers.

Mr. NADLER. OK.

Mr. MOUNT. And can I just say something.

Mr. NADLER. Please.

Mr. MOUNT. I worked for months in a restricted area. I can tell you what it says, "No work in here without gloves, goggles, tie backs, boots," the whole deal. I worked in that spot 12 hours a day from when I got back, which was probably the end of September, until I went in the hospital. I worked in that restricted box, every single day, with OSHA and FEMA going by with monitors, and never once was told or asked—or everybody I worked with had all that equipment.

Mr. NADLER. Thank you.

Mr. Libretti, you said you asked lawyers repeatedly to take your case and they wouldn't do that. Very quickly, did they give you reasons why they wouldn't take your case?

Mr. LIBRETTI. Yes. Because it was so late, they couldn't adequately look out for me and I could sue them.

Mr. NADLER. Because it was too late, that's why?

Mr. LIBRETTI. Right.

Mr. NADLER. Final question, Dr. Melius, your testimony, in effect, is that by canceling the Business Center contract, the administration is doing the proper health care response for basically all 9/11 responders across the country?

Dr. MELIUS. Correct.

Mr. NADLER. Thank you very much.

The last question I will ask Mr. Libretti and Mr. Fraone, do you think it's fair to say that you have been betrayed by the government?

Mr. LIBRETTI. Betrayed, I don't think—I think this.

Mr. NADLER. Let down by the government.

Mr. LIBRETTI. Let down, but I understand that there are people trying to get over, you know what I mean, and you have to be cautious. But when the people who have the proof—you should eliminate them from the problems, shouldn't you?

Mr. NADLER. Thank you.

Mr. Fraone.

Mr. FRAONE. As a civil servant, I have worked for the government; they provide the roof over my head for the past 27 years. I don't think I was betrayed. I don't think they did what they should to followup on this issue though.

Mr. MOUNT. Are you asking me?

Mr. NADLER. Yes.

Mr. MOUNT. I was definitely betrayed. Absolutely. There is no reason why I should be sick. No reason at all. It was just—I didn't get sick in the first 3 days. It was just constant abuse and neglect. I worked with people in complete uniforms and complete haz mat gear, and I don't believe they are sick and I think we were abused.

Mr. NADLER. Thank you. And thank you, Mr. Chairman.

Mr. TOWNS. Thank you, Congressman Nadler.

Congressman Fossella.

Mr. FOSSELLA. Just one quick observation and one question. I think it's legitimate to ask the question that was asked earlier, what happens in the event of the next tragedy? Will as many be willing to rush here?

As someone who represents Staten Island and part of Brooklyn, and I have had the privilege and have gotten to know many firefighters, many responders, who do what they do, I think, in many instances because that's the nature of their being; they are selfless individuals. But by and large, what I find is, they believe, even if they were willing to sacrifice or do give the ultimate sacrifice, that there will be something in place to take care of their families.

Plenty of guys I know will say "As long as my family is taken care of, I will be all right." And that is, I think, the critical question. There will be many who do it, but I think what hasn't happened in many instances, we are not taking care of those families. We are not giving them piece of mind that I think is deserving of them. And I think that is the fundamental question, that common sense will dictate that maybe next time they will realize that my

family is not going to be taken care of, that my financial well-being is going to be put in jeopardy, why should I do this?

So I think we have to come to grips to answer that, not just now, but in the future.

With respect to, and I think it's been touched upon but, I think it is important to note, ethically and how the grants are currently written. Can you walk us through that process of the notification in light of the fact that the Red Cross has announced that they will no longer be providing coverage? What will happen over the next—here we are the end of January, the next 2 to 3 months, for those currently receiving under this umbrella?

Dr. MELIUS. What will happen—the usual process for those providing care for an individual patient or institutionally through a program, is you are ethically, technically obligated as a medical provider to let those patients know if for some reason you will no longer be able provide them with that care or provide that treatment under the current way that you are providing it, that you are being reimbursed for that care. So what will happen now with the treatment program is very shortly they will calculate how much money they have left from the Red Cross. If they have few hundred thousand dollars to cover approximately 400 to 500 patients, I believe, under that treatment program, they will need to send out letters sometime within the next 30 to 60 days to all those people that are covered by their current treatment program through the Red Cross and administered through the American Organization of Occupational Environmental Health Clinics. They will send out the letters notifying people that they can no longer provide care that will be paid for by the Federal Government and those people will have to either seek other ways of paying for that care or other providers to provide that care.

Similarly to the treatment, with the monitoring program, that ends in June. Again, that's not a single exam; that is repeated exams every 12 to 18 months. They will need to—that program will need to notify each individual person in that program that they will no longer be able to provide care.

This was even discussed when the treatment program was first funded. Dr. Agwunobi came here and wanted to be ready to send letters already. So this is a usual part of the process. I think what's important is how disruptive and difficult it is for people who are relying on that care. They have come to trust their physicians. They are getting very good care, and they now have to seek out other sources of care. Even for us as individuals, you know how disruptive it is to change providers. Think of if: you are very ill and relying on this to really keep you alive and take care of you. So this will be very, very difficult.

Mr. FOSSELLA. Other than the disruption and the notion that there could be real discontinuance of services of physician providers, what will have to happen in order for that not to occur?

Dr. MELIUS. In order to prevent that, the people running that program would need to feel that there was either an alternative mechanism being set up, which is what this Business Processing Center was. But, to actually see us develop this contract, the timing of this contract to be able go in place and provide that care would have avoided this disruption that will take place in March

or April of this year for those in the national treatment program. It could have been implemented in time, so that could have avoided sending the letters AOOEHC is sending now and this new business entity would be providing and coordinating that care.

Similarly for the monitoring program—similarly the disruption to any of the current Centers of Excellence. This would have been avoided. This would have provided an umbrella mechanism for payment that would cover the whole program and assure that we could have avoided these disruptions, as long as there was adequate Federal funding for the program.

Mr. FOSSELLA. My time is up. Thank you.

Mr. TOWNS. Thank you.

Let me just sum it up. Dr. Melius, I have great admiration and respect for you. You have been around for a lot of years and have done a lot of great things. I want to ask you a couple of questions.

First of all, if they had the money, they would not still be able to get the insurance because of the preexisting condition. So, even if they had the money, they would still be in trouble in terms of getting coverage?

Dr. MELIUS. Correct. Providing coverage through private health insurance is not an adequate substitute. The private health insurance also does not cover work-related conditions. Medicare does not cover work-related conditions. Whenever a health provider fills out an insurance form, the first question near the top is: Is this condition due to an automobile accident? Is it a work-related condition? Check that off, no coverage.

And insurance agencies or even union health and welfare funds—the health insurance fund is obligated, you know, they have a fiduciary responsibility not to provide care or reimbursement for work-related conditions. So there is no substitute other than a very slow and a very difficult workers' compensation process in order to be able to provide coverage. And what happens there is that when that coverage is delayed or disrupted or is more difficult. People will just get sicker and we will have more and more people becoming disabled and unable to work, when we could have prevented it by providing good medical services in a timely fashion.

Mr. TOWNS. My last question, Dr. Melius. In your experience working for the State and Federal Government agencies, have you ever known a situation where a contract was stopped 6 days before and said that the reason they stopped it was due to the fact that there was inadequate interest?

Dr. MELIUS. The only time I've ever personally seen that or experienced that so close to the contract—the applications being due—the only time I have seen it is when, for some reason the program is totally discontinued in a new budget, but certainly not when there was funding available. This contract had a lot of flexibility in terms of different parts of it could have been funded, other parts could have been implemented later.

So in these circumstances, I just can't imagine that there is a rational reason for stopping this contract. It is not the way government should run, or in my experience, the way that you manage this type of program. I have never seen this level of mismanagement, stopping a program in its tracks without an alternative in place.

Mr. TOWNS. Let me thank all of you for your testimony. I really want to thank you—yes, Mr. Libretti?

Mr. LIBRETTI. I just want to say, thank you for being here, but I would like to point out that there are people in the government that did do the best that they could with what they had. You know, not everybody was neglectful. I don't want that to be the end result of the hearing.

Mr. TOWNS. We appreciate your comments. We definitely do, and, of course, we recognize that some people in government did go beyond the call of duty. But I want you to know that I cannot overlook the fact that there is an empty chair there, that HHS did not come to take a seat, and that bothers me.

When I hear the fact that the contract, 6 days before, was canceled, that bothers me. And when I hear the fact that they did not respond, that bothers me. And the fact that this has been going on for 6 years, that they have been stalling. Now, I have not been the Chair of this committee for 6 years, but I must admit, if I had been the Chair for 6 years, you can be assured that they would come to the table before now. And that's something that I am telling you, that you can be assured that they will respond.

We have subpoena power, and let me tell you, if I have to go after everything, whatever it is, we are going to get to the bottom of this. We are going to do it, because I have listened to the testimony coming from you and, of course, you represent so many others out there who are not able to come here to talk, but you are speaking for them.

And I want you to know, we are hearing you. We are hearing you. We are hearing you. Thank you so much.

The subcommittee is adjourned.

[Whereupon, at 12:30 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

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December 17, 2007

Mr. David Staudt
Centers for Disease Control & Prevention
Procurements and Grants Office
2920 Brandywine Road, Suite 3115
Atlanta, GA 33041

Via Email: DStaudt@CDC.gov

Dear Mr. Staudt:

As you know, Zenith Administrators created a consortium that was submitting a proposal in response to WTC Business Processing Center Solicitation (RFP No 2007-N-09656). Zenith sent you a notice of intent to bid on November 12, 2007.

On December 15, the New York Times quoted CDC spokesperson, Bernadette Burden, saying the RFP was cancelled because "potential bidders seemed to be confused about program requirements." See Ground Zero Health Program Hits a Setback in Washington - New York Times:
http://www.nytimes.com/2007/12/15/nyregion/15responders.html?r=1&ref=nyregion&oref=slogin

That is surprising. Bidders had the opportunity to raise questions twice: (1) at the bidders' conference in New York on November 7, and (2) by submitting written questions by November 9. Based on the RFP, information provided at the bidders' conference, and answers provided by NIOSH to questions from potential bidders, Zenith was able to define the requirements for the program and put together a complete proposal based on reasonable assumptions. We were going to submit our complete proposal on December 14. Therefore, Zenith rejects the assertion that the program requirements were unduly confusing.

Assuming that Ms. Burden has been quoted correctly in the New York Times, we request to know:

1. Who were the "potential bidders" that she referred to?

2. How did these "potential bidders" present their concerns and why did CDC accept them in light of the rule of the procurement, which closed the door to further questions or concerns after November 9?

3. Who in the Department, CDC or NIOSH communicated with these "potential bidders," and on what date(s) and time(s)?

4. Why did the Department, CDC or NIOSH not solicit feedback from all potential bidders? Specifically, why was Zenith Administrators excluded from this inquiry?

5. How did CDC define "overly confusing" and on what grounds did CDC conclude the solicitation was overly confusing?

6. Who in the Department, CDC or NIOSH decided the solicitation was overly confusing?

7. Who in the Department, CDC or NIOSH decided that the solicitation should be cancelled?

8. Who in the Department, CDC or NIOSH directed you as the Contracting Officer to cancel the solicitation?

9. Under which provision(s) of the Federal Acquisition Regulations was this decision made?

Your prompt response to these questions would be welcomed.

Sincerely,

John M Corapi
President and Chief Operating Officer

cc: Dr. Knut Ringen
Principal
Stoneturn Consulting

Mr. Don Davies
Director, Government Services
Zenith Administrators, Inc.

Bush Administration avoiding hearing on aid for out-of-state 9/11 responders

By ETHAN ROUEN
DAILY NEWS STAFF WRITER

Monday, January 21st 2008, 4:00 AM

The White House is ducking Tuesday's hearing on why it scrapped a plan to help ailing 9/11 responders who live outside New York.

The decision to skip the hearing is angering critics who say the Bush administration has all but abandoned the generous souls who raced to New York after 9/11.

"Responders rushed from all over the country to help New York on 9/11. But [the U.S. Health and Human Services Department] couldn't find one person in the building to come to New York?" said Rep. Carolyn Maloney (D-Manhattan, Queens).

"They don't fight for 9/11 health programs. Instead, they fight to stop them."

A spokeswoman who returned a call to the Health and Human Services Department said officials would answer questions at another time.

That's not good enough for Rep. Edolphus Towns (D-Brooklyn), who leads the House oversight subcommittee on government management, organization and procurement.

"If I must issue subpoenas, that is what I will do," Towns vowed. "The administration's handling of 9/11 health care is one of the worst-managed programs I have ever seen."

The nationwide 9/11 health program would have offered pharmacy benefits to sick responders and processed medical reimbursements, a key step in setting up regional clinics.

Many ailing responders are still forced to travel to New York for care. Federal officials have said the program was canceled because bidders were confused and cost estimates had ballooned.

Cancellation of CDC World Trade Center Business Process Center Solicitation
Talking Points
December 14, 2007

Background
The intent of the WTC Business Process Center (BPC) Contract is to secure the services of an experienced third party health care administrator who will work directly with the NIOSH WTC HPO to fulfill the following functions required by the Performance Work Statement:

- Services to members, including enrollment, information call center, and dispute resolution
- Medical monitoring exams and treatment, as needed, for members outside of the New York City (NYC) vicinity through a national network of health care providers
- Claims processing and bill payment for all medical monitoring and treatment services to all members of the WTC RHP
- Nationwide pharmacy benefit for all members.

CDC released solicitation 2007-N-09656 on 10/23/2007 and held a pre-proposal conference in New York City. The proposals are due 12/19/2007. The contract is for five years, a base of 1 year, with four (4) one-year options.

The following issues dictated that the solicitation be canceled by CDC/NIOSH

► FY08 appropriations are not finalized and it is not clear that funding will be available to support the requirements of the contract Performance Work Statement (PWS).

► Technical requirements in the PWS require clarification. The PWS does not sufficiently detail the role of the government as payer, i.e., payer of first or last resort.

► The interest from industry in performing this work has been limited. The attendance at the pre-proposal conference was unusually weak for a procurement of this size, and the offeror questions related to the procurement raised a number of technical and programmatic issues.

► The current services being provided to the target population will continue under existing NIOSH grants. These existing grants extend to 2009 and can be supplemented with additional funding as required while other contract options are being considered.

Next Steps

► CDC/NIOSH will review the needs and requirements associated with this solicitation from both a technical and cost standpoint and determine whether a new solicitation will be issued in the future.

► HHS/CDC/NIOSH remain supportive of the recovery efforts involving the World Trade Center disaster.