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AN EXAMINATION OF FEDERAL 9/11 ASSISTANCE TO NEW YORK: LESSONS LEARNED IN PREVENTING WASTE, FRAUD, ABUSE, AND LAX MANAGEMENT

A STAFF REPORT

SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT

OF THE

COMMITTEE ON HOMELAND SECURITY

U.S. HOUSE OF REPRESENTATIVES
109TH CONGRESS

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, August 10, 2006.

TO THE MEMBERS OF THE COMMITTEE ON HOMELAND SECURITY: Last December, I tasked the Subcommittee on Management, Integration, and Oversight to conduct an examination of allegations of waste, fraud, and abuse of Federal funds provided to New York in the aftermath of the September 11th attacks. Attached for your review is the Subcommittee's report entitled, "An Examination of Federal 9/11 Assistance to New York: Lessons Learned in Preventing Waste, Fraud, Abuse, and Lax Management."

I urge you to examine this bipartisan report, which sets forth the findings of the Subcommittee's six month review and proposes legislative changes to strengthen Federal assistance programs for use in the aftermath of future disasters. I look forward to working with you as we seek to improve Federal disaster assistance programs in light of this and other recent reports of waste, fraud, and abuse in these programs.

Sincerely,

PETER T. KING,
Chairman.

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY, SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT,

Washington, DC, August 9, 2006.

TO THE CHAIRMAN OF THE COMMITTEE ON HOMELAND SECURITY: It is our pleasure to present you with a bipartisan staff report entitled "An Examination of Federal 9/11 Assistance to New York: Lessons Learned in Preventing Waste, Fraud, Abuse, and Lax Management."

Forwarded by Members of the Subcommittee on Management, Integration, and Oversight, this report details the Subcommittee's examination into the use and misuse of approximately $20 billion in Federal assistance allocated to New York to respond to, recover from, and rebuild after, the terrorist attacks of September 11, 2001.

Additionally, the report sets forth the findings of the Subcommittee's six month review, which culminated in a series of three Subcommittee hearings held on July 12 and 13, 2006. The Subcommittee hearings focused on issues of response, recovery, and rebuilding, taking testimony from 22 witnesses representing Federal, State, and local government agencies, non-profit aid organizations, business groups, and government watchdog groups.

It is our hope that findings contained in this report will form the basis of Federal legislation implementing lessons learned from the 9/11 experience in New York City. If implemented, the reforms may deter and prevent fraud in future major disasters that require a Federal response.

We appreciate your consideration of this report, and look forward to working with the Members of the full Committee to pass legislation implementing recommendations contained in the report.

Sincerely,

MIKE ROGERS,
Chairman, Subcommittee on Management, Integration, and Oversight.

KENDRICK MEEK,
Ranking Member, Subcommittee on Management, Integration, and Oversight.

JOHN LINDER.
MARK E. SOUDER.
KATHERINE HARRIS.
DAVE G. REICHERT.
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AN EXAMINATION OF FEDERAL 9/11 ASSISTANCE TO NEW YORK: LESSONS LEARNED IN PREVENTING WASTE, FRAUD, ABUSE, AND LAX MANAGEMENT

Mr. PETER T. KING, from the Committee on Homeland Security, submitted the following

STAFF REPORT

INTRODUCTION

The September 11, 2001, terrorist attacks in New York City, Northern Virginia, and Southwestern Pennsylvania resulted in what was, at the time, the costliest disaster in the history of the United States. The financial and emotional toll of the attacks were especially felt in New York City, where Al-Qa'ida hijackers crashed two passenger jets into the World Trade Center. The attack collapsed the twin towers, killing 2,749 people,[1] injuring thousands more, and leaving many others homeless. Indeed, New York City witnessed the elimination of as many as 100,000 jobs,[2] and dealt with the need to remove 1.63 million tons of debris[3] strewn across 16 acres of Lower Manhattan, and repair damage to major electrical, communication and transportation infrastructures.

[1] Subcommittee Staff Telephone Interview with Ms. Ellen Borakov, Director of Public Affairs, New York City Medical Center Office of the Chief Medical Examiner, conducted Aug. 8, 2006.

[2] The New York State Assembly Ways and Means Committee estimated that of the 125,300 jobs lost in New York in the 4th quarter of 2001, 80 percent resulted from the 9/11 terrorist attacks. U.S. General Accounting Office, Review of Studies of the Economic Impact of the September 11, 2001 Terrorist Attacks on the World Trade Center, GAO–02–700R, May 29, 2002 at 13 citing New York State Assembly Ways and Means Committee, "New York State Economic Report," Mar. 2002.

[3] Review of EPA and FEMA Responses to the September 11, 2001 Attacks Before the Senate Comm. on Environment and Public Works, 107th Cong. (2002) (statement of Mr. Joseph Allbaugh, Director, Federal Emergency Management Agency) (hereinafter Allbaugh Written Testimony).

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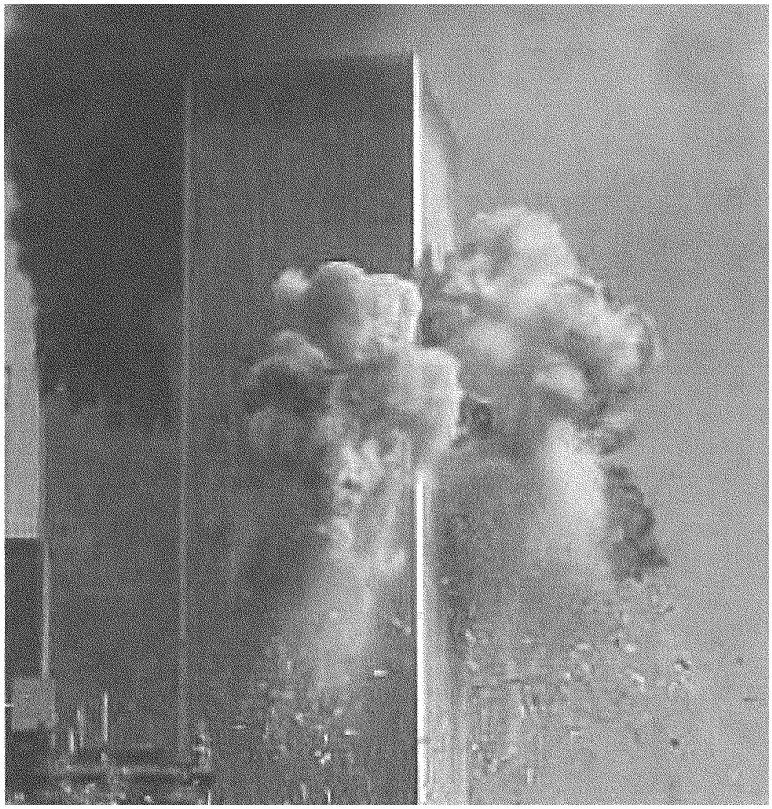

The response to the disaster was remarkable. At the urging of the New York Congressional Delegation, the President requested and Congress appropriated approximately $20 billion to the State of New York to assist the response, recovery, and rebuilding efforts in the wake of the attacks. Congress pressed the Federal agencies responsible for administering the disaster relief to expeditiously process funds so that the funds would reach those impacted by the attacks as quickly as possible, and granted the agencies greater flexibility to do so. Federal agencies, in turn, found themselves in the difficult position of using existing disaster recovery programs in unfamiliar ways, implementing new programs, and stretching existing authority to take on new tasks.[4]

Agencies loosened regulations and expanded eligibility for programs, some of which dispensed more assistance to victims of September 11, 2001 (9/11) in New York than they had in response to all previous disasters combined.[5] To date, Federal agencies, partnering with State and local agencies, have disbursed approximately $13.7 billion of these funds for services ranging from treating the injured and providing temporary housing to removing 100,000 truckloads of debris.[6] Funds have also been used to provide assistance to unemployed workers and affected businesses, and to rebuild the transportation, communication, and utility infrastructures of Lower Manhattan. The majority of the balance of the $20 billion is dedicated to the rebuilding of Lower Manhattan's transportation infrastructure.

In addition to governmental assistance, charities assisting in the recovery from the attacks also received unprecedented donations and dispensed more and broader services than for any previous disaster.[7] The role of these charities and issues related to disbursement of Federal assistance are discussed herein.

THE NEED FOR OVERSIGHT

Even as New Yorkers and all levels of government struggled to respond to this event, some sought to take advantage of the tragedy for financial gain. From a man who collected nearly $300,000 in Federal loans after claiming his two telecommunications companies, which moved out of the World Trade Center in July 2001, sus-

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[4] Neither the Federal Emergency Management Agency (FEMA) nor the Environmental Protection Agency (EPA) had previously coordinated post-disaster indoor contaminant-cleaning efforts and neither was specifically authorized to do so. However, working together, the agencies undertook such an effort in New York City after the September 11th terrorist attacks under FEMA's Stafford Act debris removal authority. Federal Emergency Management Agency Office of Inspector General, *FEMA's Delivery of Individual Assistance Programs: New York—September 11, 2001,* Dec. 2002 at 25 (hereinafter *FEMA's Delivery of Individual Assistance Programs*).

[5] Prior to 9/11, the largest Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) appropriation for disaster recovery was about $500 million, which was the amount allocated for both the 1997 Midwest floods and 1994 Northridge, California earthquake. Subcommittee Staff briefing with Mr. Jan Opper et al., Director of Disaster Recovery and Special Issues, U.S. Department of Housing and Development, May 26, 2006, in Washington, D.C. (hereinafter Opper Briefing). In addition, from the inception of FEMA's Mortgage and Rental Assistance Program until 9/11, the agency has awarded only $18.1 million to victims of 68 declared disasters, compared to $76 million to the victims of 9/11 in New York. *See, FEMA's Delivery of Individual Assistance Programs, supra* note 4 at 9.

[6] Allbaugh Written Testimony, *supra* note 3.

[7] U.S. General Accounting Office, *More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters,* GAO–03–259, Dec. 19, 2002 at 7 (hereinafter *More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters*).

tained physical damage in the attacks,[8] to two employees of the New York City Medical Examiner's Office accused of embezzling Federal funds intended to help identify victims' remains,[9] unscrupulous individuals tried any number of ways to take advantage of the massive outpouring of Federal and private funds in response to the disaster.

This report is intended to fill a vacuum in the nation's understanding of how the money set aside for New York City was administered. Despite documented instances of fraud, waste, and abuse, no Congressional Committee or other government oversight group has ever catalogued the full nature and scope of the Federal assistance to New York City. This report also develops recommendations to enhance response and improve controls across the Federal government, based on the lessons learned from the 9/11 response, recovery, and rebuilding effort in New York City. To fill this gap, Committee on Homeland Security Chairman, Peter T. King, directed the Subcommittee on Management, Integration, and Oversight (MIO) to conduct a comprehensive examination of how the $20 billion in Federal 9/11 assistance directed to New York City was utilized, with special emphasis on allegations of mismanagement that resulted in waste, fraud, and abuse.[10] This report sets forth the findings of the Subcommittee's six month investigation, which culminated in a series of three Subcommittee hearings held on July 12 and 13, 2006. These hearings focused on issues of response, recovery, and rebuilding, and involved testimony from 22 witnesses representing Federal, state, and local government agencies, non-profit aid organizations, business groups, and government watchdogs.[11] The findings contained in this report are the basis for forthcoming legislation to act upon the lessons learned from the 9/11 experience in New York City as detailed in this report.

THE SUBCOMMITTEE'S EXAMINATION

The Subcommittee's bipartisan review included a retrospective examination of funding already spent on the initial response to the 9/11 attacks; an examination of funds spent on the recovery of businesses and residences in Lower Manhattan; and a prospective examination of fraud controls in place for the balance of 9/11 monies to be spent on rebuilding Lower Manhattan's infrastructure.

In preparation for this report, the Subcommittee reviewed allegations of waste, fraud, and abuse in the media, government audits, and analyses by community and watchdog groups. Subcommittee staff also conducted numerous site visits, interviews, and conference calls with officials from Federal, state, and local agencies

[8] U.S. Small Business Administration, *Summary of Convictions—Fraud Related to 9/11 Disaster Loans,* received by Subcommittee Staff on Feb. 9, 2006.

[9] Press Release, U.S. Attorney for the S.D.N.Y., U.S. Arrests Two Former City Employees for Defrauding New York City Medical Examiner's Office (Dec. 9, 2005).

[10] In December 2005, the *New York Daily News* published a lengthy series of articles outlining a wide range of examples and allegations of misuse of 9/11 funding. Examples included the influence of organized crime in debris removal at Ground Zero, the use of ghost and shadow employees by contractors, kick-backs and embezzlement, unfair allocation of recovery funds to big businesses, and inappropriate uses of 9/11 disaster assistance funds.

[11] The prepared statements submitted by 20 witnesses for the Subcommittee's series of hearings on July 12–13, 2006 may be found at the end of this Report. Two additional statements submitted for the record from the Honorable Michael J. Garcia, United States Attorney for the Southern District of New York, and the Honorable Thomas McCormack, Chairman of the New York City Business Integrity Commission, may be found in the forthcoming official hearing record available from the Government Printing Office.

that received Federal 9/11 funds, or investigated or prosecuted cases involving the funds. Through its analysis of grant data, indictments, Federal audits, and reports by media and government oversight groups, the Subcommittee has catalogued specific cases of fraud, waste, and abuse; determined whether assistance could have been disbursed more efficiently or effectively; and assessed various anti-fraud mechanisms that were put in place after 9/11 for possible replication in future disaster assistance situations.

The Subcommittee closely scrutinized—and this report discusses—the projects to be funded by the more than $6 billion remaining from the $20 billion, and the controls in place to ensure the money is spent appropriately and efficiently. The Subcommittee has also compiled a representative sampling of indictments, prosecutions, and convictions for frauds perpetrated with respect to 9/11 assistance funds. In addition, the Subcommittee has completed an accounting of all Federal funds, with technical assistance from the Government Accountability Office (GAO).

ACCOUNTING FOR THE $20 BILLION

On September 14, 2001, Congress passed the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, FY 2001 (P.L. 107–38), which made available $40 billion "to provide assistance to the victims of the attacks," to improve local preparedness for mitigating and responding to the attacks, to pursue and prosecute those involved in terrorism, to increase national security, and to repair public facilities and transportation systems damaged by the attacks. The Act further provided that not less than one half of the $40 billion would be designated for "disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania on September 11, 2001." The $20 billion in Federal assistance appropriated to the New York City area to address the impact of the 9/11 attacks marked the first time the Federal government set a target amount of disaster assistance near the beginning of the response and recovery process. The appropriations Act also stipulated that the remaining $20 billion would be obligated "only when enacted in a subsequent emergency appropriations bill as a condition for the availability of funds."

Over the subsequent 11 months, Congress passed several bills to provide an estimated $20 billion in direct funding and tax benefits. Specifically, Congress approved the Department of Defense Appropriations Act (P.L. 107–117) on January 10, 2002, as well as a second emergency supplemental appropriation (P.L. 107–206), on August 2, 2002.

The $20 billion in Federal aid slated for New York was provided primarily through four channels: the Federal Emergency Management Agency (FEMA), the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Transportation (DOT), and the Liberty Zone tax benefits—a set of tax benefits targeted to stabilize and restore the economy of Lower Manhattan. Together, these sources provided 96 percent, or $19.63 billion, of the committed Federal aid to the New York City area.

In its October 2003 report, the GAO provided a preliminary review of the use of the $20 billion grouped in the following categories:

• *Initial Response*—search and rescue operations, debris removal, temporary utility system repairs, *etc.* One billion dollars was set aside to establish an insurance fund to cover claims resulting from debris removal operations.

• *Compensation for Losses*—individual assistance for housing costs, loans to businesses to cover economic losses, and funding for disaster-related costs incurred by New York City and New York State.

• *Infrastructure Restoration and Improvement*—restoration and enhancement of transportation systems in Lower Manhattan and permanent utility repair.

• *Economic Revitalization*—Liberty Zone tax benefits, small business loans, and business attraction and retention programs.

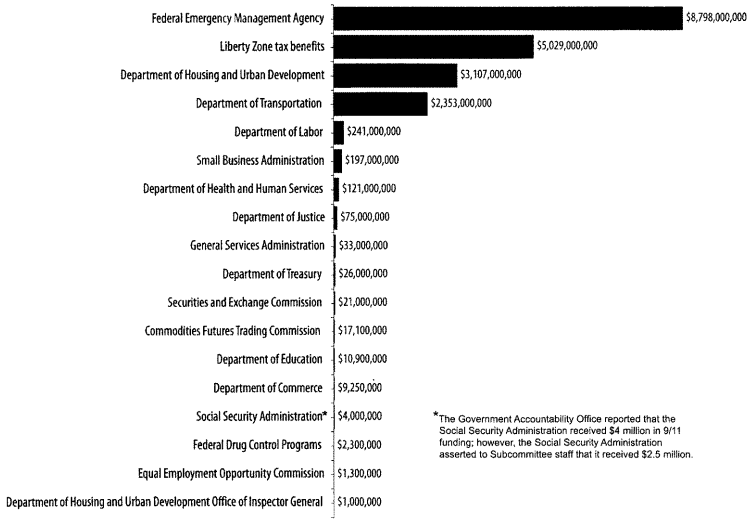
As part of its examination, the Subcommittee obtained an updated accounting from each Federal agency involved in disbursing 9/11 funds. Based on that financial data, and with technical assistance from GAO, the Subcommittee updated GAO's original four categories as depicted below.

Federal 9/11 Funds Committed

Initial Response	Compensation for Losses	Economic Revitalization	Rebuilding
$2.55 Billion	**$5.254 Billion**	**$6.390 Billion**	**$5.492 Billion**

Based on the financial data provided by Federal agencies and a review of appropriations acts, the Subcommittee compiled the accounting of funds, with Federal agencies ranked in order of the amount of 9/11 funds for which they are responsible (highest to lowest).

Federal 9/11 Funds Committed



*The Government Accountability Office reported that the Social Security Administration received $4 million in 9/11 funding; however, the Social Security Administration asserted to Subcommittee staff that it received $2.5 million.

The Subcommittee further analyzed the current status of 9/11 funds appropriated to the primary Federal agencies involved in the response, recovery, and rebuilding of New York City after the terrorist attacks. This analysis includes the total amount of funds committed, obligated, and disbursed.[12] The chart below reflects these three categories for the primary Federal agencies involved.

BREAKOUT OF FUNDING IDENTIFIED FOR NEW YORK

[Figures in millions of dollars]

Major Contributing Agency	Committed	Obligated	Disbursed
FEMA	$8798	$8780	$5798
HUD	3107	3107	1723
DOT	2353	1850	490
SBA	197.1	182	181
LABOR	241	105	103
HHS	121	121	121
DOJ	75	70	68
Total	14,892.1	14,215	8,484

Figures Represent Approximate Amounts.
Column Names Are Intended for Representational Purposes Only.

The Subcommittee focused its examination on the controls implemented by the Federal agencies to which Congress appropriated the greatest amount of funding, as well as the state and local agencies and charitable organizations with which those Federal agencies partnered. The Federal agencies and the amounts they were appropriated are as follows:

Federal Emergency Management Agency (FEMA) $8.799 billion

U.S. Department of Housing and Urban Development (HUD) $3.483 billion

U.S. Department of Transportation (DOT) $2.366 billion

U.S. Small Business Administration (SBA) $250 million

U.S. Department of Labor (DOL) $249 million

U.S. Department of Health and Human Services (HHS) $120 million

U.S. Department of Justice (DOJ) $75 million

The state and local agencies that disbursed the largest amounts of Federal 9/11 funds and, as such, were a major focus of the Subcommittee's inquiry, include:

The Port Authority of New York and New Jersey (Port Authority)

Empire State Development Corporation (ESDC)

Lower Manhattan Development Corporation (LMDC)

New York City Department of Design and Construction (DDC)

The Subcommittee also examined the roles played by private relief agencies, generally, and the American Red Cross, in particular, in disbursing assistance, as well as the role FEMA played in coordinating the assistance provided by voluntary and charitable agencies.

[12] For the purposes of this report, funds are "committed" once they are designated for a specific purpose. "Obligated" funds have been set aside for a particular contract or purchase order. Commitments and obligations may also differ due to rescissions, transfers (once programs close), and de-obligations. "Disbursed" means the funds have been expended.

SUBCOMMITTEE FINDINGS

In its examination of these Federal, state, and local agencies, as well as voluntary and charitable organizations, the Subcommittee carefully considered the balance between the need to expeditiously supply assistance to disaster victims, and the need to maintain controls over the programs through which that assistance is disbursed. It is the sense of the Subcommittee that these goals are not mutually exclusive, and that both can be accomplished through effective management and oversight.

This report incorporates lessons learned by the Subcommittee through its examination of the 9/11 response. These lessons are presented as legislative recommendations that the Subcommittee believes could improve the management and oversight of financial assistance to respond to future disasters. The report identifies effective management and oversight mechanisms—or "best practices"—employed in the response to 9/11, as well as systemic problems exposed in the response that opened the door to waste, fraud, and abuse. The report identifies steps that were taken to address some of these systemic problems, but also points out instances in which problems were not addressed and, as a result, plagued the responses to subsequent disasters, most notably Hurricanes Katrina and Rita. If these problems are not remedied, they will continue to keep the door open to waste, fraud, and abuse in the responses to future disasters.

The major systemic problems, common to disaster response, identified by the Subcommittee include:

(1) lack of information sharing and cooperation;
(2) inadequate verification prior to disbursing funds;
(3) duplicative payments;
(4) relaxed or ineffective controls; and
(5) weak oversight of procurement.

The Subcommittee also identified ten "best practices" used in the aftermath of the September 11th attacks, and urges their use in future events:

(1) private integrity monitors;
(2) database searches to screen contractors;
(3) mandatory regular audits;
(4) dedicated temporary oversight office;
(5) full-time Independent Coordination Agency that prevents fraud;
(6) temporary Fraud Prevention Task Force;
(7) fraud awareness training;
(8) fraud tip lines;
(9) controlled electronic access to disaster sites; and
(10) contractor employee screening.

In the chapters that follow, this report will not only undertake an in-depth discussion of the systemic problems in disaster response, recovery, and rebuilding, but will also analyze the effectiveness of systems implemented by Federal, state, and local agencies, and voluntary organizations to prevent waste, fraud, and abuse.

As our nation approaches the fifth anniversary of the 9/11 attacks, this report, in a small way, memorializes the extraordinary efforts of New Yorkers, as well as personnel on the Federal, state, and city levels to respond to an extraordinary situation. The les-

sons learned from their experiences provide valuable insight about the importance of establishing controls in the provision of disaster assistance. The Subcommittee believes the enactment of disaster assistance reforms based on lessons learned from the response to 9/11 is one way in which something positive can be derived from the horrific events of 9/11.

RESPONSE

TRAGEDY PROMPTED UNPRECEDENTED RESPONSE, NEW APPROACHES

The immediate response to the attacks by Americans, charitable organizations, and all levels of government was unprecedented. The Federal response, directed by FEMA, focused on: debris removal at the Ground Zero site; environmental testing and cleaning the inside of residences; individual assistance, including grants for medical and dental costs, funeral costs, transportation needs, and air conditioners and other air quality improvement equipment; temporary housing assistance to displaced individuals; crisis counseling; unemployment assistance; legal services; temporary transportation to and from Lower Manhattan; and coordination between and among the Federal government and charitable agencies.

Unique circumstances and scope of response increased need for oversight

It is the sense of the Subcommittee that at least four unique elements of the 9/11 response in New York City created a need for the establishment of more aggressive controls to reduce or eliminate waste, fraud, and abuse than had been put in place for previous disasters.

First, FEMA funded 100 percent of all public disaster assistance provided to New York. FEMA usually requires state and local governments to pay a matching share of up to 25 percent.[13] The 9/11 response marked the first disaster response for which FEMA announced at the beginning of recovery and rebuilding efforts it would fund 100 percent of the public assistance program.[14] FEMA officials are generally reluctant to recommend a 100-percent Federal share for rebuilding projects because requiring state or local governments to pay some percentage of costs creates an incentive for them to control costs and root out waste and abuse, FEMA officials told the GAO.[15]

Second, the Federal government appropriated $20 billion for New York prior to any estimates of the response, recovery, or rebuilding costs. This, in effect, preset the spending level for agencies. Eventually, the difficulties agencies experienced as they tried to expend $20 billion led Congress to alter the range of allowable uses of Federal disaster funds to include activities that are not normally permitted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93–288). The decision to permit FEMA to pay not only New York State's and New York City's traditionally reimbursable expenses, but also their "associated costs," enabled FEMA

[13] U.S. General Accounting Office, Disaster Assistance: Information on FEMA's Post 9/11 Public Assistance to the New York City Area, GAO–03–926, Aug. 29, 2003 at 24 (hereinafter Disaster Assistance).
[14] *Id.*
[15] *Id.* at 25.

to spend down the funds more rapidly. Non-traditional uses of disaster funds included a public awareness campaign called "I Love New York," designed to attract tourists back to the area after 9/11, and payments to fund the pensions of New York City police and fire department personnel.[16] When asked by Members and staff of the Subcommittee, FEMA and the other Federal agencies denied that they felt pressured to spend the $20 billion.[17]

Third, Federal agencies utilized existing disaster recovery programs for new purposes, implemented new and untested programs, expanded their authority to address never-before-handled tasks, loosened regulations, expanded recipient eligibility for certain programs, and utilized some programs to a greater extent than in all previous disasters combined. For example, prior to 9/11, neither FEMA nor the Environmental Protection Agency (EPA) had coordinated post-disaster indoor contaminant-cleaning efforts. However, this assistance was provided for homes polluted by debris from the World Trade Center collapse.[18] In addition, FEMA's Mortgage and Rental Assistance program, a pre-existing program that had been used prior to 9/11 to award just $18.1 million to victims of 68 previously declared disasters, provided $76 million to the victims of 9/11 in New York.[19]

Fourth, organized crime is reputed to have a continuing influence in New York City, particularly in the trucking, demolition, and waste disposal industries, which handled the bulk of the debris removal from the site of the World Trade Center.

It is the sense of the Subcommittee that the exigent circumstances after 9/11 exposed systemic problems pertaining to the Federal oversight of immediate disaster response programs, grantees, and charities, making the funds susceptible to waste, fraud, and abuse. In his testimony before the Subcommittee, Department of Homeland Security Inspector General (Deputy Inspector General of FEMA at the time of 9/11) Richard Skinner stated that "The fraud, waste and abuse that [occurred after 9/11 were] the same types of fraud, waste, and abuse we see after every disaster."[20]

Further, it is the sense of the Subcommittee that the State and City governments performed admirably as stewards of Federal taxpayer dollars given the extraordinary circumstances, though this report identifies a few instances in which the State and City could have better handled programs.

For their part, charities and private organizations assisting in the recovery received an outpouring of donations and provided more and wider services than for any previous disaster.[21] But the Subcommittee found those services were susceptible to fraud and duplication with the assistance provided by other voluntary organizations and government agencies.

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[16] *Id.* at 5.

[17] See, House Homeland Security Subcommittee on Management Integration and Oversight Holds Hearing on Fraud in September 11 Assistance: Recovery, CQ Transcripts, July 13, 2006, available at http://www.cq.com (last visited Aug. 4, 2006).

[18] FEMA's Delivery of Individual Assistance Programs, *supra* note 4 at 25.

[19] *Id.* at 9.

[20] Written Testimony submitted by the Honorable Richard Skinner before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 1 "Response," July 12, 2006, at 6 (hereinafter Skinner Written Testimony).

[21] More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters, *supra* note 7, at 2.

DEBRIS REMOVAL: FORMIDABLE EFFORT FOR MONUMENTAL TASK

The terrorist attacks of 9/11 left a tangled, burning mountain of steel and other debris rising 11 stories above street level and descending seven stories below it at Ground Zero—the site where the World Trade Center once stood. The removal of that 1.63 million tons, or 100,000 truckloads, of debris[22] was a monumental task made more difficult by a chaotic mix of grief, urgency, unsafe conditions, some unsavory contractors, and the American impulse to volunteer.

While the wreckage continued to burn for three months,[23] debris removal proceeded around the clock. This task was made more difficult by the magnitude of the destruction and by Ground Zero's unique status as both a disaster site and a crime scene. In the first two weeks, debris removal was slowed further by the ongoing search for survivors amidst the wreckage.[24] When there was no longer a chance of finding survivors, the work proceeded slowly because of the need to carefully sort and screen debris for the remains and personal effects of victims, as well as criminal evidence.

Initially, private contractors from across the country poured into New York from as far away as Washington State to help with the search and rescue and debris removal work,[25] and most began working without contracts. This frenzied environment allowed corrupt subcontractors—including some affiliated with organized crime—to infiltrate Ground Zero and engage in fraudulent activities. For instance, several contractors were accused of diverting debris shipments; submitting charges to the government for the work of so-called "ghost employees," fictitious individuals who were said to have worked on the site; and submitting charges for broken or non-existent equipment. These illicit activities occurred primarily before New York City secured the area and employed an innovative system for eradicating waste, fraud, and abuse at the site, which included the deployment of private integrity monitors known as Independent Private Sector Inspectors General (IPSIGs).

Other difficulties were caused by New York City's inability to sign contracts with the private companies handling most of the debris removal because private insurers would not cover the potential liability claims stemming from the risky work.[26] That discouraged contractors from signing traditional contracts. In response, FEMA waived key internal contracting controls intended in part to prevent contractors from over-billing agencies disbursing FEMA funds.

Still, the debris removal was completed in less than half the time and for about half the cost originally projected. Originally expected to take two years[27] at a cost of $1.2 billion,[28] the work was finished in nine months[29] at a cost of $636 million.[30]

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[22] Allbaugh Written Testimony, *supra* note 3.

[23] Mae M. Cheng and Curtis L. Taylor, WTC Fires Almost Out; FDNY Won't Declare Site "Under Control," Newsday, Dec. 20, 2001, at A61.

[24] Michael Cooper, A Nation Challenged: The Trade Center; Giuliani Declares That Finding Anyone Still Alive in the Rubble Would Be "a Miracle," N.Y. Times, Sept. 25, 2001, at B9.

[25] Subcommittee Staff Briefing with Mr. David Varoli, General Counsel, New York City Department of Design and Construction, Mar. 20, 2006, in New York, New York (hereinafter DDC Briefing).

[26] Disaster Assistance, *supra* note 13, at 15–16.

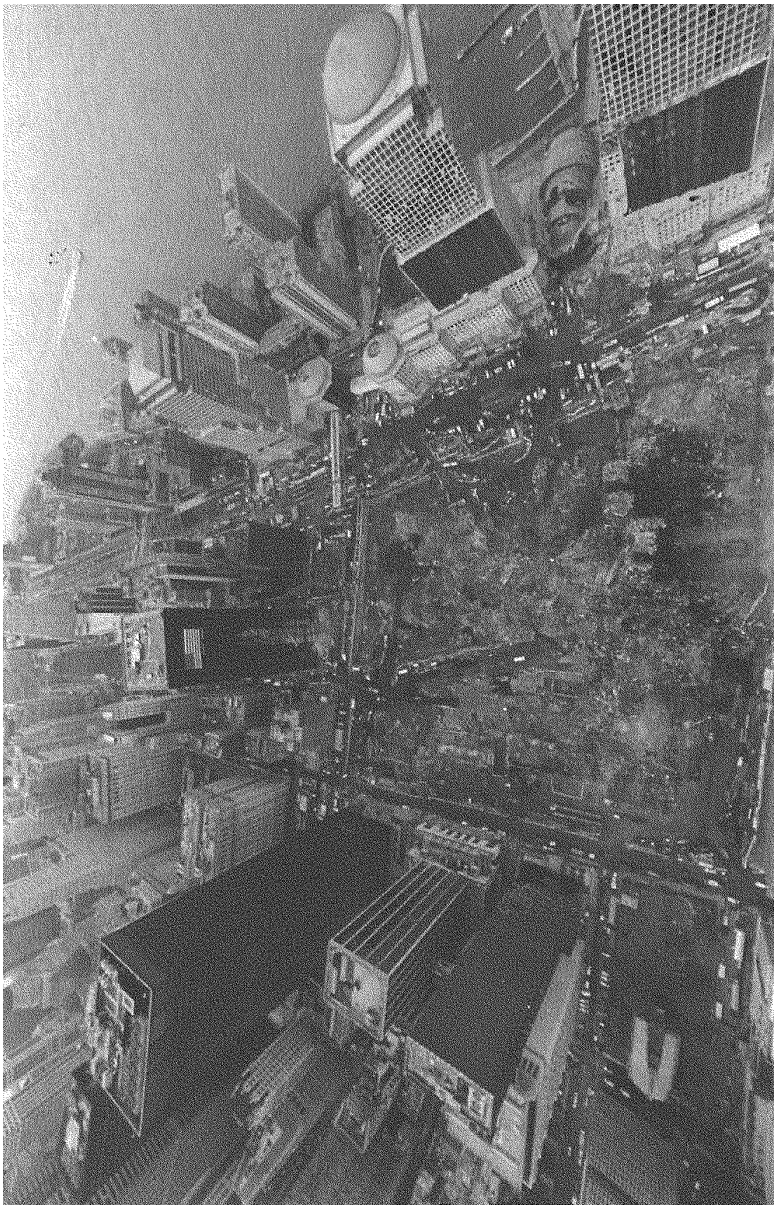
[27] DDC Briefing, *supra* note 25.

[28] Allbaugh Written Testimony, *supra* note 3.

[29] Disaster Assistance, *supra* note 13, at 12.

[30] Allbaugh Written Testimony, *supra* note 3.

In his September 2002 testimony before the Senate Committee on Environment and Public Works, then-FEMA Director Joseph Allbaugh lauded the efficiency of the New York City and FEMA employees who oversaw the debris removal, which he said was performed without serious loss of life or injury. "Thanks to the men and women of the New York City Department of Sanitation, Department of Design and Construction along with our FEMA employees, they did an extraordinary job by cutting that projected cost of debris removal by almost half," Director Allbaugh said, calling the work "an incredible task."



Organized crime infiltration in the Ground Zero clean-up?

Because of the urgency of the situation at Ground Zero, the New York City Department of Design and Construction (DDC), which managed the debris-removal operations, was not able to start screening contractors and subcontractors through the New York City Vendor Information Exchange System (VENDEX) until three months after the attacks.[31] VENDEX is a database with background information on all contractors who bid on New York City contracts and subcontracts valued at $100,000 or more, and sole source contracts valued at $10,000 or more, and/or whose aggregate business with New York City in the preceding 12 months totals $100,000 or more.[32]

The inability to screen companies in this environment allowed some subcontractors with links to organized crime or records of unsavory business practices, including—according to media reports—at least one barred from City or Federal contracting,[33] to receive payments for debris-removal and shipping work. Experts testifying before the Subcommittee could not verify the accuracy of assertions in the media that at least $63.2 million in FEMA funds for Ground Zero cleanup work was paid to companies with mob ties.[34] However, Mr. Neil Getnick, a private integrity monitor hired by DDC to monitor part of the debris removal, stated that $63.2 million could have gone to companies accused of mob ties. Since private integrity monitors probed many layers of association, Mr. Getnick noted at the July 12, 2006, Subcommittee hearing one example where private integrity monitors discovered that a subcontractor's father once was indicted—but not convicted—on mafia-related charges. Additionally, Mr. Getnick and others involved in Ground Zero oversight contended it was possible that companies accused of mob ties capably and honestly performed the work for which they were paid.

Elements of the construction, trucking, demolition, and waste disposal industries in New York City have reputed ties to organized crime. Without the IPSIGs at Ground Zero, New York City Commissioner of Investigations Ms. Rose Gill Hearn said "it would have been a free-for-all."[35] Commissioner Hearn testified before the Subcommittee that a local prosecutor informed her office of an intercepted conversation between two organized crime associates. They lamented that the on-site presence and close scrutiny of the monitors at the World Trade Center was making it impossible for anyone to overbill New York City using the usual scams.[36]

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[31] DDC Briefing, *supra* note 25.

[32] New York Mayor's Office of Contract Services, Contractor Responsibility—How the City Ensures that Its Contractors are Responsible, available at http://www.nyc.gov/html/moc/html/contractor.html (last visited August 3, 2006).

[33] Laquila Construction is barred from winning contracts for both the City of New York and the Federal government. See, Russ Buettner et al., Exposed: Map of Ground Zero Spoils: Where the Money Went to Clear Trade Center Debris, N.Y. Daily News, Dec. 5, 2005, at 24.

[34] Russ Buettner et al., Towers Fell, Mob Schemes Began: How Organized Crime Divvied Up Ground Zero Work, N.Y. Daily News, Dec. 5, 2005, at 4.

[35] Subcommittee Staff Briefing with Ms. Rose Gill Hearn, Commissioner of Investigations, New York City Department of Investigations, Feb. 24, 2006, in New York, New York (hereinafter Gill Hearn Briefing).

[36] Written Testimony submitted by Ms. Rose Gill Hearn before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 1 "Response," July 13, 2006, at 12 (hereinafter Gill Hearn Written Testimony).

Congress and FEMA adapt to unique circumstances

FEMA paid the U.S. Army Corps of Engineers $72 million to sort debris for remains and personal belongings that could identify victims and for criminal evidence related to the attacks—an endeavor in which the Federal Bureau of Investigation (FBI) also participated.[37] The sifting operation occurred at the Fresh Kills landfill in Staten Island, New York. Officials intended for all debris to be shipped directly to the landfill by barge and truck. However, private integrity monitors found that some truckers diverted debris to sell to scrap yards, paused mid-route for long periods of time, or otherwise delayed the trip to increase fees generated by hourly billing, a practice known as "cooping."

"Time and materials' hourly payments, which are generally disfavored in government contracting, were necessitated because DDC and contractors could not agree on contractual payment arrangements after several private insurance companies declined liability coverage for the risky work.[38] New York City asked Congress to indemnify it against potential claims stemming from most injuries or deaths at Ground Zero in much the same way Congress indemnified the airlines against potential lawsuits brought by the survivors of 9/11 victims,[39] but proposed legislation was not enacted.[40] Instead, after the debris removal was finished, Congress authorized FEMA to set aside $1 billion for a government-backed insurance fund to cover contractors and New York City for liability claims resulting from debris-removal work.[41] The move was unprecedented but could prove necessary in light of the class action lawsuit filed on behalf of 8,000 plaintiff firefighters, police officers, and construction workers claiming they were harmed by exposure to toxic substances while working at Ground Zero and seeking compensation from New York City.[42]

Because New York City could not sign traditional contracts with the companies removing and shipping the debris, FEMA allowed DDC to continue paying contractors on a time-and-materials basis indefinitely. FEMA's internal guidelines only permitted time-and-materials contracting for the first 70 hours after a disaster, partly because those contracts do not incentivize efficiency and thus become more prone to waste, fraud, and abuse.[43]

"Time and materials contracting is something that's frowned upon in government contracting. It's used only in cases of emergencies," Mr. Dennis R. White, a Department of Homeland Security (DHS) Deputy Special Inspector General who worked in the FEMA Office of Inspector General's (OIG) New York City field office after 9/11, told Subcommittee staff.[44] "The problem is that it encourages the contractors to take as many hours as possible because they get paid by the hour."

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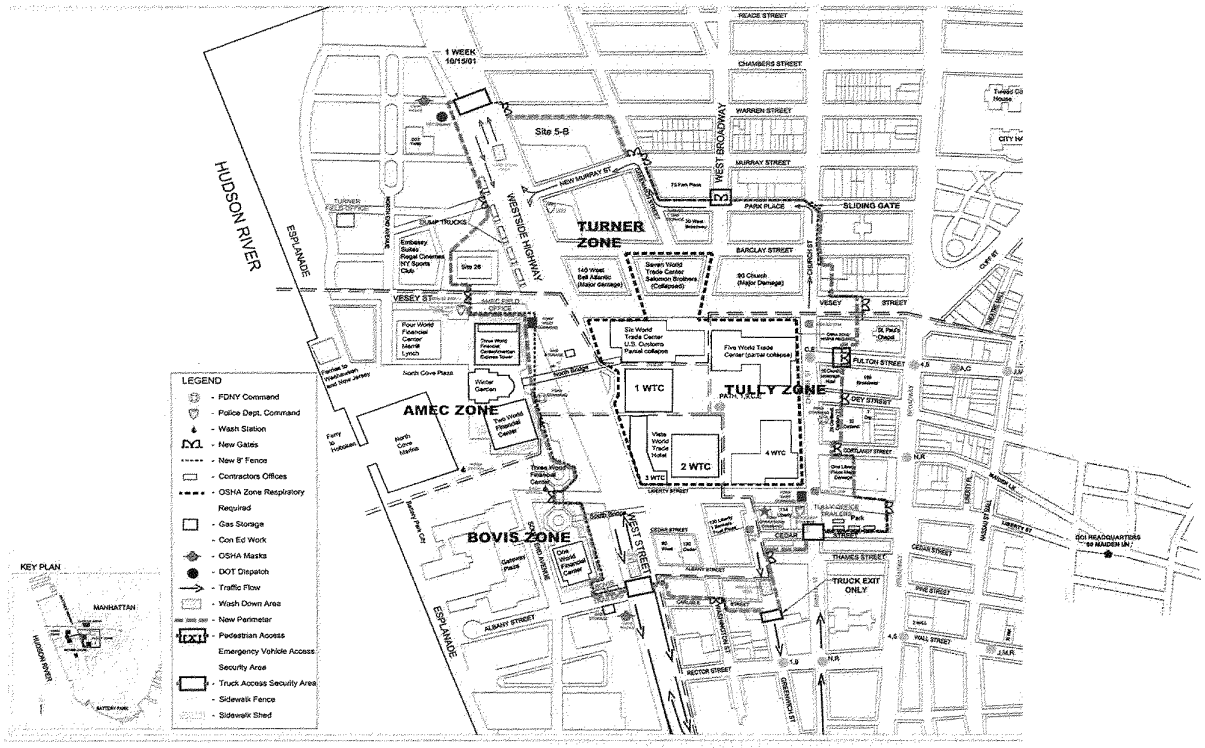
[37] Disaster Assistance, *supra* note 13, at 14–15.
[38] *Id.* at 15–16.
[39] DDC Briefing, *supra* note 25.
[40] World Trade Center Worker and Contractor Protection Act of 2001, H.R. 3503, 107th Cong. (2001).
[41] Pub. L. No. 108–7 (Consolidated Appropriations Resolution, 2003).
[42] Anthony DePalma, 9/11 Suit Tests New York Stand on Immunity, N.Y. Times, June 23, 2006, at B1.
[43] Subcommittee Staff Telephone Interview with Mr. Dennis R. White, Deputy Special Inspector General, Department of Homeland Security, conducted July 5, 2006 (hereinafter White Telephone Interview).
[44] *Id.*

Best practice: Private integrity monitoring caught and deterred fraud

The removal of cost-control incentives on private contracts, combined with the chaos at Ground Zero, made it exceedingly important for the government to exercise oversight and implement stringent controls over debris-removal operations. FEMA's OIG asserted that it initially stationed people at the four exits of the site of the World Trade Center to track the shipments of debris to ensure they were not diverted.[45] On October 4, 2001, the administration of former New York City Mayor Rudolph Giuliani announced it had dispatched four integrity monitoring companies to oversee the four construction management companies hired to clean up the four Ground Zero quadrants.[46] This action came just days after a grand jury began hearing testimony about truck drivers allegedly diverting debris shipments to scrap yards to sell instead of to the landfill to be sifted.

[45] *Id.*

[46] Jennifer Steinhauer, A Nation Challenged: City Hall, 4 Companies Are Hired to Oversee Contractors, N.Y. Times, Oct. 5, 2001, at B11.



WORLD TRADE CENTER RECOVERY PROJECT

CM EQUIPMENT COORDINATION PLAN

The World Trade Center Integrity Compliance Monitorship Program, which was continued by Mayor Giuliani's successor, Mayor Michael Bloomberg, hired four private integrity monitor companies—Decision Strategies/Fairfax International; Getnick & Getnick; Stier, Anderson & Malone; and Thacher Associates—all of which were run by former prosecutors. Known as Independent Private Sector Inspectors General (IPSIGs) the companies employed an innovative approach to contract management first utilized in New York in the 1990s for public school construction projects. Working with the New York City Department of Investigation (DoI), FEMA, and DDC, the IPSIGs used forensic auditing, surveillance, interviews, informants, global position system tracking of trucks, background checks, and other investigative techniques to screen subcontractors and ensure they were utilizing the appropriate equipment and workers, accurately billing the government, and hauling debris to the appropriate destination.

The private integrity monitors' performance of background checks on contractors, using New York City's VENDEX database and independent means, proved a useful tool. The checks resulted in the indictments by the Manhattan District Attorney's office of two principals of a Yonkers carting firm working at Ground Zero who allegedly lied about their ties to organized crime in documents filed with New York City. The private integrity monitors also identified numerous instances of over-billing by this firm.[47]

Private integrity monitors had never previously been deployed on such a large scale[48] and, by all accounts, their deployment in the debris removal context was an overwhelming success. Private integrity monitors identified a number of contractors with ties to organized crime which were subsequently removed from the site, found trucks cooping while on the clock,[49] flagged several attempted frauds that were referred for prosecution, recovered $47 million in over-billing by contractors and subcontractors, and saved immeasurably more money by deterring fraud.[50]

The World Trade Center Integrity Compliance Monitorship Program was effective in large part because it was preventive. By embedding private integrity monitors with the individual contractors, the monitoring program prevented fraud and abuse by contractors that were unscrupulous or sloppy in their accounting. In addition, the monitoring ensured proper record keeping and established internal controls, which created a culture of compliance within each contractor's operations and ensured accountability to New York City.

DoI and the monitors took several steps to bolster the effectiveness of the monitoring program. First, they met regularly with one another and with law enforcement agencies. Second, they set up an electronic key-card system to track each person who accessed the site. Third, they established a fraud hotline, which received 80 tip calls.[51] Together, these controls increased the effectiveness of the private integrity monitor program and enhanced the overall vigilance against fraud and waste during the debris removal. It is the

[47] *Id.*
[48] Gill Hearn Briefing, *supra* note 35.
[49] Subcommittee Staff Briefing with Mr. Neil Getnick et al., Independent Private Sector Inspectors General, Mar. 21, 2006, in New York, New York.
[50] Gill Hearn Written Testimony, *supra* note 36.
[51] Gill Hearn Briefing, *supra* note 35.

sense of the Subcommittee that private integrity monitors should be incorporated into future disaster response oversight, particularly in instances requiring debris removal.

High-ranking officials in the DHS OIG office said debris-removal work has always posed oversight problems for FEMA, but the removal of debris from Ground Zero was among the agency's best run projects.[52] In the Subcommittee's judgment, that success resulted from the presence of private integrity monitors and occurred in spite of very challenging conditions.

Hard lesson learned: Costly oversight in aerial photography contract

Not every part of the response phase paralleled the success of the private integrity monitoring program. For example, FEMA contracted with a photographer to take aerial photographs of Ground Zero without checking the photographer's background or experience and without including in the contract standard language giving FEMA title and ownership of the photographs. As a result, the photographer was able to copyright 30,000 photographs and 34 minutes of video of Ground Zero that he took from a New York City Police Department helicopter while also receiving $300,000 from FEMA and the DDC. He sold 36 of the photographs to LIFE Books, which printed them in a 2002 book. A lawyer for the photographer reportedly sent New York City a letter warning that it could not use the photographs without the photographer's permission.[53]

According to an interview the photographer gave to LIFE Books, a representative from FEMA called the photographer at 2:00 a.m. on September 15, 2001, after spotting his ad in a phone book, and asked if he had ever taken aerial photographs. LIFE Books quoted the photographer as saying:

> I said "yes," and we all know now that I had never taken aerial photos before. I guess the reason I said yes was because I have gotten all kinds of strange calls from my photography business ad in the yellow pages. When you have a yellow pages ad in New York City, you can just imagine the kind of calls you might get."[54]

FEMA could not identify the FEMA employees responsible for awarding the contract. FEMA did not offer a satisfactory answer to the Subcommittee's repeated queries about whether FEMA typically includes clauses in contracts ceding title and ownership to the agency,[55] though Mr. Joe Picciano, Deputy Director for the FEMA regional office that includes New York, testified before the Sub-

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[52] Subcommittee Staff Briefing with the Honorable Richard L. Skinner, Inspector General, Department of Homeland Security, June 28, 2006, in Washington, D.C. (hereinafter Skinner Briefing); White Telephone Interview, *supra* note 44. Mr. Skinner stated that debris removal poses challenges. Mr. White stated that the 9/11 debris removal was among the best ever run.

[53] Greg B. Smith, Shameful Abuse of 9–11 Footage, N.Y. Daily News, Feb. 12, 2006, at 6 (hereinafter Shameful Abuse of 9–11 Footage).

[54] Interview by Life.com with Gregg Brown, Photographer, New York, New York, available at http://www.life.com/life/lifebooks/amspirit/brown.html (last visited August 3, 2006).

[55] According to Adrian Sevier, FEMA does not engage in much direct contracting and does not have standard contract language. FEMA did not respond to Subcommittee Staff inquiries requesting additional information about FEMA contracting practices, generally, or the 9/11 aerial photography contract, specifically. In a subsequent telephone interview in April 2006, a FEMA representative said contractors are normally required to cede title and ownership of their work, but also said most photographers dealing with FEMA do not give up ownership of their photographs. Subcommittee Staff briefing with Mr. Adrian Sevier, Acting Deputy General Counsel, Federal Emergency Management Agency, Mar. 24, 2006, in Washington, D.C.

committee on July 12, 2006, that the failure to include such a clause was an oversight.

The photography began under FEMA's direction on September 15, 2001.[56] In November 2001, the DDC assumed the contract and asked the photographer to cede title and ownership to New York City, which the photographer refused.[57] The DDC revoked the photographer's access to the helicopter on May 10, 2002.[58]

The photographs and the video footage were commissioned to assist the rescue effort by tracking the plumes of smoke emanating from the rubble at Ground Zero and to record the event for posterity. However, to view the photographs and the video, members of the public must file a request with New York City under New York State's Freedom of Information Law[59] or go to the U.S. Copyright Office, located in the Madison Building of the Library of Congress in Washington, D.C., because the photographer owns the images and video.[60]

TESTING AND CLEANING

FEMA and the Environmental Protection Agency (EPA) entered into two interagency agreements to detect and remove potentially harmful materials scattered by the World Trade Center collapse from private residences in Lower Manhattan. Neither agency had previously provided such services after a disaster, nor was either specifically authorized to do so. However, after residents in the area complained for months about the pollution, the EPA and New York City formed task forces to examine the issue.

Systemic problem: Lack of interagency coordination

Months after the attacks, FEMA implemented an indoor testing and cleaning program with the EPA by invoking its Stafford Act authority for debris removal. Though the deadline to register for the program was extended twice to December 28, 2002, residents expressed frustration with delays and difficulties obtaining information and registering for the program.[61] According to the FEMA OIG, difficulties resulted in part because FEMA failed to request that EPA conduct the necessary testing to determine whether debris posed a public health or safety threat. The EPA was required to confirm that disaster dust and debris posed health and safety risks before FEMA could provide funding for cleanup. However, FEMA failed to coordinate with EPA to ensure that the required assessments were conducted in a timely manner.[62]

INDIVIDUAL ASSISTANCE

Lax management and weak oversight plagued some of FEMA's individual assistance programs, including Individual and Family Grants, Temporary Housing Assistance, and Crisis Counseling. In at least one case—FEMA's Air Quality Program—the result was rampant waste, fraud, and abuse. This program and others were the subject of critical reports by the media, FEMA's OIG, and, after

[56] Shameful Abuse of 9–11 Footage, *supra* note 53.
[57] DDC Briefing, *supra* note 25.
[58] Shameful Abuse of 9–11 Footage, *supra* note 53.
[59] DDC Briefing, *supra* note 25.
[60] Greg Smith, Only Playing in D.C., N.Y. Daily News, Feb. 12, 2006, at 7.
[61] FEMA's Delivery of Individual Assistance Programs, *supra* note 4 at 24.
[62] *Id.* at 25.

the establishment of DHS, the DHS Office of Inspector General (DHS OIG).

DHS Inspector General Richard Skinner told Subcommittee staff that FEMA did not require state and local agencies receiving FEMA grants to have proper oversight plans in place to prevent waste, fraud, and abuse among subgrantees.[63] As opposed to in-depth reports citing potential problems, Mr. Skinner said FEMA allowed its grantees to file reports that were mere numerical tallies. According to Mr. Skinner, FEMA would benefit from Congressional mandates for quarterly reports to Congressional Appropriations Committees, much like HUD's reporting requirement which proved to be effective during its response to 9/11, as discussed below.

It is the sense of the Subcommittee that FEMA failed to grasp the lessons learned from 9/11. For example, the FEMA OIG recommended changes to the Individual and Family Grants (IFG) program, which funded the Air Quality Program. FEMA relaxed the programmatic controls associated with this program which was intended to reimburse applicants for costs associated with air conditioners, air purifiers, and vacuums. The FEMA OIG found that the program was vulnerable to fraud and abuse, partly because of lax oversight by FEMA and the New York State Department of Labor, which administered the program.[64] Yet, according to the GAO, following Hurricanes Katrina and Rita, the successor to the IFG program paid as much as $1.4 billion in fraudulent assistance for inappropriate expenditures such as season football tickets, a $200 bottle of Dom Perignon champagne purchased at a Hooter's restaurant, and "Girls Gone Wild Videos."[65]

The ability to detect fraud, waste, and abuse in FEMA-administered programs ends three years after the last expenditure of funds. At that time, the OIG's authority to audit a program and disallow costs ceases.[66] Once the three years have passed, state and local governments may archive, destroy, or deny Federal agencies access to grant records.[67] DHS OIG Skinner advised the Subcommittee staff that his agency does not intend to conduct additional audits of the major FEMA programs that administered funds for the 9/11 recovery.[68]

Systemic problem: Inadequate verification prior to disbursing funds

Normally, FEMA requires that disaster victims apply and be denied for Small Business Administration (SBA) disaster loans before disbursing funds from the IFG program. However, FEMA and New York State categorized air conditioners, air purifiers, filters, and vacuum cleaners in a way that exempted them from the SBA loan

[63] Skinner Briefing, *supra* note 52.

[64] U.S. Department of Homeland Security Office of Inspector General, The Federal Emergency Management Agency's Individual and Family Grant Program Management at the World Trade Center Disaster, OIG–04–49, Sept. 2004, at 7 (hereinafter FEMA's Individual and Family Grant Program Management).

[65] Written Testimony submitted by Mr. Gregory D. Kutz before the Committee on Homeland Security, Subcommittee on Investigations hearing entitled, "Waste, Fraud, and Abuse in the Aftermath of Hurricane Katrina," June 14, 2006, at 25.

[66] "Pursuant to 44 CFR 13.42, states are required to retain records, including source documentation, to support expenditures/costs incurred against the grant award, for 3 years from the date of submission to FEMA of the Financial Status Report. The State is responsible for resolving questioned costs that may result from an audit conducted during the three-year record retention period and for returning disallowed costs of ineligible activities." 44 C.F.R. § 206.120 (2006).

[67] Skinner Briefing, *supra* note 52.

[68] *Id.*

application requirement.[69] That designation permitted those items to be purchased with air quality grants regardless of SBA consideration.

Typically, FEMA inspects property that applicants claim was damaged or destroyed in a disaster before issuing IFGs to replace the property. In March 2002, FEMA waived that requirement for air conditioners purchased through the air quality program after determining it would be impractical to verify damage to individual units.[70] Instead, New York State implemented a self-certification process requiring applicants to describe the circumstances associated with the repair or replacement of items and to submit supporting receipts. According to the FEMA OIG, this shift, combined with promotions by stores selling eligible items and misleading notices in community foreign-language newspapers, significantly increased the number of applications and may have increased the likelihood of fraud and abuse.[71] In a random sample of 4,435 IFG applications to replace damaged window air conditioners, FEMA found that 2,731—or 62 percent—of the units were likely ineligible.[72]

FEMA typically requires receipts or similar records to verify that IFG funds will be used for essential needs prior to disbursement. In May 2002, FEMA and New York State authorized advance payments to applicants who could not afford items covered by the Air Quality Program. FEMA asked applicants to provide receipts after purchasing approved items,[73] but by March 2003, FEMA found none of a randomly selected group of 5,602 cash-advance recipients (who had received a total of $5.8 million in assistance) had submitted receipts.[74] In July 2003, FEMA determined that 1,682—or 33 percent—of a random inspection of 5,029 recipients had not purchased air conditioners. These cases were referred for collection.[75]

Mr. Skinner credited efforts by his office as well as FEMA's sampling and home inspection program with prompting 100,000 of the original 229,000 applicants to voluntarily withdraw from the program.[76]

Best practice: Demonstrate intolerance for fraud by prosecuting small cases

The Manhattan District Attorney's Office and the U.S. Attorney's Office largely declined to prosecute cases of alleged fraud against the Air Quality Program in part because the frauds involved small sums of money and in part because prosecutors determined the program's regulations were too lax to prove violations.[77] The Manhattan District Attorney's Office did prosecute 12 cases investigated by Federal auditors.[78] Prosecutors also pursued other 9/11

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[69] *Id.*

[70] Air conditioners were added to the list of reimbursable items after home inspections had already been completed and FEMA determined it would not be cost effective to send inspectors back to homes to inspect air conditioners. FEMA's Individual and Family Grant Program Management, *supra* note 64, at 6.

[71] *Id.* at 8.

[72] *Id.*

[73] *Id.* at 6–7.

[74] *Id.* at 8.

[75] *Id.*

[76] Skinner Written Testimony, *supra* note 20.

[77] *Id.* at 5.

[78] *Id.* at 6.

fraud cases involving less than the typical monetary thresholds to send a message that fraud against disaster funds would not be tolerated. (See Appendix B for convictions of fraudulent activity associated with 9/11 assistance.)

Subcommittee staff has been told that prosecutors' offices often lack the resources to prosecute the surge in post-disaster cases that result from frauds perpetrated against disaster assistance programs. Given that certain kinds of fraud occur after every disaster,[79] Subcommittee Chairman Mike Rogers stated that prosecutors' offices should assess their needs in the event of a disaster. Chairman Rogers further asserted it would be worth considering setting aside a percentage of total Federal disaster-response funds appropriated to assist prosecutors' offices in handling fraud cases associated with disaster relief.[80]

Systemic problem: Lack of information sharing and cooperation

The FEMA OIG found that FEMA's Air Quality Program would have been better served by limiting eligibility to the areas identified by the EPA and New York City's Department of Health as affected by toxic debris, rather than providing grants to households in all five boroughs of New York City.[81] Specifically, FEMA could have utilized a map of the smoke plumes from Ground Zero to designate eligible geographic areas. "If the IFG Program and the EPA testing and cleaning program had worked more closely together in terms of geographic eligibility, the progµram would have had reasonable and justifiable boundaries," according to the FEMA OIG.[82]

MORTGAGE AND RENTAL ASSISTANCE

FEMA administered its Mortgage and Rental Assistance (MRA) program to provide as much as 18 months of mortgage or rental payments to 9/11 victims. During implementation, FEMA changed the eligibility criteria from aiding people who lost at least 25 percent of their incomes "as a result" of the catastrophe to those who lost 25 percent of their incomes "as a direct result" of the attacks.[83]

Systemic problem: Ineffective oversight

According to one media report, FEMA failed to explain how the agency defined "direct result." It also did not provide a place on the MRA application for applicants to explain why their job loss was a "direct result" of the attacks, or even to list their employers' addresses. FEMA also did not provide its employees with guidelines explaining how to determine which applicants were directly affected by the attacks.[84] Most denials of assistance appear to have resulted from misinformation or misunderstanding about eligibility or the specific benefits covered, and/or the application process, according to the FEMA OIG.[85] The New York Times identified some of the rejected applications. Among them were the following:

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[79] *Id.*

[80] See, House Homeland Security Subcommittee on Management Integration and Oversight Holds Hearing on Fraud in September 11 Assistance: Recovery, CQ Transcripts, July 13, 2006, available at http://www.cq.com (last visited Aug. 8, 2006).

[81] FEMA's Delivery of Individual Assistance Programs, *supra* note 4 at 20.

[82] *Id.*

[83] FEMA's Delivery of Individual Assistance Programs, *supra* note 4 at 11.

[84] Diana B. Henriques and David Barstow, Change in Rules Barred Many From Sept 11 Disaster Relief, N.Y. Times, Apr. 26, 2002, at A1.

[85] FEMA's Delivery of Individual Assistance Programs, *supra* note 4 at 35.

• Hundreds of Chinatown seamstresses, Manhattan hotel workers and taxi drivers were denied MRA funds.

• FEMA denied MRA funds to a disabled veteran who sold hats and gloves on the sidewalks of lower Broadway, though he provided sworn statements from shopkeepers confirming that he was a regular vendor in the area.

• An applicant "who had worked at a restaurant on the concourse of the World Trade Center, supplied the restaurant's name and his supervisor's telephone number at work * * * was denied aid because an agency evaluator could not get through on the telephone to the now nonexistent restaurant."[86]

There were also examples of fraudulent applications to the MRA program. For example, according to the Manhattan District Attorney's Office, an attorney and his girlfriend created false documents to show that the girlfriend had lost her job and was being evicted from her apartment. She then filed claims for assistance and received $70,000 from FEMA, the Red Cross, and Safe Horizon. In reality, she had not lost her job and was living with her boyfriend in New Jersey.[87]

After media reports in April 2002 showed seven out of 10 applications for the MRA program had been denied,[88] FEMA took steps to remedy and expand the program. FEMA re-examined all 7,323 rejected applications, deemed 1,625—or 22.2 percent—eligible and requested additional documentation for 3,126—or 42.7 percent.[89] FEMA modified MRA applications to allow applicants to explain how their economic hardship was a direct result of the attacks, and eliminated the requirement that self-employed applicants and business owners be rejected by the SBA before applying for assistance under the MRA program.[90] FEMA also expanded the geographic area of eligibility in late June 2002, a little more than one month before Congress passed a bill doing the same.[91]

Ultimately, FEMA's MRA program provided more than four times the amount of financial assistance to New York's 9/11 victims than the program had delivered to all victims of previous disasters since its inception.[92] FEMA's Inspector General said the program would need to be altered if it were to be revived.[93]

CRISIS COUNSELING

The Stafford Act authorizes FEMA to fund professional counseling to treat mental health problems caused or aggravated by a disaster or its aftermath. In addition, the U.S. Department of Justice (DOJ) can fund professional counseling to treat mental health problems caused or aggravated by a crime or its aftermath. Since the 9/11 attacks are considered to be a crime resulting in a disaster, both programs applied.

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[86] Henriques and Barstow, *supra* note 84.

[87] Press Release, District Attorney of New York County, People vs. 26 Individuals—WTC Charity Fraud (Nov. 13, 2002).

[88] Henriques and Barstow, *supra* note 84.

[89] FEMA's Delivery of Individual Assistance Programs, *supra* note 4, at 13.

[90] *Id.* at 14.

[91] *Id.*

[92] From the inception of FEMA's Mortgage and Rental Assistance program until Sept. 11, 2001, it has awarded only $18.1 million to victims of 68 declared disasters compared to $76 million to the victims of 9/11 in New York. See, FEMA's Delivery of Individual Assistance Programs, *supra* note 4, at 9.

[93] *Id.*

Systemic problem: Lack of information sharing and cooperation

FEMA and DOJ failed to coordinate to ensure that individuals psychologically impacted by the 9/11 attacks did not receive duplicative services funded by the two agencies, according to the FEMA OIG.[94] Shortly after 9/11, the two agencies reached a verbal agreement on the sequence of delivery of services. However, the FEMA OIG wrote, "more detailed and comprehensive guidance is necessary to ensure that services delivered to disaster victims who are also victims of crime are appropriate, consistent, and not duplicative."[95] The FEMA OIG encouraged the agencies to enter into a Memorandum of Understanding formalizing their relationship, their respective responsibilities and authorizations, as well as programs, time frames, and sequencing to apply when a disaster is also a crime scene. It was not until 2006, four years after the OIG made its recommendation, when FEMA and DOJ executed a Letter of Intent discussing services needed in responding to catastrophic Federal crimes.[96]

UNEMPLOYMENT ASSISTANCE

The U.S. Department of Labor (DOL) administers the FEMA-funded Disaster Unemployment Assistance (DUA) program to provide assistance to any person left unemployed by a disaster who is not eligible for regular State Unemployment Insurance or other supplemental income. DOL after 9/11 expanded the program by:

- allowing disaster unemployment benefits to a broader range of survivors than in past disasters;
- extending application periods;
- loosening documentation standards; and
- extending the duration of benefits by 13 weeks.[97]

Nevertheless, DOL experienced a historically disproportionate denial rate for DUA,[98] and advocacy groups complained in public forums that eligibility was unjustly limited and that improper processing excluded eligible applicants.[99] According to the FEMA OIG, after examining New York State records, DOL officials determined denial decisions were consistent with guidelines and regulations, but that "most denials appear to have resulted from misinformation or misunderstanding about eligibility or the specific benefits covered, and/or the application process."[100]

Systemic Problem: Lack of information sharing and cooperation

The FEMA OIG indicated FEMA should have made information available earlier in multi-lingual formats[101] and that outreach shortcomings may have resulted in misunderstandings over eligibility for the DUA program. But, the FEMA OIG stressed, the agency's post–9/11 outreach program was the most comprehensive in agency history.[102] At its peak, the outreach program included

[94] *Id.* at 28.
[95] *Id.*
[96] Skinner Briefing, *supra* note 52.
[97] FEMA's Delivery of Individual Assistance Programs, *supra* note 4, at 35.
[98] *Id.*
[99] *Id.* at 45–46.
[100] *Id.*
[101] "Advertisements were placed in foreign press papers in August 2002, in mainstream papers in November 2002, and on buses and subways in December 2002." FEMA's Delivery of Individual Assistance Programs, *supra* note 4, at 34.
[102] *Id.* at 33.

107 FEMA representatives and 32 DOJ outreach workers, as well as a helpline, a toll-free registration line, disaster service centers which disseminated information in 17 languages, and extensive advertisements in various mediums—even on the marquees of Madison Square Garden and the NASDAQ Stock Exchange.

TEMPORARY TRANSPORTATION

The Port Authority of New York and New Jersey (Port Authority) issued five FEMA-funded contracts to a private company called New York Waterway to operate ferries between New Jersey and New York as an alternative to PATH rail lines damaged in the attacks.

Systemic Problem: Ineffective oversight of procurement

Between March 2002 and April 2003, FEMA authorized at least $29.8 million for increased ferry service and new ferry terminals. FEMA disbursed the funds through the New York State Emergency Management Office to the Port Authority,[103] and according to the DHS OIG, FEMA had no direct contact with the company.[104]

Three of the five contracts issued to New York Waterway were not competitively bid. Given that the Port Authority had an existing contract with New York Waterway since 1988,[105] from the Port Authority's perspective, the no-bid contracts were justified. Port Authority Chief Operating Officer Ernesto Butcher told Subcommittee staff that New York Waterway "was the most logical choice" to do the work.[106] "Their effort was a Herculean one in terms of providing the services to move people back and forth across the river," Mr. Butcher said.[107]

The Department of Justice, in cooperation with the Port Authority Office of Inspector General (Port Authority OIG), brought civil fraud charges against the company alleging New York Waterway over-billed the government. The government accused the company of submitting false bills to the Port Authority for expenses it never incurred, overstating its profit margin, and inflating its incremental costs. The company agreed in July 2006 to settle the charges for $1.2 million, without admitting wrongdoing.[108]

COORDINATION BETWEEN AND AMONG THE FEDERAL GOVERNMENT, CHARITIES, AND VOLUNTARY AGENCIES

As Americans sought to help after the 9/11 attacks, many made contributions to charities and voluntary agencies. Surveys suggest as many as two-thirds of American households donated money to voluntary agencies aiding in the response. Reports from 35 such charities and agencies show that they received an estimated $2.7

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[103] Email from Ms. Tamara Faulkner, Congressional and Media Liaison, Department of Homeland Security Office of Inspector General, to Subcommittee Staff (Apr. 11, 2006).

[104] *Id.*

[105] *Id.*

[106] Subcommittee Staff Telephone Interview with Mr. Ernesto Butcher, Chief Operating Officer, Port Authority of New York and New Jersey, conducted May 26, 2006.

[107] *Id.*

[108] Press Release, U.S. Attorney for the S.D.N.Y., Ferry Operator to Pay $1.2 Million to Settle Civil Charges That it Defrauded the Government After the September 11 Terrorist Attacks (July 17, 2005).

billion in contributions within 14 months after the attacks.[109] Voluntary agencies made a significant contribution to the recovery. In New York, these agencies provided direct cash assistance and services including counseling to families of those killed, disaster relief workers, and those left unemployed or homeless by the attacks.

Systemic problem: Lack of information sharing and cooperation

Pursuant to the Stafford Act, FEMA is charged with coordinating the administration of relief with the American Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, as well as with state and local governments[110] to avoid duplication of benefits.[111] The Subcommittee found that despite efforts by the voluntary agencies and by FEMA to coordinate assistance to prevent fraud and avoid duplicate payments, the assistance provided by voluntary agencies was susceptible to fraud.

For example, according to the Manhattan District Attorney's Office, one applicant for assistance from FEMA, the Red Cross, and Safe Horizon claimed his income decreased by more than $100,000 due to the attacks. In reality, the individual, who had assets in excess of $1 million, saw his income increase from $137,198 in 2001 to more than $200,000 in 2002. According to the Manhattan District Attorney's office, his fraudulent applications initially went undetected, however, and he received nearly $60,000 in assistance.[112]

FEMA took several steps to coordinate the services and assistance provided by traditional voluntary agencies, as well as others not traditionally involved in the delivery of assistance. These efforts were hampered, however, by the unprecedented influx of contributions to the voluntary agencies and by privacy laws prohibiting the sharing of information between and among voluntary and government agencies.[113] FEMA officials conceded to the FEMA OIG that some people may have received duplicative assistance from governmental agencies and from the voluntary organizations.[114]

"FEMA needs to be better able to anticipate the proactive role non-governmental organizations will play in disaster recovery operations and attempt to coordinate relationships with those organizations through protocols such as Memoranda of Understanding to alleviate the potential for duplicating benefits," the FEMA OIG recommended.[115] In a December 2002 report, the GAO recommended that FEMA convene a working group of officials from key charitable and voluntary groups and Federal, state, and local officials to help reduce fraud and build cooperation in charitable responses to future disasters. The GAO specifically suggested that the group develop and adopt a common application form and confidentiality

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[109] More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters, *supra* note 7, at 7.

[110] 42 U.S.C. § 5121 et seq. (2000).

[111] FEMA's Delivery of Individual Assistance Programs, *supra* note 4, at 31.

[112] Press Release, District Attorney of New York County, People vs. Charles Cadorette (July 31, 2003).

[113] More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters, *supra* note 7, at 21.

[114] FEMA's Delivery of Individual Assistance Programs, *supra* note 4, at 32.

[115] *Id.*

agreement for use in disasters and strategies for enhancing public education regarding charitable giving.[116]

Despite the coordination problems that occurred after 9/11, similar problems plagued the responses of FEMA and the Red Cross to Hurricanes Katrina and Rita, according to a June 2006 GAO report. GAO found that disagreements between the organizations about their roles and responsibilities "created tension between FEMA and the Red Cross and affected the organizations' working relationship,"[117] hindering their ability to coordinate relief efforts for Hurricanes Katrina and Rita. The report also found that as of May 24, 2006—one week before the start of the 2006 hurricane season—FEMA and the Red Cross had yet to reach agreement on key responsibilities.[118]

RECOVERY

The economic, physical, and psychological damage wrought by the 9/11 attacks in New York City is difficult to fathom. In addition to the loss of life, injuries, and physical destruction, the attacks dealt a substantial blow to the residential neighborhoods of Lower Manhattan. Due to the importance of the financial, insurance, and real estate industries of Lower Manhattan, the impact of 9/11 reverberated throughout the economies of not only New York City and the surrounding area, but the nation as a whole.

Estimates of economic losses range from $54 billion to $105 billion.[119] A study by the Milken Institute, a non-profit fiscal research group, estimated that as a result of the attacks, the economy of the New York-New Jersey metropolitan area sustained income losses of about $2.7 billion in 2001 alone, while all metropolitan areas in the country sustained losses of about $191 billion.[120] By some estimates, the attacks eliminated as many as 100,000 jobs[121] in the New York area and more than 10 million square feet of office space in Lower Manhattan.[122] As a result, Lower Manhattan slipped from the third to the fourth largest central business district in the nation.[123]

The impact of the terrorist attacks on the neighborhoods of Lower Manhattan was evidenced by the decrease in downtown occupancy rates. In the months after 9/11, occupancy rates downtown, which includes the communities nearest to the World Trade

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[116] More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters, *supra* note 7, at 21.

[117] U.S. General Accounting Office, HURRICANES KATRINA AND RITA: Coordination Between FEMA and the Red Cross Should be Improved for the 2006 Hurricane Season, GAO–06–712, June 8, 2006 at 3.

[118] *Id.*

[119] U.S. General Accounting Office, Review of Studies of the Economic Impact of the September 11, 2001 Terrorist Attacks on the World Trade Center, GAO–02–700R, May 29, 2002 at 12. (These estimates include direct and indirect costs of lost income brought about by business closing and related spending reductions.)

[120] *Id.* at 2–3.

[121] The New York State Assembly Ways and Means Committee estimated that of the 125,300 jobs lost in New York in the 4th quarter of 2001, 80 percent resulted from the 9/11 terrorist attacks. U.S. General Accounting Office, Review of Studies of the Economic Impact of the September 11, 2001 Terrorist Attacks on the World Trade Center, GAO–02–700R, May 29, 2002 at 13 citing New York State Assembly Ways and Means Committee, "New York State Economic Report," Mar. 2002.

[122] Written Testimony submitted by Mr. Stefan Pryor before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 1 "Recovery," July 13, 2006, at 2 (hereinafter Pryor Written Testimony).

[123] *Id.*

Center site, were estimated to have declined to 60 percent, from a pre-9/11 rate of 95 percent.[124]

FEDERAL GOVERNMENT REACTION

In response to the economic devastation to the neighborhoods of Lower Manhattan, Congress appropriated previously unprecedented sums to the U.S. Department of Housing and Urban Development (HUD) for disaster response. The U.S. Small Business Administration (SBA), the U.S. Department of Labor (DOL), and other Federal agencies also received funding to help compensate individuals, businesses, and other groups for losses resulting from the attacks. Additionally, Congress authorized more than $5 billion in Liberty Zone tax incentives designed to spur redevelopment in Lower Manhattan. This was the first geographically-targeted tax program in response to a disaster.[125]

U.S. Department of Housing and Urban Development (HUD)

In three appropriations acts,[126] Congress directed HUD to administer $3.483 billion through its Community Development Block Grant (CDBG) program to New York State to assist individuals, businesses, groups, and utilities that sustained physical or economic damage from the terrorist attacks. This marked by far the largest appropriation of HUD funds for disaster recovery,[127] though the appropriation was subsequently surpassed by the $17 billion in HUD assistance to the Gulf states for the recovery effort following Hurricanes Katrina and Rita.[128] HUD issued the grants to New York State, which authorized the funds be disbursed by two state public benefit corporations,[129] the Empire State Development Corporation (ESDC) and an ESDC subsidiary formed specifically to disburse HUD funds for 9/11 recovery efforts, the Lower Manhattan Development Corporation (LMDC).

Major ESDC and LMDC initiatives administered using HUD funds include:

- Utility Restoration and Infrastructure Rebuilding;
- Residential Grant Program (RGP);
- Business Assistance Grants;
- Business Recovery Grants (BRG);
- Job Creation and Retention Program (JCRP);
- Small Firm Attraction and Retention Grants (SFARG);
- Technical Assistance for Small Businesses;

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[124] Email from Mr. David J. Herbenick, Legislative Specialist, Department of Housing and Urban Development, to Subcommittee Staff (June 23, 2006).

[125] U.S. General Accounting Office, September 11: Overview of Federal Disaster Assistance to the New York City Area, GAO–04–72, October 31, 2003 at 86.

[126] (1) Pub. L. No.107–73 (2001): $700 million appropriated by Congress November 26, 2001, granted to the ESDC February 2002. (2) P.L.107–117 (2002): $2 billion appropriated by Congress January 10, 2002, granted to the LMDC June 2002. (3) Pub. L. No.107–206 (2002): $783 million appropriated by Congress August 2, 2002, granted to the LMDC Sept. 2003.

[127] Prior to 9/11, the largest Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) appropriation for disaster recovery was about $500 million, which was the amount allocated for both the 1997 Midwest floods and 1994 Northridge, California earthquake. The $3.483 billion CDBG appropriation for 9/11 recovery has been eclipsed by the $17 billion appropriated for the recovery from Hurricanes Katrina and Rita. Opper Briefing, *supra* note 5.

[128] Written Testimony submitted by Ms. Ruth Ritzema before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 2 "Recovery," July 13, 2006, at 10.

[129] 1–A N.Y. Pub Auth. §§ 50–51.

- Business Information Program;
- NYC Housing Preservation District for affordable mixed-income housing;
- Cultural Enhancement Fund;
- Ferry service;
- Disproportionate Loss of Workforce (DLW); and
- Other specific improvement projects.[130]

U.S. Small Business Administration (SBA)

In the wake of 9/11, the SBA and Congress adjusted SBA's direct and guaranteed loan programs to make them more responsive to the needs of those impacted by the attacks. SBA expanded the eligibility of the Economic Injury Disaster Loan Program—which provides direct loans to repair physical damage and provides working capital to home- and business-owners who suffer losses in a disaster—to permit loans to businesses located outside the boundaries of the declared disaster areas. In addition, in January 2002, Congress authorized the SBA to guaranty up to $4.5 billion[131] in loans made by private sector lenders to small businesses "adversely affected by the September 11, 2001 terrorist attacks and their aftermath"[132] through the Supplemental Terrorist Activity Relief (STAR) Loan Program.

U.S. Department of Labor (DOL)

In addition to the Disaster Unemployment Assistance administered by DOL using FEMA funds (discussed in the "Response" section), DOL made grants to retrain and help workers left unemployed by the attacks secure new employment. Grants were also provided to the New York State Workers' Compensation Board to process claims related to the terrorist attacks.

Liberty Zone tax incentives

Congress authorized more than $5 billion in tax incentives designed to spur redevelopment in Lower Manhattan, including the New York Liberty Bond (Liberty Bond) program. The Liberty Bond program granted New York State and New York City the authority to issue up to $8 billion in low-cost, tax-exempt private activity bonds, which in turn created $1.8 billion in funding for New York City. That funding has been used for residential, commercial, utility, and retail development in New York City's Liberty Zone, which runs south of Canal Street between East Broadway and Grand Street.

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[130] The improvement projects include: the Downtown Alliance Streetscape, New York Stock Exchange security and improvements, West Street Pedestrian Crossing, Parks and Open Spaces, Hudson River Park and East River Waterfront, Columbus Park Pavilion Renovation, Marketing History/Heritage Museum, Millennium High School, Public Service Activities, Lower Manhattan Community Outreach, Pace University Green Roof Project, Chinatown Tourism and Marketing, and Lower Manhattan Information.

[131] The actual appropriation was for $75 million, which allowed the SBA to guarantee $4.5 billion worth of loans, based upon historical default rates and program costs offset through fees paid by lenders to obtain an SBA guaranty. That is why the amount of money appropriated to fund the STAR loan program was substantially less than the total lending authority for the program.

[132] Pub. L. No. 107–117 (2002).

Well-crafted State and local systems eased disbursement

The Subcommittee found that both ESDC and LMDC generally performed well. ESDC had procedures in place and experience in using government funds to administer economic development programs. LMDC, a new agency, created procedures parallel to those developed by ESDC.[133]

Testifying before the Subcommittee on July 13, 2006, Ms. Eileen Mildenberger, ESDC's Chief Operating Officer, stated that her staff reviewed each request for assistance and utilized third-party verification when awarding grants. This third-party verification included: a request for tax information; site visits to business locations; conversations with landlords; and obtaining information from the New York State Department of Labor to confirm employment.[134] In addition, at the recommendation of the HUD OIG, ESDC hired a consultant to audit the 4,100 Business Recovery Grants it awarded.[135] The consultant concluded that 98 percent of the grants were awarded based on accurate estimates.

As part of the Subcommittee staff's examination of LMDC's fraud controls, the Subcommittee staff learned that LMDC has a "three-layer" approach.[136] The first layer is LMDC's Audit and Finance Committee, composed of LMDC Board Members, which evaluates all funding proposals prior to submission to the full board.[137] As part of the evaluation process, the Committee evaluates financial controls and incorporates input from the HUD OIG. Contracts are reviewed by LMDC's General Counsel. Contracts over $50,000 are reviewed by LMDC's president and approved by the board. Other controls at this level include background checks on prime contractors and careful monitoring of the procurement process.

The second layer of LMDC's fraud controls includes compliance with HUD and LMDC guidelines and financial monitoring.[138] The third layer is a proactive approach which focuses on investigations.[139] LMDC works closely with, and refers cases to, the New York City Department of Investigation, the U.S. Attorney for the Southern District of New York, and the HUD OIG.[140] In addition, Subcommittee staff were advised that LMDC conducts an internal audit program, which includes ongoing reviews of internal controls and regular reports to LMDC's audit committee.[141]

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[133] Opper Briefing, *supra* note 5.

[134] Written Testimony submitted by Ms. Eileen Mildenberger before the Subcommittee on Management Integration and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 2 "Recovery," July 13, 2006, at 4 (hereinafter Mildenberger Written Testimony).

[135] U.S. Department of Housing and Urban Development Office of Inspector General, Office of Audit, Interim Report on Community Development Block Grant; Disaster Funds, Memorandum No. 2002–NY–1802, May 22, 2002 at 5 (hereinafter HUD Interim Report).

[136] Subcommittee Staff Briefing with Mr. Stefan Pryor et al., President, Lower Manhattan Development Corporation, Feb. 23, 2006, in New York, New York.

[137] *Id.*

[138] *Id.*

[139] *Id.*

[140] *Id.*

[141] *Id.*

Push to expeditiously disburse funds

Congress took steps to ensure that HUD and its grantees, ESDC and LMDC, quickly disbursed CDBG funds to those harmed by 9/11. Congress required that applicants for Business Recovery Grants (BRG) receive a response to their request within 45 days of application submission.

In order to expedite the disbursement of funds, Congress also included a provision in the initial emergency supplemental appropriation authorizing the HUD Secretary to waive or alter any CDBG statutes or regulations "except for requirements related to fair housing, nondiscrimination, labor standards, and the environment."[142] There were 19 waivers in all, which allowed expedited disbursement of funds through the Partial Action Plan system. Under this system, LMDC is required to submit interim proposals, known as Partial Action Plans, to HUD for pre-approval prior to awarding funds. A high-ranking HUD Disaster Recovery official said the waivers were necessary, particularly early in the response, because "disasters aren't typical.* * * We do not really grant waivers lightly."[143] He conceded though, that the waivers became less necessary three years after the disaster.

The Secretary granted waivers in the following areas:

• Low-income requirement: HUD waived the requirement that 70 percent of CDBG funds be used for activities benefiting people of low- to moderate-incomes.[144] The waiver language added "HUD expects the grantee [New York State] will make a good faith effort to maximize benefits for low- to moderate- income persons, and maintain documentation of such efforts."[145] According to the high-ranking HUD Disaster Recovery official, this waiver was necessary because the areas nearest the World Trade Center site contained a heavy concentration of businesses in the financial, insurance, and real estate sectors.[146]

• Public input: HUD waived certain citizen input requirements, replacing them with "Streamlined Citizen Participation Requirements," which were enumerated in the Federal Register.[147] The requirements "do not mandate public hearings, but do provide for a reasonable opportunity for citizen comment and for ongoing citizen access to information about the use of grant funds."[148] This waiver was used to reduce the period during which the public can comment on action plans (typically 30 days) to 15 days.[149] LMDC provided mechanisms for public input, including a town hall-style meeting. A high-ranking HUD Disaster Recovery official said the grant processes established by both LMDC and ESDC included more public input than most non-disaster CDBG disbursements. "They went above and beyond what the regular requirements would have been for CDBG funds," the official said.[150]

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[142] Pub. L. No. 107–73 (2001).
[143] Opper Briefing, *supra* note 5.
[144] 67 Fed. Reg. 4164 (Jan. 28, 2002) (Waiver No. 1).
[145] *Id.*
[146] Opper Briefing, *supra*, note 5.
[147] 67 Fed. Reg. 4164 (Jan. 28, 2002) (Waiver No. 2).
[148] *Id.*
[149] Opper Briefing, *supra* note 5.
[150] *Id.*

Outside criticism: Waivers allowed closed process that favored big companies

Media and nonprofit groups criticized ESDC and LMDC grant processes for being too secretive in their decision-making and unresponsive to public input.[151] Ms. Bettina Damiani, Project Director for Good Jobs New York, a nonprofit government oversight group that closely followed the 9/11 recovery process, testified before the Subcommittee on July 13, 2006, that the waivers created a process by which subsidies were granted with little accountability and minimal input from New York taxpayers.

Also testifying on July 13, 2006, was Mr. John Wang, President of the Lower Manhattan-based Asian American Business Development Center—a nonprofit group created in 1994 to help businesses in New York City's Chinatown neighborhood—who stated that Chinatown had no representative on the board of LMDC.[152] He told the Subcommittee that the application and funding processes did not accommodate the distinct needs of Chinatown's mostly small businesses. As a result, he believes Chinatown did not receive a proportional share of CDBG funds, despite the neighborhood's close proximity to the World Trade Center. According to an LMDC official, Chinatown was among the neighborhoods most impacted by the attacks.[153]

According to a June 2003 survey of 731 Chinatown business owners who had sought help from the Asian American Business Development Center,[154] less than half of the businesses that sought assistance from LMDC received a grant. More than half of those that did receive a grant received only $3,000 in assistance. According to information the Asian American Business Development Center received from ESDC in March 2003, the average grant award to Lower Manhattan businesses was $33,680 as compared to only $7,829 for Chinatown businesses. Despite testimony from LMDC President Stefan Pryor that Chinatown received more than $170 million from LMDC alone,[155] Mr. John Wang contended the neighborhood did not receive the assistance it needed.[156] (For an inventory of LMDC's major projects benefitting Chinatown, see Appendix C.)

Best practice: Fraud prevention task force and regular audits

Officials from investigative and enforcement divisions of Federal, state, and local agencies involved in 9/11 recovery efforts participated in two informal fraud prevention task forces: the Lower Manhattan Construction Integrity Team, which continues to meet, and

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[151] Russ Buettner et al., Ground Zero: $2.7B Money Pot; LMDC Pouring Fed Dollars Into Site—With No Results, N.Y. Daily News, Dec. 6, 2005, at 42. See also, Heidi Evans and David Saltonstall, Mike Adds to Call for Big Probe, N.Y. Daily News, Dec. 6, 2005, at 7. See also, Russ Buettner et al., Towers Fell, Mob Schemes Began: How Organized Crime Divvied Up Ground Zero Work, N.Y. Daily News, Dec. 5, 2005, at 4. See also, Good Jobs New York, The LMDC: They're in the Money; We're in the Dark, A Review of the Lower Manhattan Development Corporation's Use of 9/11 Funds, August 2004, at 15–19.

[152] Written Testimony submitted by Mr. John Wang before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detention, Prevention, and Control." Part 1 "Recovery," July 13, 2006, at 3 (hereinafter Wang Written Testimony).

[153] Pryor Written Testimony, *supra* note 122.

[154] Asian American Business Development Center, AABDC Financial Assistance Center: Findings from the Application Process for the World Trade Center Business Recovery Grant and Small Firm Attraction and Retention Grant Programs, June 2003, at 1.

[155] Prior Written Testimony, *supra* note 122.

[156] Wang Written Testimony, *supra* note 152.

the World Trade Center Fraud Working Group. The World Trade Center Fraud Working Group convened in December 2001 to discuss concerns regarding the susceptibility of grants and contracts issued in response to the attacks to fraud. Many members of the group later formed the Construction Integrity Team to deal with fraud concerns related to the contracts to rebuild Lower Manhattan.

Members of the World Trade Center Working Group included:

- U.S. Department of Housing and Urban Development—OIG
- U.S. Department of Labor—OIG
- U.S. Department of Transportation—OIG
- U.S. Department of Energy—OIG
- Federal Emergency Management Agency—OIG
- U.S. Small Business Administration—OIG
- Social Security Administration—OIG
- U.S. Environmental Protection Agency—OIG
- Internal Revenue Service—Criminal Investigation Division
- United States Postal Inspection Service
- New York City Department of Investigation
- Lower Manhattan Development Corporation
- State of New York—OIG
- State of New York Insurance Department
- Port Authority of New York and New Jersey—OIG
- Metropolitan Transit Authority—OIG
- New York City Business Integrity Commission
- Metropolitan Transit Authority, Chief Compliance Officer
- United States Attorney's Office, Southern District of New York
- Manhattan District Attorney's Office

The Department of Justice initiated a Hurricane Katrina Fraud Task Force to preemptively eliminate fraud in the Gulf states' recovery from Hurricanes Katrina and Rita. This task force includes many of the same members as the World Trade Center Working Group. It is the sense of the Subcommittee that such groups should be institutionalized to monitor responses to future disasters.

Additionally, Congress required the HUD OIG to conduct an audit every six months of the CDBG funds provided to New York State after the terrorist attacks of September 11, 2001.[157] It is the sense of the Subcommittee that these audits were particularly effective in identifying systemic weaknesses, promoting better management, and preventing waste, fraud, and abuse, and should be replicated for future Federal disaster assistance programs.

Best practice: Fraud awareness training

The HUD OIG provided fraud awareness training to agencies administering grants, including ESDC and LMDC. The training included fraud detection techniques, particularly before grants were disbursed, as well as tips to identify fraud indicators. According to Ms. Ruth Ritzema, the Special Agent in Charge of the HUD OIG New York Field Office, the training helped to prevent or mitigate a number of potential frauds, as well as to uncover and provide evidence of criminal activity. It is the sense of the Subcommittee that

[157] H.R. Conf. Rep. No. 107–350, at 456 (2001).

fraud training should be provided to employees and volunteers of state, local, and voluntary agencies that disburse Federal disaster assistance funds or award contracts.

BUSINESS RECOVERY GRANTS

Four and one-half months after the attacks, ESDC began providing $563 million in business recovery grants (BRGs) to compensate small businesses for their losses. LMDC later disbursed BRGs as well. If a business was located south of 14th Street, had fewer than 500 employees, and had unreimbursed economic losses, it was eligible for assistance. In addition, $13 million was allocated to large businesses that employ 200 workers or less at their downtown locations. BRGs provided assistance to more than 14,000 businesses. The average grant was nearly $39,000 and compensated only 16.8 percent of the average firm's loss.[158]

In reviewing how ESDC determined eligibility, Subcommittee staff learned that ESDC based its decisions on the size of a company's "economic loss," rather than following a "claims adjustment" approach as had been used in prior disasters.[159] In determining the amount of financial assistance, ESDC developed a formula which considered: (1) in which of four zones the company was located; (2) the company's gross revenue; and (3) the extent of economic loss which the grant could not exceed.[160] Under this formula, small businesses that had limited revenue received small grants.[161] In addition, Subcommittee staff learned that ESDC used gross revenue in its calculation because it was the "least complicated."[162] This approach, however, had the effect of favoring large companies.[163]

The Subcommittee and the HUD OIG identified a number of systemic problems in the BRG program.

Systemic problem: Failure to coordinate funding

The inability of ESDC and LMDC to reach agreement quickly on a funding issue was partly to blame for the ESDC's delayed disbursement of $54.5 million in BRGs, which a media report indicated made it difficult for some businesses to stay afloat.[164]

The BRGs, which had been awarded to 1,714 first time recipients and 452 companies expecting supplements to earlier awards, had initially been scheduled for distribution in March 2003. The date was pushed back to April 2003, then to June 2003, then to July 2003, and finally to August 2003.[165] This violated the Congressional mandate that all applications for CDBG funds be fulfilled or rejected within 45 days after applications are submitted.

This significant delay occurred because ESDC had applications for more BRG money than could be funded by the $340 million originally allocated to the program and needed money from LMDC

[158] Mildenberger Written Testimony, *supra* note 134.
[159] Subcommittee Staff briefing with Mr. John Bacheller, et al., Executive Vice President and Senior Deputy Commissioner, Empire State Development Corporation, Feb. 23, 2006, in New York, New York.
[160] *Id.*
[161] *Id.*
[162] *Id.*
[163] *Id.*
[164] Lore Croghan, Grant Delays Threatening Firm's Survival; WTC Recovery Payments Postponed Again; Downtown Businesses Make Drastic Cuts, Crains N.Y. Bus., July 28, 2003, at 1.
[165] *Id.*

to continue the program. "It took us many, many, many meetings with LMDC to get those funds," an ESDC official told Subcommittee staff.[166] LMDC eventually signed off on the transfer in LMDC Partial Action Plan (PAP) No. 2, which provided $150 million to fund ESDC's BRG program and was approved by HUD on November 22, 2002.[167] LMDC's Partial Action Plan (PAP) No. 4, approved by HUD on August 6, 2003, provided an additional $74.5 million to fund the program.[168]

Systemic problem: Inadequate verification before payments

ESDC issued BRGs totaling $110 million to 4,100 businesses before it began using a new application form requiring a detailed itemization of economic losses.[169] While CDBG regulations do not contain requirements that businesses prove economic losses,[170] ESDC's lack of verification is contrary to the guidance for calculating business interruption losses provided by the Senate Report accompanying the appropriation of CDBG funds that went to ESDC.[171] At the recommendation of the HUD OIG, ESDC hired a consultant to audit the 4,100 grants.[172] The consultant concluded that 98 percent of the grants were awarded based on accurate estimates. The HUD OIG, however, sampled 170 of the grants and found 13 applications conflicted with IRS records. HUD OIG referred the 13 to its New York Office of Investigation.[173]

One noteworthy case—not among the 170 grant recipients audited by the HUD OIG—was New York Waterway, the ferry company discussed above, that in July 2006 paid $1.2 million to settle a civil fraud case in which it was accused of over-billing the Federal government.[174] The company received three Business Recovery Grants totaling $358,188, despite the fact that it had benefited from a drastic increase in ferry service after the terrorist attacks forced the suspension of PATH rail service between New Jersey and New York. The company, which did not admit wrongdoing in the settlement, claimed in its ESDC application that it had lost $8.6 million from September 11, 2001, through the end of the year.[175]

RESIDENTIAL GRANT PROGRAM

The Residential Grant Program (RGP) offered grants to encourage individuals to renew existing leases, sign new leases, or purchase residences in Lower Manhattan.

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[166] Subcommittee Staff Telephone Interview with Mr. John Bacheller, Executive Vice President and Senior Deputy Commissioner, Empire State Development Corporation, conducted June 22, 2006 (hereinafter Bacheller Telephone Interview). ESDC Officials Ms. Amy Schoch and Ms. Susanna Stein also participated in the interview.

[167] Email from Ms. Helen Albert, Deputy Assistant Inspector General, Department of Housing and Urban Development Office of Inspector General New York Field Office, to Subcommittee Staff (June 14, 2006) (hereinafter HUD OIG Email).

[168] *Id.*

[169] *Id.*

[170] Opper Briefing, *supra* note 5.

[171] S. Rep. No. 107–109, at 206 (2001).

[172] HUD Interim Report, *supra* note 135.

[173] HUD OIG Email, *supra* note 167.

[174] Press Release, U.S. Attorney for the S.D.N.Y., Ferry Operator to Pay $1.2 Million to Settle Civil Charges That it Defrauded the Government After the September 11 Terrorist Attacks (July 17, 2005).

[175] Charles V. Bagli, Ridership Up, But Ferry Company Got 9/11 Aid, N.Y. Times, May 6, 2003, at B3.

Systemic problem: Inadequate verification before payments

According to the HUD OIG New York Regional Office, LMDC made duplicate payments through its Residential Grant Program and did not maintain proper documentation related to the program. The HUD OIG referred 10 cases for prosecution.[176]

JOB CREATION AND RETENTION PROGRAM

The Job Creation and Retention Program (JCRP) was intended to attract and retain large "anchor" firms. Twenty-seven companies accepted grants totaling $292 million. They committed to retain and create more than 70,000 jobs in Lower Manhattan and a total of 91,000 jobs throughout New York City.[177]

Outside criticism: Inequitable distribution of funds

Media and nonprofit oversight groups were critical of JCRP for facilitating large grants to companies that they alleged either did not need the money to stay afloat or would have stayed in New York City without the grants.

For example:

- American Express received a $25 million JCRP grant six months after it stated publicly that it would return all its employees to Lower Manhattan, according to the New York Daily News.[178]
- Health Insurance Plan of New York received a $12 million JCRP grant to move from midtown to Lower Manhattan, though the New York Daily News reported the company had been looking to expand in the area for more than a year.[179]
- The Bank of New York received $40 million, and the New York Daily News reported that, though the bank retained 7,700 jobs in New York City, it is moving 1,400 of them out of Lower Manhattan to Brooklyn.[180]

ESDC and HUD officials responded that such large firms are anchor tenants critical to the economies of New York City and the region.

SMALL FIRM ATTRACTION AND RETENTION GRANT PROGRAM

The Small Firm Attraction and Retention Grant program disbursed nearly $115 million to 2,200 small businesses that made five-year lease commitments to stay in Lower Manhattan. These firms employ over 37,000 people, nearly one-third of whom are low-wage earners. Second grant disbursements, totaling $42 million, to eligible companies that stay downtown will take the program into mid-2007.[181]

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[176] Subcommittee Staff Briefing with Mr. Edgar Moore et al., Regional Inspector General for Audit, Department of Housing and Urban Development Office of Inspector General New York Regional Office, Feb. 24, 2006, in Washington, D.C.

[177] Mildenberger Written Testimony, *supra* note 135.

[178] Russ Buettner et al., Rich Got Richer As Poor Got Crumbs, N.Y. Daily News, Dec. 4, 2005, at 32.

[179] *Id.*

[180] *Id.*

[181] Mildenberger Written Testimony, *supra* note 134.

SMALL BUSINESS ADMINISTRATION PROGRAMS

STAR LOAN PROGRAM

In January 2002, Congress authorized the SBA to guaranty up to $4.5 billion[182] in loans made by private-sector lenders to small businesses "adversely affected by the September 11, 2001 terrorist attacks and their aftermath"[183] through the Supplemental Terrorist Activity Relief (STAR) Loan Program.

Systemic problem: Inadequate oversight

SBA failed to provide adequate oversight of the STAR Loan Program to ensure it met the Congressional mandate that it guaranty loans to small businesses "adversely affected by the September 11, 2001 terrorist attacks and their aftermath."[184] SBA encouraged lenders to liberally interpret the term "adversely affected" when evaluating eligibility for the program. SBA also did not require lenders to ask borrowers whether they were affected by 9/11 and, therefore, eligible for STAR loans. Nor did SBA require lenders to submit documentation to justify why a loan was eligible for the STAR loan program. This left the SBA unable to check the loans before they were issued.

While SBA made STAR loans more cost-effective for lenders to encourage them to make the loans more affordable to borrowers,[185] SBA's failure to regularly track the fees lenders charge borrowers undermined this effort.[186] As a result, lenders who were already urged to push the bounds of eligibility for this program, found a new incentive to originate STAR loans—they could collect higher fees on STAR loans than they could on other SBA loans.

Systemic problem: Inadequate verification before payments

Lenders issued 9/11 loans to ineligible businesses. Private sector lenders approved by SBA[187] aggressively steered businesses—including those not affected by 9/11—into the SBA-backed STAR loan program, presumably violating the intent, if not the letter, of the program. Many lenders likely failed to inform borrowers their loans were from a program intended for businesses hurt by the terrorist attacks, and, according to an examination of a representative sample of STAR loans by the SBA Office of Inspector General (OIG), a majority of borrowers were unaware they had received loans from such a program.[188] The sample also found lenders did not document how the recipients were impacted by 9/11, and the SBA did not check for such documentation before the loans were issued.

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[182] The actual appropriation was for $75 million, which allowed the SBA to guarantee $4.5 billion worth of loans, based upon historical default rates and program costs offset through fees paid by lenders to obtain an SBA guaranty. That is why the amount of money appropriated to fund the STAR loan program was substantially less than the total lending authority for the program.

[183] Pub. L. No. 107–117 (2002).

[184] *Id.*

[185] U.S. General Accounting Office, Small Business Administration Response to September 11 Victims and Performance Measures for Disaster Lending, GAO–03–385, Jan. 29, 2003 at 15.

[186] Subcommittee Staff Briefing with Mr. Peter McClintock, et al., Acting Inspector General, Small Business Administration Office of Inspector General, Feb. 9, 2006, in Washington, D.C.

[187] STAR loans could only be issued by private sector lenders in SBA's Preferred Lenders Program, which allowed designated lenders to process, service, and liquidate SBA-guaranteed loans with reduced oversight from SBA.

[188] See, U.S. Small Business Administration, Audit of SBA's Administration of the Supplemental Terrorist Activity Relief Loan Program, Rep. No. 6–09, Dec. 23, 2005.

The SBA OIG placed considerable blame on SBA for the program's shortcomings. The OIG found that SBA failed to adequately oversee the program and encouraged lenders to liberally interpret eligibility guidelines. According to the SBA OIG audit examining a statistical sample of 59 STAR loans: [189]

- Only nine recipients were appropriately qualified to receive STAR loans.
- In five cases, there was no justification of eligibility for the loan in the lenders' files.
- In 21 cases, the justification in the files was contradicted by interviews with the businesses or other information in the loan files.
- Of the 42 businesses that auditors were able to interview:
- Only two were aware they had received a STAR loan.
- 25 said they were not adversely affected by 9/11.
- 36 said they were not asked or could not recall if they were asked whether they were adversely affected by 9/11.

While media reports and a 2003 GAO audit indicated that businesses hurt by the terrorist attacks were denied loans,[190] the Subcommittee's review found that no eligible applicants were denied loans because of lack of funds. In fact, there was money remaining when the program statutorily sunset.

DISASTER LOANS

The SBA expanded the eligibility of the Economic Injury Disaster Loan Program—which provides direct loans to repair physical damage and provides working capital to home- and business-owners who suffer losses in a disaster—to allow loans to businesses located outside the declared disaster areas.

Systemic problems: Relaxed controls

According to the SBA OIG, SBA did not follow its own procedures for pursuing collection of delinquent disaster loans issued to 9/11 victims. As of September 30, 2004, 1,495 disaster loans to 9/11 victims, valued at $208.8 million, were delinquent.[191] Letters demanding payment are an important and required part of SBA's collection process, but when the OIG reviewed a sample of delinquent loans, it found SBA had sent such letters to only four of the 17 borrowers who should have received them.[192]

DEPARTMENT OF LABOR PROGRAMS

The U.S. Department of Labor made grants to retrain and gain employment for workers left unemployed by the attacks and to the New York State Workers' Compensation Board to process claims related to the terrorist attacks.

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[189] See, *Id.*

[190] See, Geoff Earle, City Firms Stiffed in 9/11-Loan Outrage, N.Y. Post, Nov. 7, 2005, at 2. See also, U.S. General Accounting Office, Business owners testified that SBA's existing disaster program did not have the ability to provide loans to small businesses within the disaster areas, Audit, Aug. 2003, at 14.

[191] Written Testimony submitted by Mr. Eric M. Thorson before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 2 "Recovery," July 13, 2006, at 4.

[192] *Id.*

Systemic problem: Inadequate oversight

Similar to the STAR loan program, worker training programs administered by DOL also did not receive adequate oversight. According to the GAO, DOL failed to properly monitor a $125 million grant to the New York State Workers' Compensation Board, leading to the misspending of a portion of the grant. Congress had earmarked the $125 million "for the processing of claims related to the terrorist attacks,"[193] according to the GAO.[194] The Workers' Compensation Board, however, at the direction of the New York State Legislature,[195] spent $44 million of these funds to reimburse two other state agencies[196] for expenses they incurred paying claims to victims of the World Trade Center attack. GAO found these expenditures violated the terms of the congressional appropriation.[197] GAO recommended that DOL recover the $44 million or retroactively reclassify it to approve its use to reimburse the two state agencies. The fiscal year 2006 appropriations bill for DOL retroactively approved the use of the $44 million to reimburse the two agencies.[198]

Systemic problem: Ineffective oversight of procurement

According to the DOL OIG, DOL became improperly involved in Chinatown Manpower Project, Inc.'s subcontracting of a $1.1 million contract it received. DOL awarded a $25 million Workforce Investment Act National Emergency Grant to the New York State Department of Labor to provide training services to workers who lost their jobs as a result of the attack on the World Trade Center. The New York State DOL contracted with the Chinatown Manpower Project to provide services in Chinatown related to the grant. According to an audit by the DOL OIG, DOL became improperly involved in the subcontracting process, resulting in subcontracts being awarded without proper competition to vendors in Chinatown, including to two organizations to which the DOL Regional Representative in New York had long-term personal ties. The DOL OIG concluded that this violated Federal procurement rules and created the appearance of favoritism.[199]

REBUILDING

The 9/11 terrorist attacks crippled the transportation, communication, and utility infrastructure of Lower Manhattan and impacted much of the surrounding area. New York City streets disappeared beneath rubble, a major arterial highway was heavily damaged, and debris temporarily blocked tunnels to motor vehicle traffic. Below the ground, the collapse of the towers and World

[193] The grant was part of a $175 million appropriation to DOL's Employment and Training Administration made by Congress in Pub. L. No.107–117 (2002) under the heading, "Workers Compensation Programs," which was to be obligated from amounts previously made available in Pub. L. No.107–38 (2001).

[194] See, U.S. General Accounting Office, Department of Labor-Grant to New York Worker' Compensation Board, Decision File No. B–303927, June 7, 2005 (hereinafter Department of Labor-Grant to New York Worker' Compensation Board).

[195] 2003 N.Y. Laws, A.B. 7265, S.B. 3377, Mar. 23, 2003.

[196] The Board paid $28 million to the New York Crime Victims Board and $16 million to the New York State Insurance Fund.

[197] Department of Labor-Grant to New York Worker' Compensation Board, *supra* note 194.

[198] Pub. L. No. 109–149 (2005).

[199] See, U.S. Department of Labor Office of Inspector General, Departmental Involvement in Chinatown Manpower Project, Inc. Contributed to Circumvention of Procurement Rules, Rep. No. 02–05–202–01–001, Aug. 25, 2005.

Trade Center Tower 7 destroyed the Port Authority commuter rail station and subway stations that ran beneath the buildings.

The electrical, gas, steam, and telecommunications utility infrastructures in Lower Manhattan were also heavily damaged, resulting in extensive disruptions in service. Utility companies responded quickly to provide emergency service to all customers, which was eventually improved and made permanent.[200] The New York City Comptroller's Office estimated that utility repair costs for AT&T and Verizon alone would be $2 billion.[201] In response, Congress appropriated $750 million to compensate utility companies for this work[202] so consumers would not have to bear the costs. To date, most—if not all—of this designated funding has been spent.

Of the $20 billion appropriated by Congress to assist New York after 9/11, more than $6 billion remains to be spent. Most of the more than $6 billion of unspent funds is committed to rebuilding projects, with transportation infrastructure projects slated to receive a majority of the funds. Also remaining is more than $2 billion in under-utilized Liberty Zone tax incentives. New York State officials have requested these funds be redirected by Congress to fund transportation projects in New York City.[203]

FIVE "MEGA-PROJECTS": LOWER MANHATTAN'S TRANSPORTATION INFRASTRUCTURE

Lower Manhattan is perhaps more reliant on public transportation than any other city in the United States. About 80 percent of the 350,000 people who commute to work in Lower Manhattan do so using public transportation—the highest percentage of any commercial district in the nation.[204] The terrorist attacks eliminated the routes most of those commuters used prior to 9/11. The Port Authority Trans-Hudson (PATH) line between New Jersey and the World Trade Center alone had carried an average of 67,000 passengers daily before it was destroyed on 9/11.[205]

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[200] Daily Message, Secretary Martinez Announces $783 Million in Aid to New York for Post-9/11 Restoration (Sept. 17, 2003).

[201] U.S. General Accounting Office, Review of Studies of the Economic Impact of the September 11, 2001 Terrorist Attacks on the World Trade Center, GAO–02–700R, May 29, 2002 at 14.

[202] Pub. L. No. 107–206 (2002). (Chapter 13 appropriated $783 million to HUD, of which $750 million went to the LMDC for the Utility Restoration and Infrastructure Rebuilding Program.)

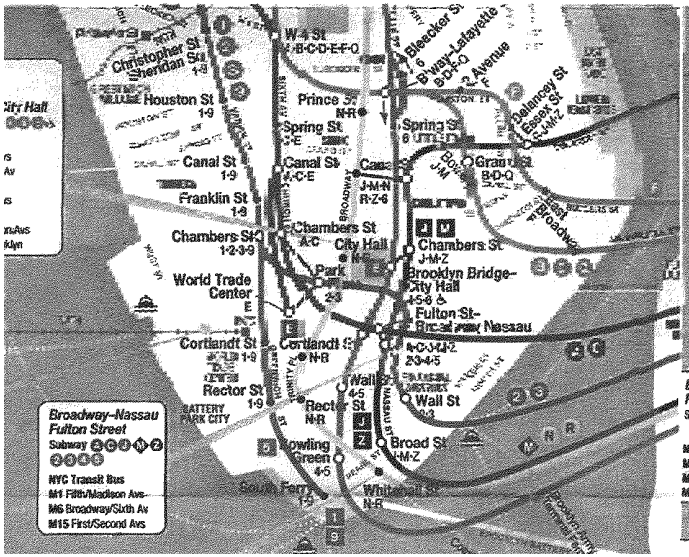
[203] Subcommittee Staff Telephone Interview with Mr. James A. Mazzarella, Director, State of New York Office of Federal Affairs, conducted July 7, 2006.

[204] Disaster Assistance, *supra* note 13, at 16.

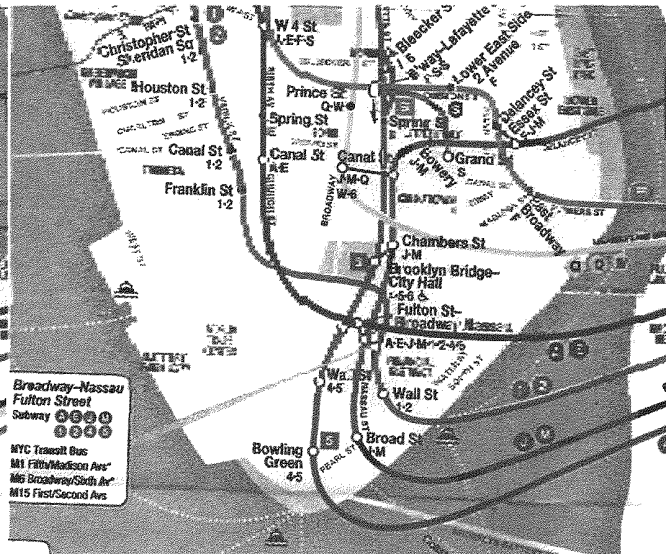
[205] Written Testimony submitted by Mr. Bernard Cohen before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 3 "Rebuilding," July 13, 2006, at 1 (hereinafter Cohen Written Testimony).

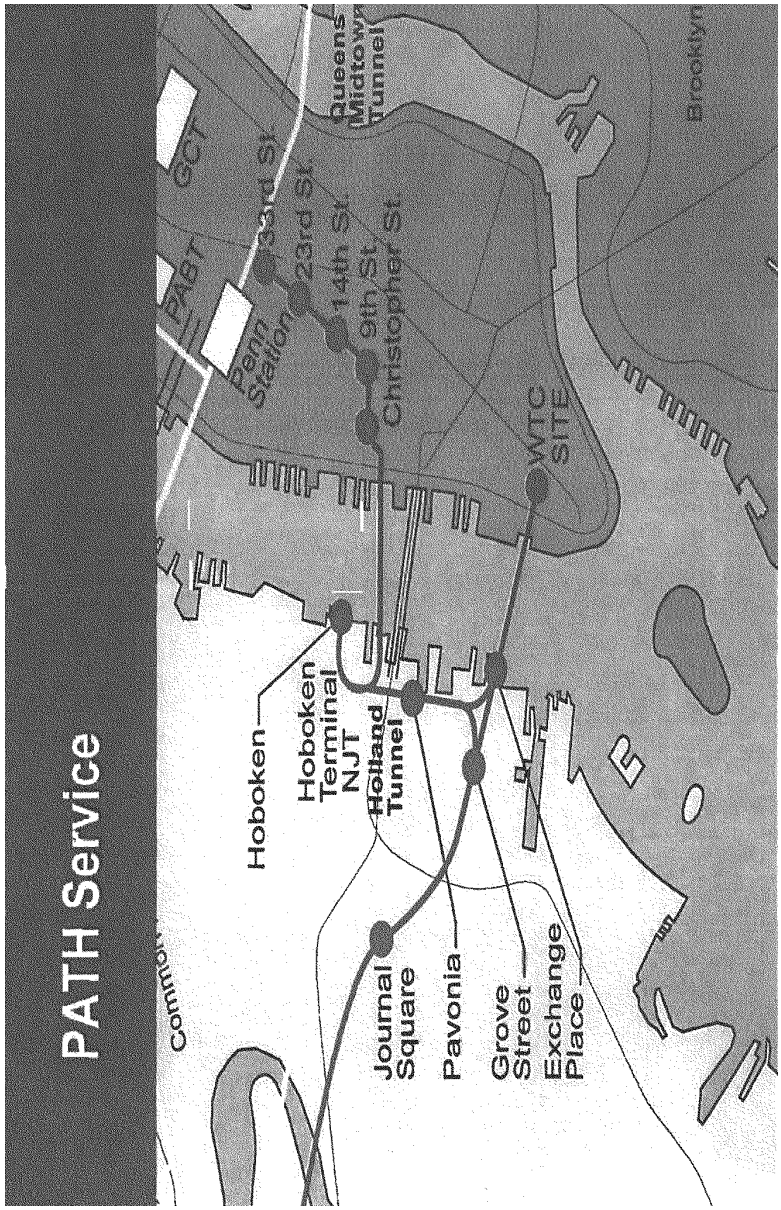
PATH and MTA Services Altered

Pre-September 11, 2001



Post-September 11, 2001




PATH Service
Hoboken
Hoboken Terminal NJT
Holland Tunnel
Journal Square
Pavonia
Grove Street
Exchange Place
Penn Station
PABT
GCT
33rd St.
23rd St.
14th St.
9th St.
Christopher St.
Queens Midtown Tunnel
WTC SITE
Brooklyn

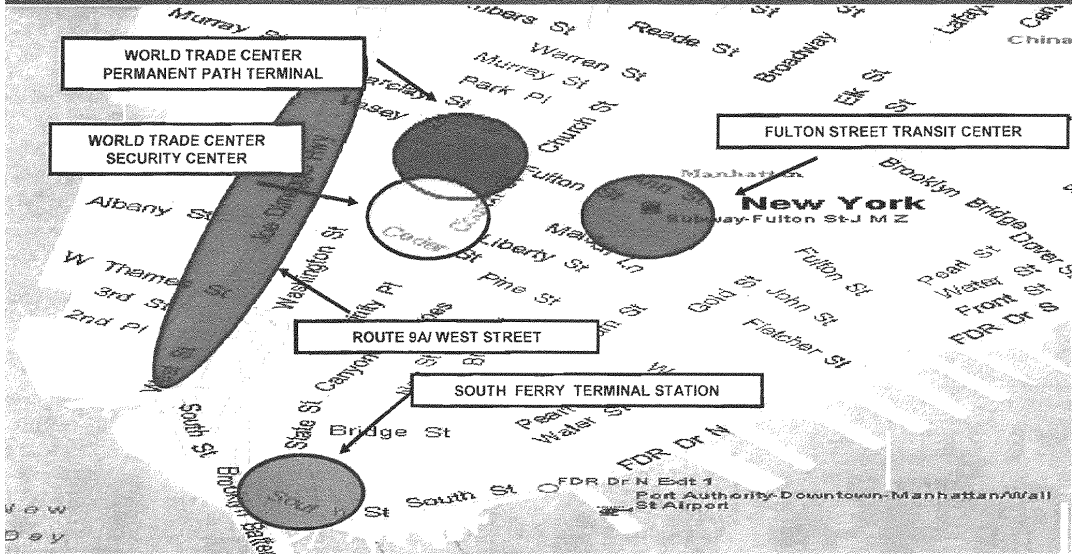
After the attacks, DOT and FEMA committed a combined $5.1 billion to restore and enhance New York's transportation infrastructure. FEMA allocated $2.75 billion, with DOT providing the rest through two of its sub-agencies: the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

New York committed funding primarily to five mega-projects in Lower Manhattan: a new PATH terminal; a World Trade Center Site Security Center to screen vehicles entering the World Trade Center site and provide parking for tour buses; a Fulton Street Transit Center to replace the existing subway station; a reconfiguration of the South Ferry Terminal subway station; and a realignment of Route 9A (the West Side Highway)/West Street, the major north-south state arterial highway along the west side of Lower Manhattan.

Those mega-projects and the total Federal allocations to date are as follows:

- Permanent World Trade Center PATH terminal: $1.92 billion (The Port Authority will fund $300 million from insurance payments it received for its 9/11 losses)
- World Trade Center Site Security Center: $478 million
- Fulton Street Transit Center: $847 million
- South Ferry Terminal Station: $420 million
- Route 9A/West Street: $287 million

LMRO Project Briefs
Program Overview



Unique Federal funding of Lower Manhattan transportation mega-projects

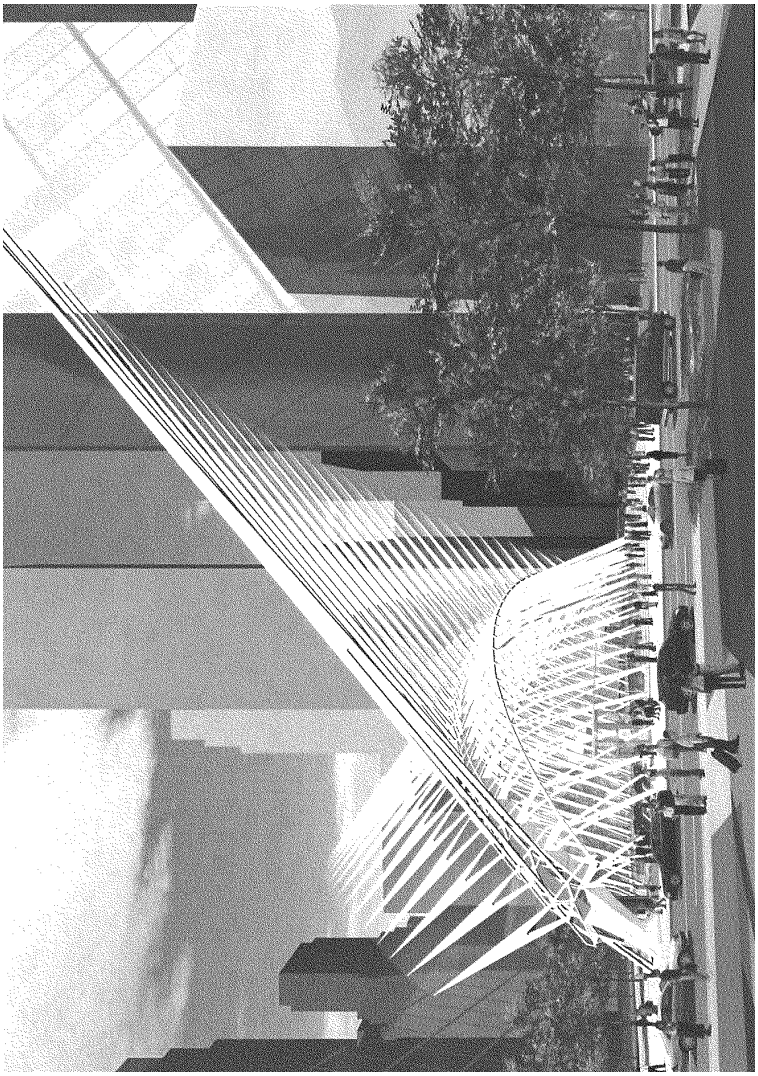
The Federal approach to funding these projects differed in three key ways from other post-disaster transportation projects.

First, the projects are almost entirely Federally-funded. As FEMA officials informed the GAO, FEMA is typically reluctant to recommend a 100-percent Federal share for rebuilding or recovery projects because requiring state or local governments to pay some percentage of the costs creates an incentive for them to control costs and root out waste, fraud, and abuse.[206]

Second, most of the projects will not just rebuild damaged or destroyed facilities, but will also make improvements to the transportation infrastructure. Mr. Bernard Cohen, the Federal Transit Administration's official leading the agency's oversight of Lower Manhattan mega-projects, testified before the Subcommittee on July 13, 2006, that "[t]he recovery presented Lower Manhattan with an opportunity to modernize and rationalize its infamous spaghetti bowl tangle of transit lines."[207] This scope change represents a departure from the Stafford Act directive that Federal disaster assistance funds be spent only to repair, restore, reconstruct, or replace damaged facilities.

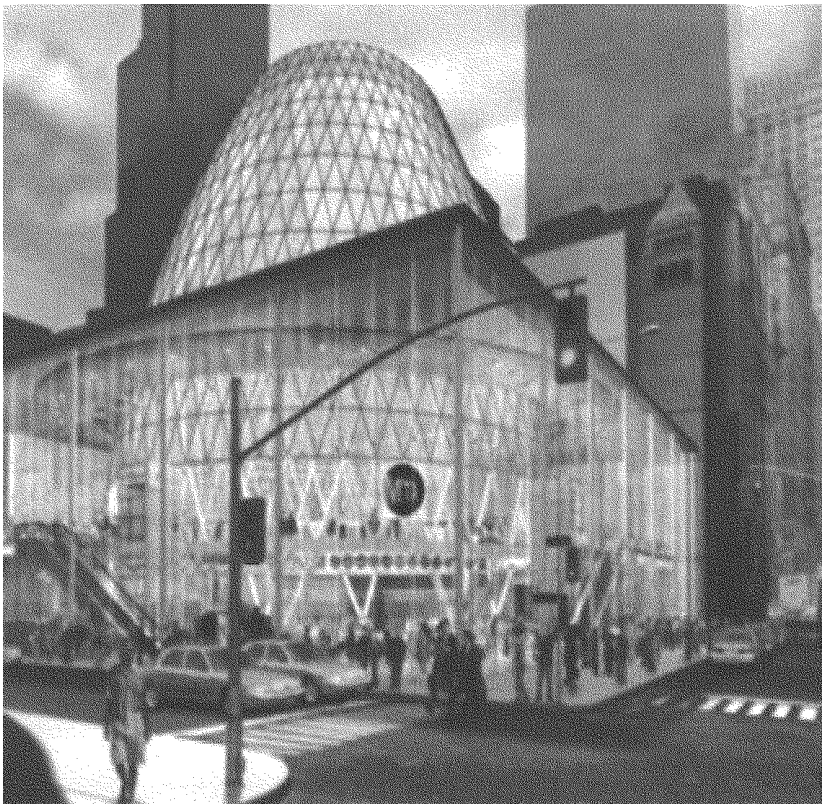
For example, the design of the new World Trade Center PATH terminal, which began construction in March 2006 and is scheduled for completion in June 2011, has been compared to that of Grand Central Station. The majestic glass and steel terminal, designed by renowned architect Santiago Calatrava, will include new underground pedestrian walkways linked to another transit hub and a major building.[208]

[206] Disaster Assistance, *supra* note 13, at 25.
[207] Cohen Written Testimony, *supra* note 205, at 2.
[208] *Id.*



Other Federally-funded plans call for a new multi-level transit center serving 12 different subway lines to replace the old Fulton Street Station's maze of narrow ramps, stairs, platforms, and street entrances. The New York State Metropolitan Transportation Authority began construction in July 2005 on the new Fulton Street Transit Center. Construction is scheduled for completion in June 2009.[209] The New York State Metropolitan Transportation Authority is also reconfiguring the South Ferry Terminal Subway Station to eliminate the tight-curve platforms that prevented operators from opening the doors on the rear five cars of their trains. The new design will also increase the number of entrances from one to three and make the station accessible to disabled passengers.[210]

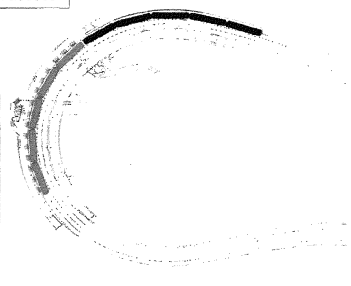
[209] *Id.*
[210] *Id.*

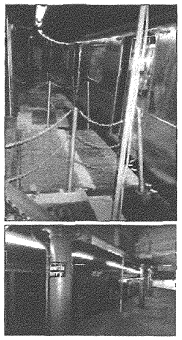


South Ferry Terminal Station
Current Conditions

Rear five cars cannot load or unload

Only one exit; no ADA access





Delays can affect entire 1/9 and 2/3 subway lines

Third, because the funding for transportation projects came from the total $20 billion Federal aid package appropriated to help New York respond to, recover from, and rebuild after 9/11, the Federal funding allocated to Lower Manhattan mega-projects is finite. If costs exceed the fixed Federal funding, it is not clear what funding sources will cover any increases.

The Subcommittee's research has shown that the need for effective internal and external oversight of the five Lower Manhattan mega-projects is heightened for several reasons:

- The projects will be paid for primarily using Federal funds.
- They will improve—not just replace—previous infrastructure.
- The funding is capped, so that cost overruns could be problematic.
- Simultaneous construction of multiple, major projects in a limited geographic area will demand extraordinary coordination and oversight.

The Federally-funded mega-projects will have to compete with many other New York City construction projects—both prompted by 9/11 and otherwise—for contractors, labor, and materials. According to the DOT Office of Inspector General (OIG), within the next five years, more than $20 billion in construction work will likely be underway in Lower Manhattan.[211] This work will require more than two million cubic yards of concrete, more than 200,000 concrete trucks, and a daily construction workforce of 6,500 for the next three to five years.[212]

In general, when substantial infusions of funding are directed to an area for reconstruction efforts, it increases the risk of fraud.[213] In New York City, that is especially true due to the lingering influence of organized crime in the construction, trucking, demolition, and waste disposal industries. Additionally, rebuilding in densely-developed, public transit-reliant Lower Manhattan presents logistical challenges, not least of which is an inability to seal off the area from traffic and human congestion due to the area's status as the center of the financial industry.

Heightened attention should be paid to these projects because of the aforementioned factors and because of the fact that the DOT OIG recently cited the need for the FTA and the FHWA to strengthen their stewardship of Federal funding of highway and transit projects.[214] The Subcommittee believes that the FTA and the various other Federal and state agencies involved in the mega-projects have established strong oversight mechanisms and internal control systems. Some of these are innovative and, if they perform well, may serve as a model for future disaster recovery efforts.

The DOT OIG recommended several steps that could be replicated to prevent fraud in "mega-projects' in other parts of the country. These steps include: (1) establish a single complaint hot-

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[211] Written Testimony submitted by Mr. Todd J. Zinser before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 3 "Rebuilding," July 13, 2006, at 2 (hereinafter Zinser Written Testimony).

[212] Written Testimony submitted by Mr. Ronald P. Calvosa before the Subcommittee on Management, Integration, and Oversight hearing entitled, "Federal 9/11 Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." Part 3 "Rebuilding," July 13, 2006, at 3 (hereinafter Calvosa Written Testimony).

[213] *Id.*

[214] U.S. Department of Transportation Office of Inspector General, DOT's 2006 Top Management Challenges, Rep. PT–2006–007, Nov. 18, 2005 at 5.

line; (2) conduct background checks on contractors, including contractor databases (e.g., VENDEX in New York City), the Federal debarment list, Occupational Safety and Health Administration (OSHA) violations, and licensing agencies; (3) design an employee background screening system in consultation with unions; (4) create a fraud awareness training program; and (5) utilize private independent integrity monitors.[215]

INTERNAL CONTROLS

Through a Memorandum of Agreement with FEMA, FTA was designated as the lead agency to administer all Federally-funded transportation projects in Lower Manhattan. To carry out its responsibilities, in 2002 FTA established a special oversight office, the Lower Manhattan Recovery Office (LMRO), exclusively to oversee the Lower Manhattan mega-projects.

The FTA received nearly $90 million in dedicated funding for oversight.[216] The LMRO coordinates the resources of the various agencies involved, including the Port Authority, the New York State Department of Transportation, and the New York State Metropolitan Transportation Authority by offering technical and logistical assistance and allowing for "one-stop shopping" for Federal transportation funds.

In a meeting with Subcommittee staff, FTA officials indicated they had encountered no fraudulent activity thus far in the use of Federal 9/11 financial assistance. They attributed this, in part, to establishment of the LMRO in July 2002. The Office conducts rigorous project oversight that includes: (1) an oversight team leader; (2) project engineers; (3) a procurement consultant; (4) a financial management consultant; and (5) easy access to FTA headquarters legal staff.[217] The Director of the Office recommended to Subcommittee staff the following key factors that control fraud in the use of 9/11 funds:

- establishment of a fraud hotline in the Lower Manhattan Construction Command Center (LMCCC);
- the LMCCC Director of Security is an experienced fraud fighter, who works with all agencies involved in rebuilding on fraud prevention;
- a task force of Federal, state, and local Inspectors General in Lower Manhattan meets at least monthly;
- fraud prevention training is conducted; and
- private integrity monitors are hired and deployed by the Metropolitan Transit Authority.[218]

In addition, as part of its examination of fraud controls for the remaining balance of 9/11 funding, the Subcommittee staff confirmed that FTA has adopted a "risk management approach" for the Lower Manhattan recovery projects.[219] FTA officials told Subcommittee staff that FTA will: (1) apply a risk analysis "in early project development for all LMRO projects"; (2) "focus project man-

[215] Subcommittee Staff Briefing with Mr. Theodore Alves et al., Principal Assistant Inspector General for Auditing and Evaluation, U.S. Department of Transportation Office of Inspector General, June 20, 2006, in Washington, D.C.

[216] Zinser Written Testimony, *supra* note 211.

[217] Subcommittee Staff Briefing with Mr. Bernard Cohen, Director, Lower Manhattan Recovery Office, Federal Transit Administration, Feb. 22, 2006, in Washington, D.C.

[218] *Id.*

[219] *Id.*

agement on identification, assessment and mitigation of risks'; and (3) conduct "continuous assessment of project scope, budget and schedule based on risk status."[220]

As part of its risk analysis to control costs, FTA advised Subcommittee staff of the types of budget and scheduling risks that will be considered. These include: "security; utilities; historic preservation; risks due to project scope; risks due to cost escalation; construction risks; real estate and other property risks; and project coordination risks."[221]

Best practice: Dedicated temporary oversight office

The Subcommittee recommends allocating a certain percentage of disaster-recovery mega-project funds to establish a special oversight office within the Federal agency with primary jurisdiction over the relevant mega-projects. The FTA's LMRO could provide a working model for such an office.

The Subcommittee believes two types of cost-control techniques employed by LMRO warrant discussion. Per FTA's requirements, LMRO utilizes value-engineering studies to objectively review all reasonable alternatives during the design phase in order to find more cost-effective alternatives. LMRO has already implemented recommendations from such studies and officials told the DOT OIG the recommendations have saved nearly $67 million on the Fulton Street Transit Center project alone.[222] Additionally, a risk-management approach is intended to keep costs within estimates and avoid overruns that would price projects over the fixed amounts the Federal government has appropriated.[223]

The FHWA and FTA transfer funding on a reimbursement basis. Accordingly, grantees must meet certain guidelines to receive reimbursement, and FHWA conducts physical oversight and process reviews to ensure those guidelines are met. As an added layer of oversight, FHWA has requirements in place to monitor a state's expenditures. If a funding recipient fails to comply with the FHWA's guidelines, FHWA has the capability to recover funds.

EXTERNAL CONTROLS

In testimony before the Subcommittee on July 13, 2006, Acting DOT Inspector General Todd J. Zinser announced that his agency had established an OIG Lower Manhattan Transportation Oversight Team specifically to support oversight of the 9/11 recovery mega-projects in Lower Manhattan. Team members and resources were redeployed from the DOT OIG's work on the $14.6 billion Central Artery/Tunnel Project—or "Big Dig"—in Boston.[224]

Best practice: Temporary fraud prevention task force drawn from other agencies

The Lower Manhattan Construction Integrity Team was established in 2004 to prevent fraud in publicly-funded projects in Lower Manhattan. It includes the DOT OIG, LMCCC, LMDC, the New York City Department of Investigation, the New York City Busi-

[220] *Id.*
[221] *Id.*
[222] Zinser Written Testimony, *supra* note 211, at 15.
[223] *Id.* at 5.
[224] *Id.*

ness Integrity Commission, the New York State OIG, the New York State Metropolitan Transportation Authority OIG and Chief Compliance Officer, the Port Authority OIG, and the OIGs of the U.S. Departments of Labor (DOL) and Housing and Urban Development (HUD).

The Lower Manhattan Construction Integrity Team has developed a range of measures for the prevention of fraud, including best practices for screening potential contractors, information sharing, fraud awareness training for contractors' supervisors and managers, employee screening and access control to the World Trade Center site, and the use of private integrity monitors to supplement existing oversight resources. The Lower Manhattan Construction Integrity Team members also maintain a joint fraud complaint hotline, which can be accessed at www.LowerManhattan.info.[225] A similar task force, the Hurricane Katrina Fraud Task Force, subsequently was formed to monitor the hurricane recovery efforts in the Gulf states.[226]

Best practice: Full-time independent coordination agency that prevents fraud

The Lower Manhattan Construction Command Center (LMCCC) began as a voluntary collaboration among project sponsors intended to coordinate overlapping construction projects.[227] On November 22, 2004, New York Governor George Pataki and New York City Mayor Michael Bloomberg issued parallel executive orders to establish the LMCCC as a formal, full-time oversight agency. According to those orders, the LMCCC was created to "* * * coordinate between all construction located in Lower Manhattan [including] all construction projects beginning from 2004 to 2010 valued at over $25 million * * * work requiring governmental action or permit, and construction requiring work directly in City or State streets or highways."[228] Funded mostly through a $6.5 million FTA grant, the LMCCC brings together private developers, public agencies and authorities, utilities, businesses, and resident representatives in one physical location to resolve disputes among agencies, coordinate construction logistics, and prevent fraud.[229]

Best practice: Fraud awareness training

LMCCC, together with members of the Lower Manhattan Construction Integrity Team, developed a fraud prevention training module for presentation to contractors and employees to provide information about prohibited conduct. For example, contractor employees are informed of the penalties for bribing public servants, submitting false documents, paying incorrect wages, or engaging in other fraudulent activity.[230] While common among public sector employees, this sort of training has rarely been provided to con-

[225] *Id.* at 9.
[226] *Id.*
[227] Cohen Written Testimony, *supra* note 205, at 4.
[228] New York Governor George E. Pataki, Establishing the Lower Manhattan Construction Command Center, Exec. Order 133, Nov. 22, 2004; New York City Mayor Michael R. Bloomberg, Creation of the Lower Manhattan Construction Command Center, Exec. Order 53, Nov. 22, 2004.
[229] Calvosa Written Testimony, *supra* note 212, at 3.
[230] *Id.* at 5.

tractor staff.[231] The Subcommittee recommends mandating this training for employees of contractors working on future disaster recovery mega-projects.

Best practice: Contractor employee screening and access control

LMCCC, in collaboration with the Port Authority OIG and organized labor, conducts background checks on contractor employees at Lower Manhattan construction sites, especially the World Trade Center site. In order to be granted access to the construction sites, employees will have to submit to background screening that will include a cross check against the terrorist watch-list and criminal record searches to determine if prospective workers have been convicted or charged with certain crimes. Workers cleared by the checks will be issued an access card. Initially, the access control program will be implemented only at the World Trade Center site. However, LMCCC hopes to extend it to other construction projects in Lower Manhattan.[232]

Best practice: Private integrity monitors

Borrowing from the successful debris removal protocols developed at the World Trade Center site, LMDC has retained a private integrity monitor to oversee the demolition of a building located at 130 Liberty Street. The New York State Metropolitan Transportation Authority has retained compliance monitors at its Fulton Street Transit Center and South Ferry Subway Station projects. The Port Authority plans to hire an integrity monitor to oversee the construction of the new World Trade Center PATH terminal.

It is the sense of the Subcommittee that replicating the use of private integrity monitors, as was done for not only debris removal, but also for mega-project construction, is likely to significantly deter and prevent fraud. As noted above, the Subcommittee recommends the use of private integrity monitors in future major disaster recovery efforts.

CONCLUSION

The terrorist attacks of September 11, 2001, have left a lasting impact not only on New York City, Northern Virginia, Southwestern Pennsylvania, but also on the Nation as a whole. The outpouring of support for victims of the attacks and their families was unparalleled. At that time, people across the country and around the world reached out to offer support in any way they could. Unfortunately, unscrupulous individuals sought to exploit the disaster for their own financial benefit.

Under the direction of Subcommittee Chairman Mike Rogers and Ranking Member Kendrick B. Meek, bipartisan Subcommittee staff—augmented by a FBI Supervisory Special Agent and an investigative journalist on detail to the Subcommittee—conducted a six-month review, with technical assistance provided by the Government Accountability Office. Through its review, the Subcommittee has concluded that there are important lessons to be learned from the Federal Government's and New York's response

[231] *Id.*
[232] *Id.* at 7.

to 9/11—both systemic problems which require attention and best practices worthy of replication.

This report makes recommendations for how those lessons can be incorporated into the planning for and response to major natural disasters and potential future terrorist attacks to help ensure assistance programs are more cost-effective. In addition to this report, the Subcommittee plans to develop legislation to implement many of this report's recommendations so that future disaster assistance programs can benefit from the lessons learned in New York City after the attacks of September 11, 2001. It is the Subcommittee's view that many of the best practices identified in this report, if in place prior to last year's hurricane season, could have prevented waste, fraud and abuse in disaster assistance programs responding to Hurricanes Katrina and Rita.

APPENDIX A

Agency Budget Tables

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Initial Disaster Response			
Search and rescue operations	22	22	22
Debris removal operations	1,718	1,718	1,718
Emergency transportation measures	482	482	482
Testing and cleaning efforts [1]	94	94	89
Other initial response services	212	205	121
Compensation for Disaster-Related Costs and Losses			
Total assistance for State, City, and other organizations	2,981	2,980	2,702
Assistance for the State, City, and other organizations	1,256	1,256	1,256
Reimbursement of associated costs authorized by Congress	1,258	1,257	1,257
Hazard mitigation grants	307	307	31
Other administrative costs	160	160	158
Total assistance for individuals and families	539	529	529
Mortgage and rental assistance	222	222	222
Crisis Counseling	164	154	154
Individual and family grants	105	105	105
Other individual assistance	48	48	48
Infrastructure Restoration and Improvement			
Restoring and enhancing the Lower Manhattan transportation system [2]	2,750	2,750	135
Total [3]	8,798	8,780	5,798

[1] The funds allocated for testing and cleaning include all FEMA transfers to the Environmental Protection Agency (EPA).
[2] From FEMA's perspective, the funds for the restoration of Manhattan's transit system were obligated upon the execution of the Interagency Agreement that committed these funds to the Department of Transportation (DOT). DOT estimates that from the funds available to restore and enhance Lower Manhattan's transportation system,
[3] All figures are current as of December 31, 2005.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Figures in millions of dollars)

Activity	Total committed	Total obligated	Total disbursed
Initial Response Assistance [4]			
Temporary utility repairs	250	250	160
Compensation for Disaster-Related Costs and Losses			
Residential grants for individuals and families	281	281	236
Business recovery grants and loans	624	624	554
Compensation to businesses for disproportionate losses	43	43	43
Compensation to businesses for disproportionate loss of workforce	33	33	33
Bridge loans	5	5	0
Technical assistance grants	5	5	4
Business information program	5	5	4
Infrastructure Restoration and Improvement			
Rebuilding and improving Lower Manhattan transportation system	4	0	0
Permanent utility infrastructure repairs	500	500	33
Short-term capital projects	68	0	0

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Continued

(Figures in millions of dollars)

Activity	Total committed	Total obligated	Total disbursed
Economic Revitalization Efforts			
Job creation and retention grants	320	320	232
Small firm attraction and retention grants	155	155	110
Other planning efforts	93	93	66
Other Economic Revitalization Efforts			
Parks and open space improvements	31	31	8
Affordable housing construction and improvements	50	50	0
Memorial and cultural programs	370	370	206
Tourism	10	10	7
Employment training and public service activities	8	8	5
Other economic revitalization improvements	324	324	22
Total [5]	3,107	3,107	1,723

[4] Congress appropriated $3.48 billion to HUD; as of February 6, 2006, HUD had committed $3.107 billion to specific purposes. Thus, $376 million has not yet been committed to a specific activity.
[5] All figures are current as of February 6, 2006.

U.S. DEPARTMENT OF TRANSPORTATION

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Initial Response Assistance			
Federal Transit Administration's (FTA) emergency transportation measures	100	100	76
Infrastructure Restoration and Improvement			
Restoring and enhancing the Lower Manhattan transportation system [6]	5,003	4,041	551
Transit projects	1,800	1,397	220
Transit projects to be reimbursed by FEMA [7]	2,750	2,291	137
Street resurfacing and reconstruction	242	160	77
Ferry projects	100	93	50
Rail safety projects	100	100	67
Total [8]	2,353	1,850	490

[6] Not including projects reimbursed by FEMA, DOT committee $2.242 billion, of which $1.75 billion was obligated and $414 million was disbursed.
[7] FEMA reimbursements are not included in DOT funding totals.
[8] All figures are current as of December 31, 2005.

U.S. SMALL BUSINESS ADMINISTRATION

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Compensation for Disaster-Related Costs and Losses			
Supplemental Terrorist Activity Relief (STAR) Subsidy	75	41	40
World Trade Center/Pentagon Subsidy	135	116	116
World Trade Center/Pentagon Administration	40	25	25
SBA funds from initial appropriation	250		
Funds Transferred Out	51.4		
Subtotal	198.6		
Funds Rescinded	1.5		

U.S. SMALL BUSINESS ADMINISTRATION—Continued

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Total funds available after rescission and transfer [9]	[10] 197.1	182	181

[9] All figures are current as of June 23, 2006. Following the initial $250 million appropriation, the total commitments for the SBA loan programs were reduced from the STAR program by $1.5 million in FY 2006. In addition, $51.4 million of unused emergency funding was transferred to pre–9/11 loan programs and other programs at the closure of the STAR loan and the World Trade Center/Pentagon (WTCP) programs ($27.4 million was transferred to STAR 7(a) loans in FY03; $15 million to the regular disaster loans from WTCP in FY04; and $9 million for WTCP Administration transferred back to the Treasury and Office of Management and Budget (OMB). Because the STAR loan and WTCP programs have closed, $14,976,000 of unobligated funds are no longer available—$5 million for STAR loans; $3.8 million for WTCP Subsidiary; and $6.192 million for WTCP administration. SBA's FY07 budget proposed the return of these unobligated amounts to the Treasury and Office of Management and Budget. In addition, the $1 million from the Start Subsidy Budget Authority that was obligated but not disbursed is no longer available.

[10] The effective amount of ''committed'' funds is composed of $46.102 million from the STAR loan program, $119.968 million from WTCP Subsidy; and $31 million WTCP administration.

U.S. DEPARTMENT OF LABOR

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Compensation for Disaster-Related Costs and Losses			
Funds Allocated to DOL Programs:			
Assistance to DOL for management, salaries and expenses	6	6	6
Reimbursement for Occupational Safety and Health Administration/Employee Benefits Security Administration salaries and expenses	2	2	2
New York Agencies:			
New York State Unemployment Insurance Fund	7.6	1	1
New York State Training and Employment Services Operations	57.5	49	49
New York State Workers Compensation	175	55	53
Total Initial Funding to DOL	249.1	113	111
Total Assistance Allocated to New York [11]	241	105	103
Subsequent Funding Activity:			
Rescinded Funds	(122.2)	.....	.....
Funds Returned to New York through Supplemental Appropriations [12]	50	.....	.....
Subtotal of Funds Made Available to New York	168.8	.....	.....
Funds De-obligated at New York City's Request	(12.8)	.....	.....

[11] All figures are current as of February 15, 2006.

[12] Congress rescinded $122.3 million from the initial $249 million appropriated to DOL, recovering $2.3 million from New York State Unemployment Insurance and $120 million from the New York State Workers Compensation Fund. After appeals from New York, $50 million was returned through DOL and the remaining $75 million through the U.S. Department of Health and Human Services.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Initial Response Assistance			
Centers for Disease Control and Prevention—Enhancing lab security	10	10	10
Centers for Disease Control and Prevention—Environmental hazard control	10	10	10
Centers for Disease Control and Prevention—Medical supplies	3	3	3
Substance Abuse and Mental Health Services Administration (SAMHSA) [13]	28	28	28
Administration on Children and Families [14]	23.7	23.7	23.7
Administration on Aging—Senior Citizen Centers	1.3	1.3	1.3
Total Initial Response Assistance	76	76	76
Compensation for Disaster-Related Costs and Losses			
Health Resources and Services Administration (HRSA) for Health Centers	45	45	45
Total [15]	121	121	121

[13] New York City received $22 million of the $28 million allocated to SAMHSA, according to information obtained by Management, Integration, and Oversight Subcommittee staff by telephone call with officials of the U.S. Department of Health and Human Services, May 16, 2006 (hereafter referred to as ''May 16 telephone call'').

[14] New York State received a majority of the funds allocated to the Administration on Children and Families, but some funding was also provided to Pennsylvania, Virginia, and Washington, D.C. HHS was unable to provide the exact allocation of funds by state, according to May 16 telephone call.

[15] All figures are current as of May 16, 2006.

U.S. DEPARTMENT OF JUSTICE

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Compensation for Disaster-Related Costs and Losses			
Office of Justice Programs—funding for various assistance programs [16]	7	7	7
Salaries and Expenses for the General Litigation Division	7	7	7
Total Assistance for state, city, and other organizations	14	14	14
Victim Compensation	54	54	54
Office of Justice Programs—funding to the New York Crime Victims Board	24	24	24
Office of Justice Programs—Formula Grants to the New York Crime Victims Board	30	30	30
Total Assistance for Individuals and Families [17]	54	54	54
Total [18]	75	70	68

[16] This includes a $7 million obligation to New York University for "NYU Center Catastrophe," $38,271 to Nassau County to implement the Law Enforcement Tribute Act, and $367,291 to New York City for the County and Municipal Agency Domestic Preparedness Equipment Program.

[17] The Department of Justice (DOJ) also obligated and disbursed $246,518.56 for crisis counseling.

[18] All figures are current as of March 31, 2006. DOJ's grants accounted for $63 million of its $68 million in commitments for assistance, while salaries and expenses accounted for $7 million. Approximately $5 million in commitments remained unspecified as of March 31, 2006. Thus, the obligated amounts total approximately $70 million ($7 million in salaries and expenses and $63 million in grants). In addition to the $75 million in DOJ funds from the original $20 billion in assistance to New York, DOJ has provided over $300 million in direct and indirect assistance to New York City and New York State in response to 9/11 through Office of Justice Programs (OJP) funding, OJP formula grants, U.S. Attorneys Assistance, and COPS grants.

U.S. Department of the Treasury

The Government Accountability Office reported that Treasury received $26 million of the initial $20 billion in emergency funds provided to New York City. Treasury advised the Subcommittee that it could not confirm that figure because it had lost its ability to track the funding following the 2003 reorganization that resulted in the transfer of the Federal Law Enforcement Training Center, U.S. Customs Service, and the U.S. Secret Service from Treasury to the newly created Department of Homeland Security.

However, Treasury advised that the expended funds were primarily used to reestablish the Lower Manhattan offices of the U.S. Secret Service, the Internal Revenue Service, and the Treasury Inspector General for Tax Administration.

U.S. GENERAL SERVICES ADMINISTRATION

[Figures in millions of dollars]

Activity	Total committed	Total obligated	Total disbursed
Compensation for Disaster-Related Costs and Losses			
Security upgrades at the New York Civic Center	4.5	4.5	4.5
Other Accommodations to GSA Tenants	26.7	26.7	26.7
Total assistance for GSA tenants	31.2	31.2	31.2
Other security costs, including overtime, hiring of guards, equipment purchases, and updating communications systems	1.6	1.6	1.6
Total [19]	32.8	32.8	32.8

[19] All figures are current as of June 30, 2006.

U.S. Securities and Exchange Commission

Total Funds Allocated to the SEC [20]	$20,705,000
Funds Obligated by the SEC	20,694,428
Funds Expended by the SEC	15,131,898
Funds Available to the SEC	5,562,530

[20] All figures are current as of June 7, 2006.

U.S. Commodities Futures Trading Commission

Total Funds Allocated to the CFTC [21]	$17,100,000
Funds Expended the CFTC	10,618,162
Unexpended Funds	6,481,838
Unliquidated Obligations	5,666,473
Available Funds	815,365

[21] All figures are current as of June 22, 2006.

U.S. Department of Education

Funds Allocated to the Department of Education [22]	$10,900,000
Funds Allocated to New York City through Project School Emergency Response to Violence (SERV)	4,200,000
Funds Allocated to New York State	1,700,000
Funds Allocated for New York City Extended Services	5,000,000

[22] All figures are current as of June 15, 2006.

U.S. Department of Commerce

Economic Development Administration Grants:	
Grant to the Empire State Development Corporation to produce an emergency planning process and redevelopment strategy for immediate survival and long-term business development	$1,000,000
National Telecommunication and Information Administration Grants:	
Grant to Educational Broadcasting Corporation, Inc. to replace transmission equipment of WNET–TV, Channel 13, which was destroyed in the attacks	6,429,502
Grants to WNYC Radio to replace transmission equipment of WNYC–FM	1,421,969
Total Funds Allocated to the Department of Commerce [23]	9,250,000

[23] All figures are current as of June 12, 2006.

U.S. Social Security Administration

The Government Accountability Office reported that the Social Security Administration (SSA) received $4 million. The SSA disputed that figure to the Subcommittee staff, and asserted that it received $2.5 million.

The SSA advised that it used the funding to reestablish its Lower Manhattan offices.

U.S. Equal Employment Opportunity Commission

Funds Allocated to the EEOC [24]	$1,310,000
Funds Expended by the EEOC	1,308,000
Funds Available to the EEOC	2,000

[24] All figures are current as of June 7, 2006.

U.S. Office of National Drug Control Policy

On December 3, 2001, the ONDCP approved a grant awarding the New York City District Attorney's Office $2.3 million to rees-

tablish the Lower Manhattan office of the New York-New Jersey High Intensity Drug Trafficking Area (HIDTA).

The HIDTA used the funding to locate and renovate its new office space and purchase equipment.

U.S. Department of Housing and Urban Development

Office of the Inspector General

HUD OIG received and obligated $1,000,000 in Emergency Relief Funds for disaster recovery activities and assistance related to terrorist acts in New York.

HUD OIG used these funds to reconstitute its investigation office located in New York City. These costs included rebuilding the structure of its offices as well as for the purchase of vehicles, a phone system, office equipment, furniture, and computers.

HUD OIG reported that all allocated funds have been dispersed and expended.

APPENDIX B

Note: Names of individuals have been redacted.

CONVICTIONS FOR FRAUDULENT ACTIVITY

Date charged	Charges	Jurisdiction	Date of conviction	Sentence	Restitution/recovery
5/23/2002	18 U.S.C. 641	SDNY	5/23/2002	3 months	$26,140.00
2/20/2003	18 U.S.C. 287	SDNY	3/26/2003	probation	$11,683
1/26/2004	18 U.S.C. 641/1341	SDNY	9/15/2004	probation	$5,250
5/11/2004	18 U.S.C. 64 1,1001,1343–12 counts.	SDNY	4/25/2005	18 months	$45,251
10/1/2001	Attempted Theft	Lexington, KY	3/15/2002	60 months probation	
11/8/2001	Offering a False Instrument (FI).	New York County	8/28/2002	Diversion	$975
11/8/2001	Offering a False Instrument.	New York County	8/27/2002	Restitution & Cond. Disch.	$2,420
11/8/2001	Offering a False Instrument.	New York County	11/4/2002	Restitution & Cond. Disch.	$1,250
11/8/2001	Offering a False Instrument.	New York County	8/28/2002	Conditional Discharge	
11/8/2001	Offering a False Instrument.	New York County	11/4/2002	Restitution & Cond. Disch.	$1,145
11/8/2001	Offering a False Instrument.	New York County	11/4/2002	Restitution & Cond. Disch.	$1,530
11/8/2001	Offering a False Instrument.	New York County	11/4/2002	Restitution & Cond. Disch.	$550
11/8/2001	Offering a False Instrument.	New York County	8/27/2002	Restitution & Cond. Disch.	$1,125
11/8/2001	Offering a False Instrument.	New York County	8/28/2002	60 months probation	$735
1/28/2002	Offering a False Instrument.	New York County	8/27/2002	60 months probation	$6,508
1/28/2002	Offering a False Instrument.	New York County	8/27/2002	36 months probation	$8,740
1/28/2002	Offering a False Instrument.	New York County	3/19/2003	60 months probation	
1/28/2002	Offering a False Instrument.	New York County	3/19/2003	60 months probation	
4/8/2002	Offering a False Instrument.	New York County	4/14/2003	60 months probation	$5,753
11/8/2001	Offering a False Instrument.	New York County	4/8/2003	36 months probation	$671
1/8/2002	Offering a False Instrument.	New York County	8/27/2002	Restitution & Cond. Disch.	$1,268
2/8/2002	Offering a False Instrument.	EDNY	5/23/2002	3 months confinement	$6,508
4/1/2002	Offering a False Instrument.	New York County	8/27/2002	Restitution & Cond. Disch.	$11,451
4/5/2002	Offering a False Instrument.	New York County	4/5/2002	12 months confinement.	
11/3/2001	Offering a False Instrument.	New York County	7/9/2002	1 month probation	
10/2/2002	False Claim	ND–GA	8/6/2004	21 months confinement.	$400
4/8/2002	Offering a False Instrument.	New York County	5/14/2002	5 months confinement	$11,194

CONVICTIONS FOR FRAUDULENT ACTIVITY—Continued

Date charged	Charges	Jurisdiction	Date of conviction	Sentence	Restitution/recovery
4/7/2002	Offering a False Instrument.	New York County	12/2/2002	36 months probation	
1/7/2002	Offering a False Instrument.	New York County	6/21/2002	10 days community service.	
4/2/2002	Offering a False Instrument.	New York County	12/16/2003	conditional Discharge	
3/19/2002	Offering a False Instrument.	New York County	2/5/2003	12 months probation	
3/19/2002	Offering a False Instrument.	New York County	11/5/2002	Restitution & Cond. Disch.	$31,000
4/4/2002	Offering a False Instrument.	New York County	10/1/2002	6 months confinement	$3,438
4/11/2002	Offering a False Instrument.	New York County	4/22/2002	36 months probation	
2/20/2003	Offering a False Instrument.	New York County	9/15/2003	6 months confinement	$11,783
6/19/2002	Offering a False Instrument.	New York County	10/31/2002	36 months probation	
5/31/2002	Offering a False Instrument.	New York County	8/22/2002	54 months confinement.	
6/19/2002	Offering a False Instrument.	New York County	3/3/2003	Restitution & Cond. Disch.	$1,000
6/18/2002	Offering a False Instrument.	New York County	4/2/2003	60 months probation	
6/19/2002	Offering a False Instrument.	New York County	2/19/2003	12 months probation	$712
6/26/2002	Theft by deception	Camden Cty, NJ	11/7/2003	10 years confinement	
3/20/2002	Offering a Fl, GrandLar	New York County	9/3/2003	5 years probation	
6/19/2002	Offering a False Instrument.	New York County	3/13/2003	3 years probation	
3/20/2002	Offering a Fl, GrandLar	New York County	8/7/2003	3–6 years confinement	
6/19/2002	Offering a False Instrument.	New York County	3/23/2004	100 hours community service.	
11/13/2002	Offering a Fl, GrandLar	New York County	11/5/2003	2–6 years prison.	
11/13/2002	Offering a Fl, GrandLar	New York County	11/5/2003	1 year prison	
6/19/2002	Grand Larceny	New York County	6/20/2003	36 months probation	
11/13/2002	Grand Larceny	New York County	4/15/2003	1 1/2–4 years prison	
4/10/2003	Forgery, False BusRec	New York County	1/6/2004	Counseling	
11/13/2002	Grand Larceny	New York County	9/29/2003	2–4 years prison	
3/17/2003	Grand Larceny	SDNY	6/12/2003	6 month probation	
4/9/2003	Grand Larceny	New York County	12/8/2003	5 years probation	$9,366
3/17/2005	18 U.S.C. 1341/641	SDNY	5/3/2005	3 years probation	$1,168
11/23/2004	18 U.S.C. 1343/1957	SDNY	6/8/2005	18 months	$18,500
7/6/2005	31USC3729	SDNY	n/a	n/a	$300,000
12/17/2002	18 U.S.C. 371, 1001, 1341.	SDNY	10/3/2003	51 months	$373,228
12/17/2002	18 U.S.C. 371, 1001, 1341.	SDNY	10/3/2003	33 months	$373,228
11/24/2003	18 U.S.C. 641	SDNY	8/25/2004	24 months	$170,108
6/21/2004	18 U.S.C. 641	SDNY	7/19/2004	probation	$26,250
7/1/2003	18 U.S.C. 641	SDNY	4/15/2004	probation	
5/29/2003	18 U.S.C. 641	SDNY	5/29/2003	probation	
8/25/2003	18 U.S.C. 1341	SDNY	10/1/2003	probation	$250
8/18/2003	18 U.S.C. 641/1341	SDNY	9/29/2003	6 months	
12/9/2003	18 U.S.C. 641/1341	SDNY	2/5/2004	2 months	$2,228
12/8/2004	18 U.S.C. 641	SDNY	3/11/2005	pending	
8/25/2004	18 U.S.C. 1341	SDNY	8/25/2004	house/arr	$3,683
7/1/2005	18 U.S.C. 641	SDNY	11/14/2005	time serv.	
	42 U.S.C. 408				
3/16/2005	31 U.S.C. 3729	SDNY	n/a	n/a	$36,500
8/19/2002	18 U.S.C. 371/1341	SDNY	6/16/2003	97 months	$504,869
12/22/2003	18 U.S.C. 371/1343	SDNY	6/10/2004	21 months	$73,430
1/26/2004	18 U.S.C. 641/841	SDNY	6/9/2004	48 months	$31,718

CONVICTIONS FOR FRAUDULENT ACTIVITY—Continued

Date charged	Charges	Jurisdiction	Date of conviction	Sentence	Restitution/recovery
3/8/2005	18 U.S.C. 1341/1001	SDNY	9/16/2005	pending	
	18 U.S.C. 287	DNJ	2/28/2006	30 months	
5/26/2004	18 U.S.C. 1001	SDNY	8/31/2004	4 months	
3/13/2002	Grand Larceny	New York County			$190,867
3/25/2002	Grand Larceny	New York County			$21,500
3/26/2002	Grand Larceny	New York County			$272,800
	Fraud	New York County			$89,599
	Forgery	New York County			
	false records	New York County			
	Forgery	New York County			$31,000
	Forgery	New York County			$41,761
	Forgery	New York County			$13,500
	Forgery	New York County			$4,000
	fraud	New York County			$10,000
	fraud	New York County			$3,300
	false records	New York County			$4,000
	grand Larceny, forgery	New York County			$108,905.28
	grand Larceny, forgery	New York County			
	grand larceny	New York County			$20,774
	grand Larceny, Forgery	New York County			$3,966.67
	fraud	New York County			$10,994
	grand larceny	New York County			$4,500
	Forgery	New York County			
	larceny, forgery	New York County			$685
		New York County			$12,170
11/13/2002	Theft	New York County			$70,000
11/13/2002	Theft	New York County			$8,000
11/13/2002	Theft	New York County			$114,653.09
11/13/2002	Theft	New York County			$45,283
11/13/2002	Theft	New York County			$45,176
11/13/2002	Theft	New York County			$400
11/13/2002	Theft	New York County			$400
11/13/2002	Theft	New York County			$950
11/13/2002	Theft	New York County			$4,000
11/13/2002	Theft	New York County			$4,400
11/13/2002	Theft	New York County			$3,000
11/13/2002	Theft	New York County			$3,780
11/13/2002	Theft	New York County			$3,850
11/13/2002	Theft	New York County			$9,226
11/13/2002	Theft	New York County			$800
11/13/2002	Theft	New York County		.	
11/13/2002	Theft	New York County			$35,875
11/13/2002	Theft	New York County		.	
11/13/2002	Theft	New York County			$46,490.52
11/13/2002	Theft	New York County			$8,092.92
11/13/2002	Theft	New York County			$12,323.60
11/13/2002	Theft	New York County			$31,000
3/21/2002		New York County.			
3/21/2002		New York County			$14,000
3/21/2002		New York County			$16,381
2/2/2005	fraud	New York County.			
8/5/2002	Theft	New York County.			
8/5/2002	Theft	New York County.			
4/10/2003	Fraud	New York County			$18,995
4/10/2003	Fraud	New York County			$6,900
4/10/2003	Fraud	New York County			$8,808
4/10/2003	Fraud	New York County			$8,129
4/10/2003	Fraud	New York County			$6,607
4/10/2003	Fraud	New York County			$6,607
4/10/2003	Fraud	New York County			$5,000
4/10/2003	Fraud	New York County			$3,936
4/10/2003	Fraud	New York County			$4,650
4/10/2003	Fraud	New York County			$2,328

CONVICTIONS FOR FRAUDULENT ACTIVITY—Continued

Date charged	Charges	Jurisdiction	Date of conviction	Sentence	Restitution/recovery
4/10/2003	Fraud	New York County			$9,366
4/10/2003	Fraud	New York County			$4,458
4/10/2003	Fraud	New York County			$499
4/10/2003	Fraud	New York County			N/A
4/10/2003	Fraud	New York County			$3,298
4/10/2003	Fraud	New York County			$14,057
4/10/2003	Fraud	New York County			$6,508
7/31/2003	Fraud	New York County			$59,192.36
8/27/2003	Fraud	New York County			$135,000
4/10/2003	Fraud	New York County			$11,854
4/10/2003	Fraud	New York County			$4,684
4/10/2003	Fraud	New York County			N/A
6/18/2003	Grand Larceny	New York County			5,899.00
6/18/2003	Grand Larceny	New York County			5,149.28
6/18/2003	Grand Larceny	New York County			5,094.59
6/18/2003	Grand Larceny	New York County			7,715.45
6/18/2003	Grand Larceny	New York County			7,353.82
6/18/2003	Grand Larceny	New York County			$7,336.50
6/18/2003	Grand Larceny	New York County			$6,096.75
6/18/2003	Grand Larceny	New York County			$5,044.75
6/18/2003	Grand Larceny	New York County			$5,655.00
6/18/2003	Grand Larceny	New York County			$7,499.75
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$15,205
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$6,602
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$1,117
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$4,989
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$8,361
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$2,500
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$4,477
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$4,093
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$5,398
12/3/2003	Grand & Petty Larceny/Fraud.	New York County			$3,499

18 U.S.C. 286: Conspiracy to defraud the government with respect to claims.
18 U.S.C. 287: False, fictious, or fraudulent claims.
18 U.S.C. 371: Conspiracy to commit offense or defraud the U.S.
18 U.S.C. 641: Embezzlement.
18 U.S.C. 666: Theft or bribery concerning programs receiving federal funds.
18 U.S.C. 841: Manufacture, distribution, or storage of explosive materials.
18 U.S.C. 1001: False statements.
18 U.S.C. 1341: Mail fraud.
18 U.S.C. 1343: Wire fraud.
18 U.S.C. 1349: Attempt and Conspiracy.
18 U.S.C. 3147: Penalty for offense committed while on release.
18 U.S.C. 3551: Sentencing.
31 U.S.C. 3729: False Claims.
42 U.S.C. 408: Receiving Increased payments.

Relevant Abbreviations: SDNY = U.S. Attorney's Office for the Southern District of New York; EDNY = U.S. Attorney's Office for the Eastern District of New York; New York County = Manhattan District Attorney's Office; ND–GA = Northern District of Georgia; DNJ = District of New Jersey.

APPENDIX C

SUMMARY OF LOWER MANHATTAN DEVELOPMENT CORPORATION COMMITMENTS TO THE REVITALIZATION OF CHINATOWN

Over $171 Million [23]

ECONOMIC DEVELOPMENT

Chinatown Partnership LDC: $1.6 million

• The Chinatown Partnership Local Development Corporation (LDC) is a community-based not-for-profit organization that was formed in 2004 as a result of the Rebuild Chinatown Initiative (RCI), a comprehensive community assessment and planning initiative that was conducted by Asian Americans for Equality (AAFE) to address the needs of Chinatown in the aftermath of September 11th. Funding for the LDC is also provided by the September 11th Fund.

• The creation of the Chinatown Partnership LDC—a single organization that has brought together major civic organizations, cultural institutions, and businesses in the community—marks a significant milestone for the neighborhood.

• The CPLDC's goal is to improve business conditions by making Chinatown a cleaner, safer, more attractive place to conduct business by strengthening connections between commerce and culture.

Clean Streets Program: $5.4 million

This supplemental cleaning program for the Chinatown community is the outgrowth of a major survey of more than 3,000 Chinatown residents and businesses following 9/11, which found that improving cleanliness, reducing odors and removing graffiti is the top priority for the neighborhood. The campaign builds on and incorporates the efforts of the Council for a Cleaner Chinatown, a nonprofit community group founded over ten years ago. The program is administered by the Chinatown Partnership with assistance from the New York City Department of Small Business Services.

TOURISM

Explore Chinatown Tourism Campaign: $1,160,000

• The campaign, officially launched on May 10, 2004, is intended to build awareness and increase revenues for Chinatown businesses. The campaign includes an international public relations and advertising campaign; a website (www.explorechinatown.com); a visitor information kiosk on Canal St., and special events. The

[23] Information provided by the Lower Manhattan Development Corporation to the Subcommittee on Management, Integration, and Oversight on July 21, 2006.

campaign has won numerous awards in the marketing, travel and public relations industries.

• On October 15, 2005, more than 50,000 people attended the third "Taste of Chinatown." Taste of Chinatown included tasting stations and cultural and family oriented activities to entertain visitors. A Chinatown to China sweepstakes was also held.

• A post event survey of 51 participating businesses conducted by Asian Women indicated the benefit of the event. Some of the survey's findings included: over $85,000 was generated in tasting plate sales and related inside sales during the event; 100% of those surveyed said they would participate in the next Taste of Chinatown and felt that the street closure for the event was very effective and worthwhile.

Chinatown Visitor Kiosk: $216,000

• In 2005 alone over 165,000 people visited the Chinatown kiosk.

CULTURE

Cultural Enhancement Funds for Chinatown: More than $1.5 million

LMDC funded cultural projects in Chinatown have the potential to attract visitors from around the world; attract world-class artists and performers; support cultural richness and diversity; and enrich the lives of Chinatown residents and workers.

• $135,000 for Asian American Arts Center—founded in 1974, the center explores the interplay between contemporary American and Asian culture and art through exhibition, presentation, and education. LMDC funds will assist the organization in digitizing and increasing public access to this important archive.

• $140,000 for Asian Americans for Equality and Chinatown Partnership LDC for CREATE (Committee to Revitalize and Enrich the Arts of Tomorrow's Economy)—Embodies an unprecedented effort among diverse Chinatown arts and cultural institutions, civic members, and community leaders to unify around the vision of developing a major cultural and performing arts center in Chinatown. LMDC funding will support Phase II of the planning effort for CREATE. LMDC also funded Phase I with a $150,000 grant.

• $800,000 for Downtown Community Television Center—Located on the border of Chinatown, the center increases access to media by producing documentaries, providing educational programming on film, and training students in film-making free of charge. LMDC funds will assist with the build-out of DCTV's lower level space, allowing for the creation of a 120-seat screening room dedicated to documentary film and additional classrooms.

• $50,000 for H.T. Dance Company—Supports Asian-American and contemporary dance through artistic creation, arts education, and presentation. LMDC funds will provide technical equipment to create a multi-media center at the organization's home in Chinatown.

• $200,000 for Museum of Chinese in the Americas (MoCA)—Founded in 1980, the MoCA is the first full-time, professionally-staffed museum dedicated to reclaiming, preserving, and interpreting the history and culture of Chinese and their descendants

in the Western Hemisphere. LMDC funds will support the pre-design phase of a new 12,500-square-foot museum designed by Maya Lin at 215 Center Street.

• $100,000 for National Dance Institute—This art-based education program engages children and professional artists in the creation of dances and performances of high quality. Since its founding in 1976 by Jacques d'Amboise, NDI has introduced more than half a million fourth, fifth, and sixth grade public school students in the New York metropolitan area to the magic of dance. NDI seeks to create a permanent home and expand its program with a Center for Learning and the Arts in Chinatown. LMDC funds will support site search and project development.

• $150,000 for New York Chinese Cultural Center—Teaches and preserves traditional Chinese performing arts. NYCCC hosts the country's only full-time professional school of Chinese dance, offering a comprehensive curriculum of more than 1,000 classes and workshops annually. LMDC funding will support the reconfiguration of the Chinatown organization's performing arts space to increase programming capacity and strengthen the organization's administrative and management facilities.

TRAFFIC AND TRANSPORTATION

Chatham Square Study and Implementation: $25 million

• In 2004 the LMDC worked with the community to identify traffic problems in Chinatown. The Chinatown Access & Circulation Study recommended a new configuration for Chatham Square to improve pedestrian safety and vehicular flow within Chinatown—based on community input.

• Currently the LMDC is working with the City of New York to further prepare the proposal for implementation.

Chinatown/Brooklyn Bridge Study:

• As part of its efforts to revitalize downtown, the LMDC has developed a plan to better integrate the Chinatown community and the area around the Brooklyn Bridge Anchorage, located to the east of Chinatown, with the rest of Lower Manhattan.

• The main elements of the plan include five components developed from 14 public outreach meetings related to Chinatown circulation and access problems.

AFFORDABLE HOUSING

Chinatown/Lower East Side Acquisition Grant Program: $16 million

• This Department of Housing Preservation and Development (HPD) administered program will enable non-profit property managers to acquire and preserve low-to-moderate income residential buildings in Chinatown and the Lower East Side.

Knickerbocker Towers: $5 million

• This 1,600 unit complex consists primarily of low and moderate income residents. LMDC's funding will enable the complex to make necessary capital improvements without increasing rents or apply-

ing an assessment, helping to preserve the affordability of the project.

PARKS AND OPEN SPACE

Parks Renovations: $20 million

- Columbus Park—$3.25 million
- James Madison—$2.12 million
- Sara D. Roosevelt—$7.75 million
- Pike/Allen Street Mall—$5.93 million
- Albert Smith Playground—$1.6 million

Chinatown will also benefit from LMDC's $150 million commitment to the East River Waterfront Project. Chinatown's waterfront will receive major improvements as part of this comprehensive program.

Residential Grant Program: Chinatown $40 Million

The Residential Grant Program seeks to compensate individuals for the extraordinary expenses they may have incurred as a result of the disaster, as well as creates incentives for individuals and families to rent, purchase, or remain in housing in Lower Manhattan.

The WTC Business Recovery Grant Program: Chinatown $60 million

The WTC Business Recovery Grant Program, established by ESDC with funding from LMDC, provided grants to businesses (including not-for-profit organizations) with fewer than 500 employees, located in Manhattan south of 14th Street, to compensate them for economic losses resulting from the disaster, thereby assisting in the retention of thousands of jobs both directly and indirectly.

APPENDIX D

STATEMENTS

"AN EXAMINATION OF FEDERALL 9/11 ASSISTANCE TO NEW YORK: LESSONS LEARNED IN PREVENTING WASTE, FRAUD, ABUSE, AND MISMANAGEMENT"

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WEDNESDAY, JULY 12, 2006

2:00 P.M. IN 311 CANNON HOUSE OFFICE BUILDING

SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT

HEARING

"AN EXAMINATION OF FEDERAL 9/11 ASSISTANCE TO NEW YORK: LESSONS LEARNED IN PREVENTING WASTE, FRAUD, ABUSE, AND MISMANAGEMENT, PART I-RESPONSE"

WITNESSES

PREPARED STATEMENT OF MR. JOSEPH F. PICCIANO, DEPUTY DIRECTOR, REGION II, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY

Good Morning Chairman Rogers, Ranking Member Meek and members of the Committee. My name is Joseph Picciano. I am the Deputy Director for Region II of the Department of Homeland Security's (DHS's) Federal Emergency Management Agency (FEMA) based in New York City and covering New York, New Jersey, Puerto Rico and the Virgin Islands. On behalf of FEMA and the Department of Homeland Security, I appear before you today to discuss FEMA's disaster assistance for response and recovery to the New York City area following the September 11, 2001 terrorist attacks.

FEMA and its staff are proud of the work accomplished following the attack. The tragic event posed unique challenges. It tested our ability to deliver help in a timely and effective manner while maintaining accountability.

FEMA Responds

Immediately following the attack, FEMA activated the Federal Response Plan, which brings together 28 federal agencies and the American Red Cross to assist local and state governments in responding to national emergencies and disasters. FEMA Headquarters also activated the Washington-based Emergency Support Team (EST) on a 24-hour basis, and Region II deployed its Emergency Response Team–Advance Element (ERT–A). In addition, FEMA activated the following federal assets to support response operations:

- Twenty Urban Search & Rescue Teams (FEMA)
- U.S. Army Corps of Engineers (Power and Debris Teams)
- Four Disaster Mortuary Teams (DMORT)
- Four Disaster Medical Assistance Teams (DMAT)
- One Management Support Team (MST)
- One Deployable Portable Morgue Unit (DPMU)
- One Veterinary Medical Team

President Bush appointed the Federal Coordinating Officer (FCO), responsible for coordinating the timely delivery of Federal disaster assistance to New York State, local governments, and disaster victims. On September 15, 2001, FEMA established the Disaster Field Office (DFO) at Pier 90 on the West Side of Manhattan. It initially operated 24 hours per day and served as a base for all FEMA operations. On December 3, 2001, the DFO relocated to 80 Centre Street in Lower Manhattan.

President Bush pledged at least twenty billion dollars to the City and State of New York. In the following 11 months, Congress passed several bills to provide approximately $20 billion in direct funding and tax benefits. This was the first time that the amount of federal assistance for a disaster was determined early in the response and recovery process. Congress allocated $8.8 billion of this twenty billion to FEMA to reimburse individuals, governments, and not-for-profit organizations for response and recovery work related to the World Trade Center (WTC) disaster. As of May 30, 2006, FEMA has obligated approximately $8.77billion, leaving approximately $30.3 million remaining for distribution. These remaining funds will be used to bring several ongoing programs to their completion, particularly Human Services programs such as Mortgage Rental Assistance, Individual and Family Grants, and Crisis Counseling assistance for the State of New York, and funding to reimburse applicants for currently non-funded projects authorized by the Consolidated Appropriations Resolution, enacted February 20, 2003, P.L. 108–7 (CAR).

Public Assistance (PA)

Although there were a total of 191 applicants with Project Worksheets (PWs), three applicants received approximately 95 percent of all the Stafford Act funding:

- New York City (50 agencies received assistance);
- The Port Authority of New York and New Jersey; and,

• The State of New York (50+ agencies, including the MTA).

Recognizing that the response to this tragedy was widespread, and that the New York State Emergency Management Office (SEMO) could not conduct a thorough and complete applicant briefing with such an extensive and unknown population, FEMA and SEMO established a Private–Non–Profit (PNP) Hotline on October 17, 2001 to identify potential PNP applicants. FEMA staffed the call center with local hires who worked Monday through Friday, 8 a.m. to 6 p.m., from October 17 to November 17, 2001; however, the call center was discontinued due to extremely low call volume (less than 150 inquiries total).

Based on the magnitude of the disaster and the duration of past recovery efforts (such as the Northridge Earthquake and Hurricane Andrew), the FCO appointed the Deputy FCO for Long–Term Recovery, responsible for identifying the needs of the community, coordinating with other federal, state, and local agencies to address those needs, and developing FEMA's long-term recovery plans.

Since the disaster recovery needs could not be solved within one program or agency, the Deputy FCO relied heavily on the creation of local and federal task forces to better coordinate the recovery effort. The various task forces focused on activities designed to immediately stimulate the development and infrastructure needs of the community. By bringing together all of these resources, the local agencies could immediately gain access to the resources of numerous federal agencies, and the local agency could promptly respond to time-sensitive problems in an effective manner.

The primary task force was the Federal Task Force (FTF) to Support NYC. The FEMA Deputy FCO for Long-Term Recovery chaired this task force. It was comprised of representatives from 11 federal agencies focused on developing a complete understanding of the reconstruction needs of the local and state government, and devising a recovery solution comprehensive enough to address these needs.

Equally important for its immediate impact on local projects was the Infrastructure Recovery Workgroup (IRWG), originally chaired jointly by SEMO and FEMA, and then later chaired by the Commissioner of NYC Department of Transportation. This task force was assembled to ensure an efficient and integrated restoration of public and private infrastructure destroyed or damaged by the disaster. The IRWG consisted of numerous federal, state, local, and private sector participants.

The Public Assistance Team

Immediately following the disaster, Region II assigned a Public Assistance Officer (PAO) and deployed over 30 Disaster Assistance Employees (DAEs) to serve as Public Assistance Coordinators (PACs) and Project Officers (POs). Within two weeks of the disaster, Headquarters, the FCO, and the Regional Director decided to replace the PAO and outsource the remainder of the PA operation (with the exception of National Emergency Management Information System (NEMIS) positions), substituting the DAEs with its Technical Assistance Contractors (TACs). The decision to outsource the PA operation, the first ever for FEMA, was made for several reasons:

• The catastrophic nature of the disaster called for deep technical expertise and professional management;

• The long-term nature of the project required a high-level of consistency among the staff; and,

• A fear that another terrorist attack might occur and require immediate FEMA resources.

To ensure that FEMA had access the broadest available range of technical specialists, the contracting officer asked all three TAC to supply personnel.

Ensuring Quality

It was recognized by FEMA and the applicants that well-written PWs, supported by accurate and well-documented cost analyses, and prepared in accordance with the Stafford Act and FEMA regulations, would reduce appeals and Office of Inspector General (OIG) audits. For that reason, quality was emphasized at the outset and considered extensively when disaster-specific processes were established.

To ensure quality, and validate that agencies were requesting reimbursement for all they were entitled to under the law, New York City, the disaster's largest applicant, required that all PWs, once prepared by the PAC and PO, be reviewed and signed-off by the agency representative, a NYC Office of Emergency Management representative, and an OMB representative, before being entered into NEMIS. Although FEMA was initially concerned the obligation process would be slowed, in the end it assured both the City and FEMA of a higher quality PW.

On the FEMA side, three initiatives were undertaken to ensure quality:

1. A Policy and Program Advisor position was created to provide verbal and written guidance to PACs and POs on eligibility questions. This advisor served as a critical link between PA management (the program decision makers) and

field staff (the program implementers). Besides dealing with complex and sensitive issues, this advisor also prepared the PA Program Guidance memos for the PAO's signature.

2. FEMA developed a Quality Assurance Guide in October 2001, and disseminated it to all PACs and POs. This guide provided a series of detailed steps to be completed by FEMA POs during the preparation of PWs.

3. A quality control queue was created within NEMIS. An experienced technical specialist, with extensive program knowledge, a background in accounting, and access to management, worked off-site to review every PW and confirm eligibility decisions against all applicable regulations and disaster-specific guidance; verify cost estimates; correct any errors or omissions; and provide feedback to PACs and POs, when necessary.

In addition, FEMA's Office of General Counsel (OGC) and the OIG were physically present at the DFO, and subsequently the Federal Recovery Office, and provided day-to-day advice to the applicants and PA management. The OGC attorney(s) drafted mission assignments and interagency agreements, addressed eligibility-of-applicant issues and a myriad of other issues surrounding access rights, property ownership, liability, procurement, and insurance.

The OIG staff worked proactively with PA staff and applicants to ensure a consistent level of understanding regarding the documentation and audit requirements. Besides attending the applicant briefings and kickoff meetings, the OIG held a three hour audit briefing for all NYC agencies, and frequently provided feedback to PA managers regarding program, policy, or process issues. The OIG also reviewed all 9/11 Associated Cost PWs.

Consolidated Appropriation Resolution (P.L. 108–7)

In the aftermath of the disaster, it soon became apparent that while the Stafford Act was generally well-suited to most response and recovery needs, there were a number of significant costs which were clearly ineligible.

To address these types of projects, Congress enacted the Consolidated Appropriation Resolution of 2003 (CAR) signed into law by the President as Public Law 108–7 on February 20, 2003, to fund:

(1) 9/11-associated costs not reimbursable under the Stafford Act;

(2) $90 million for long-term health monitoring of emergency services, rescue, and recovery personnel; and,

(3) Up to $1 billion to establish insurance coverage for the City of New York and its contractors for claims arising from debris removal at the World Trade Center site.

This authorization was granted contingent on funds made available under P.L. 107–38, 107–117, and 107–206. In other words, any reimbursement for non–Stafford Act associated costs would come from the existing appropriations of $8.8 billion, after all Stafford Act-related costs had been reimbursed. By the time that the CAR was enacted, more than 17 months after the disaster, New York City and New York State had already paid many of these costs; therefore, reimbursement from FEMA effectively resulted in much needed budget relief for these agencies.

In March 2003, FEMA, the City, and the State verbally agreed to the following:

- The PA program would stop accepting costs for Stafford-eligible projects as of April 30, 2003;
- The applicants would submit all Project Completion and Certification Reports (P.4s) no later than June 16, 2003;
- FEMA would programmatically close all Stafford-eligible projects by June 30, 2003;
- FEMA would use the Project Worksheet to fund all 9/11 Associated Costs; rather than complete a P.4 certifying completion of the project and expenditure of the funds, the City and State would each separately sign a grant management letter certifying to abide by the Federal grant management requirements;
- FEMA would establish a Dedicated Fund (also referred to as a Set–Aside Fund) for both the City and State that would include:
  - (1) the estimated cost of all incomplete Stafford-eligible projects deobligated due to the April 30, 2003 deadline, and
  - (2) an estimate for all Stafford-eligible projects not funded on a PW as of April 30, 2003;
- The City and State could draw against the 9/11 Associated Costs PWs on a dollar by dollar basis up to the amount set-aside in their Dedicated Fund;
- Once the City and State exhausted their respective Dedicated Funds, all remaining dollars available for 9/11 Associated Costs would be divided on a two-thirds for the City, one-third for the State basis (as mutually agreed to by NYC and NYS); and,

- The applicant and grantee would submit no further appeals or time extension requests.

This was documented in a Joint Letter of Agreement dated June 2003. The letter also specified that the Port Authority would receive $448.75 million in federal funding, and that the date for the Port Authority to submit Stafford-eligible costs would extend beyond April 30, 2003. Since all County and PNP projects were completed and funded by April 30, 2003, the agreement did not affect these applicants.

Expedited Closeout

To close out the PA Program and accelerate funding of the 9/11 Associated Costs, FEMA established an expedited closeout process. Unlike the traditional closeout process where the applicants initiate it and the grantee coordinates it, this expedited process established firm deadlines and was led by FEMA. By closely managing the development of P.4s, streamlining the financial reconciliation of projects, and refining the closeout database initially developed by the Region to closeout DR–1391, by July 2003 FEMA was able to receive and forward to the grantee signed P.4s for all Stafford-eligible projects. The City and State were active participants in this process because it quickly brought to a close the Stafford Act-eligible program, thereby saving the City and State considerable time and money to manage a long-term, traditional closeout, and it allowed them to promptly draw down on any remaining funds using 9/11 Associated Cost projects.

9/11 Associated Costs

Once the closeout was complete, FEMA then worked with NYC and NYS to prepare PWs for 9/11 AssociatedCost projects. 9/11 Associated Cost projects were defined as those related to 9/11 that were not reimbursable under the Stafford Act. Projects such as CUNY's Fiterman Hall and the Battery Park City sidewalk and road repair identified in the City and State's dedicated fund, respectively, were not prepared as 9/11 Associated Cost projects because these were eligible under the Stafford Act.

To determine the allocation of the CAR funding, FEMA subtracted from the $8.8 billion all Stafford Act program expenditures to arrive at the available funding, and immediately deducted from that figure all the projects authorized by the CAR.

Calculating the funds available for projects authorized by the CAR 2003 was complicated, as FEMA wanted to ensure that funds remained to meet its projected Stafford Act obligations, and still be able to expedite funding to the City and State for the Debris Removal Insurance Program (DRIP), expanded health care monitoring, and 9/11 Associated Projects all large and costly projects. To do so, FEMA's Stafford Act projection of $6.44 billion reflected an amount slightly higher than anticipated in certain areas primarily for Human Services and other Administrative Costs to mitigate the risk of FEMA not having enough funds to meet its Stafford Act obligations. This projection was refined in January 2004 when it became clear that additional funds could be made available to the City and State to fund 9/11 Associated Cost PWs, and these PWs were obligated. All or a portion of these available funds may be provided in the future to NYC, NYS, and the Port Authority to cover additional 9/11 Associated Costs.

Port Authority

As a result of the WTC attacks, the Port Authority suffered an estimated loss of $4.6 billion generated primarily by:

- The collapse of seven major office buildings (including the Twin Towers) owned by the Port Authority;
- The deaths of 84 Port Authority employees, including 37 PAPD police officers;
- Damage to its PATH system; and,
- Lost revenue.

Since the estimated $4.6 billion loss far exceeded its insurance coverage of $1.5 billion, FEMA, the Port Authority, and SEMO developed and implemented an Insurance Apportionment Strategy. This strategy provided immediate cash flow to the Port Authority for Stafford-eligible costs, while ensuring that the overall obligation was not duplicated by insurance benefits.

Under the terms of the ECP, and pursuant to the June 2003 Letter of Agreement (LOA) reached between FEMA, NYS, and NYC:

1. FEMA would reimburse the Port Authority for all Stafford-eligible work completed and paid for by May 31, 2003, regardless of whether the entire scope of eligible work had been completed; and,

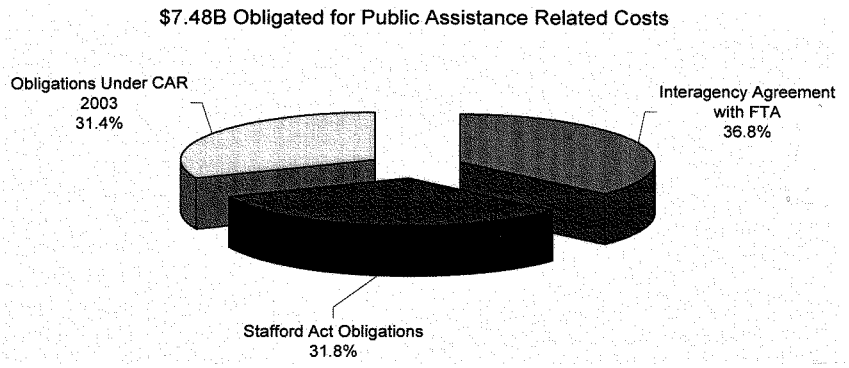
2. The Port Authority's allocated disaster funding—whether Stafford eligible, Associated Costs, or Subgrantee Allowance—was capped at $448.75 million.

Using the Insurance Apportionment Strategy, FEMA reimbursed the Port Authority for Stafford-eligible costs obligated via project worksheets, and an administrative

allowance. These payments accounted for $400 million toward the Port Authority's funding limit capped at $448.750 million. The left $48.750 million available to the Port Authority as reimbursement for 9/11 Associated Costs.

Facts

In two years FEMA obligated $7.48 billion in Public Assistance and infrastructure-related costs, in three categories as shown below in Figure VI–1. (An additional $21 million was obligated in January and February 2004 two years and four months after the attacks—to fund NYC and NYS 9/11 Associated Cost PWs.)



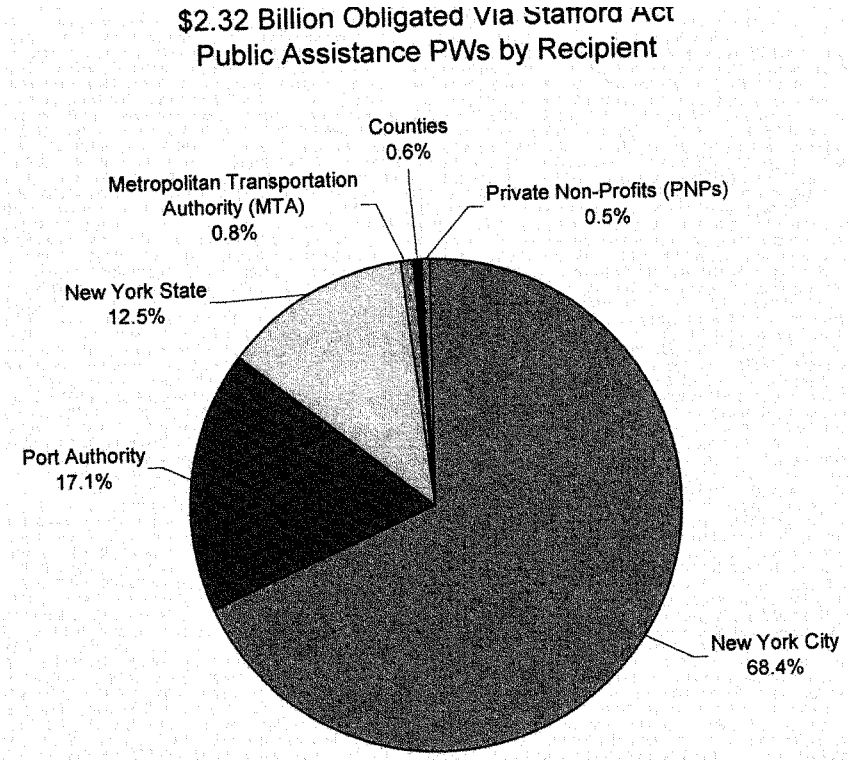
FEMA Transfers $2.75 Billion to FTA

The $2.75 billion transferred to FTA was combined with the US DOT's $1.8 billion allocation, to create a $4.55 billion transportation fund to be administered by FTA and used to reconstruct and enhance Lower Manhattan's transportation infrastructure, including roadways, subway systems, and commuter rails. The process and conditions of this transfer of funds is treated in greater detail later in the "Emergency Transportation Restoration of the Lower Manhattan Intermodal System" section of this PA Summary.

FEMA Obligates $2.38 Billion Under Stafford Act

The Stafford Act obligations totaled $2.38 billion, including $.06 billion representing grant management and project administration costs. As Figure VI–2 illustrates, of the $2.32 billion obligated to traditional PA Program recipients, approximately two-thirds was awarded to NYC, with the Port Authority and New York State claiming the majority of the remaining third.

Figure VI–2 Stafford Act Project Worksheet Obligations by Recipient



Approximately 90 percent of the reimbursed costs represented Emergency Work, FEMA work categories A and B (refer to Figure VI–3).

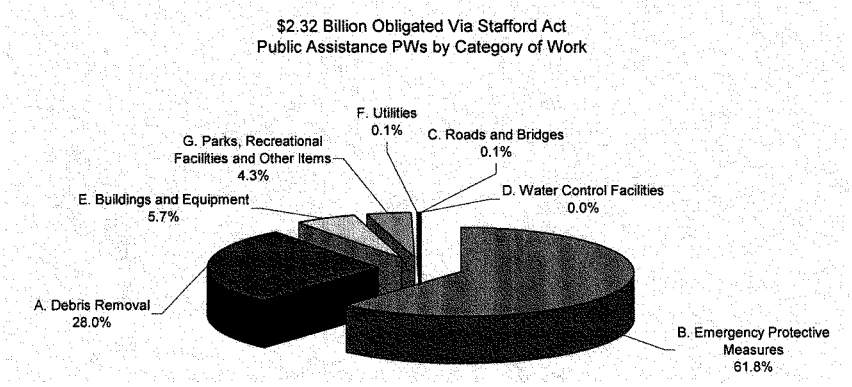
Major obligations included:

- Debris Removal to DDC and DSNY
- Incremental Cost Approach (ICA) for OT Labor
- Death and Disability Benefits
- Temporary PATH Station
- Emergency Transportation (excludes Temporary PATH Station)
- OCME for Victim Identification
- Building Cleaning and Air Monitoring

The above statistics comprise roughly 82 percent of all Emergency Work and nearly 75 percent of all funds obligated within FEMA's traditional Stafford Public Assistance Program.

Figure VI–3 below illustrates Stafford Act Project Worksheet Obligations by Category of Work

Figure VI-3 below illustrates Stafford Act Project Worksheet Obligations by Category of Work



The 40 largest Stafford Act PWs of the disaster, which represent 75 percent of total PA Stafford-eligible dollars, are shown below in Figure VI-5:

Figure VI-5 Forty Largest Stafford Act Obligated PWs

40 LARGEST ($) STAFFORD OBLIGATED PROJECTS						
Applicant	*Agency*	*Short Description*	*Cat*	*PW #*	*Dollars*	*% of Total Stafford Obligated*
NYC	NYPD (through NYC)	ICA Overtime (INF Reconciled with PW #161)	B	162	$ 201,687,108	8.69%
NYS	SEMO	Pension Actuarial Loss - State Share	B	1492	185,800,000	8.00%
PA	Port Authority	Temp Path Station	B	783	140,017,382	6.03%
NYC	DDC	Debris Removal	A	1086	100,805,965	4.34%
NYC	DDC	Debris Removal	A	552	87,077,926	3.75%
NYC	NYPD	ICA Overtime (with PW #162)	B	161	82,267,410	3.54%
NYC	DDC	Debris Removal	A	870	79,771,321	3.44%
NYC	FDNY	ICA Overtime	B	148	75,398,076	3.25%
PA	Port Authority	Tunnels E & F Rehab	G	781	64,826,186	2.79%
NYC	NYC OMB	Pension Actuarial Loss - City Share	B	1491	64,600,000	2.78%
PA	Port Authority	Temp Office Relocation	B	1148	53,122,290	2.29%
NYC	DDC	Debris Removal (INF Reconciled w/PW #92)	A	106	52,000,000	2.24%
NYC	DDC	Debris Removal (INF Reconciled w/PW #97)	A	101	42,000,000	1.81%
NYC	DDC	Debris Removal (INF Reconciled w/PW #95)	A	102	42,000,000	1.81%
NYC	DDC	Debris Removal (INF Reconciled w/PW #80)	A	104	35,000,000	1.51%
NYC	NYPD	ICA Overtime - Nov 10-25, 2001	B	631	31,438,417	1.35%
NYC	DOS	Debris Disposal	A	996	29,217,774	1.26%
NYC	NYC OMB	Fringe Benefit Adjustment Citywide	B	1517	27,986,289	1.21%
NYC	FDNY	Death Benefits for Deceased Firefighters	B	404	26,531,614	1.14%
NYC	FDNY	Backfill Overtime Labor	B	753	26,470,304	1.14%
PA	Port Authority	ICA Overtime	B	259	26,109,000	1.12%
NYC	BOE	Lost Instructional Time	G	1462	19,312,265	0.83%
PA	Port Authority	ET - Ferry Services	B	765	19,272,305	0.83%
NYC	DOS	ICA Overtime	A	196	18,985,051	0.82%
NYC	DDC	Debris Removal	A	767	18,500,000	0.80%
NYC	FDNY	Fire Response Vehicle Replacement	E	110	18,060,351	0.78%
PA	Port Authority	General Site Work Contract	E	791	17,829,460	0.77%
NYC	DDC	Debris Removal	A	750	17,025,669	0.73%
NYC	NYPD	Vehicle Usage	B	413	16,972,596	0.73%
NYC	NYPD	Post-ICA Overtime	B	1334	16,382,952	0.71%
NYS	MTA	Repair Tunnel 1/9 & Cortlandt St. Station	G	141	13,710,000	0.59%
NYC	DCAS	Emergency Supplies	B	663	12,926,008	0.56%
PA	Port Authority	Temporary Relocation - Increased Rent	B	913	12,370,561	0.53%
NYC	DOC	ICA Overtime	B	149	10,938,256	0.47%
PA	Port Authority	Info Tech: SL100 Telephone Network	E	1457	10,806,970	0.47%
NYC	DDC	Debris Removal	A	1090	10,191,569	0.44%
NYS	State Police	Overtime Labor	B	325	9,668,314	0.42%
PA	Port Authority	Info Tech: Computer Equip & Services	E	802	9,576,139	0.41%
NYS	DMNA	Overtime Labor	B	4	8,926,131	0.38%
PA	Port Authority	Post-ICA Overtime	B	793	8,871,847	0.38%
				TOTAL	$ 1,744,474,346	75.15%

FEMA Obligates $2.37 Billion under CAR 2003

As previously discussed in Section III, the passing CAR 2003 in February 2003 allowed for greater flexibility in disbursing federal grants to the City and State of New York for costs associated with the events of September11th. After budgeting the $1 billion for debris removal insurance and the $90 million for expanded health care monitoring, FEMA allocated and then obligated funds to NYC and NYS on 9/11 Associated Cost PWs, first disposing of each entity's Dedicated Funds, and then separating the remaining funds two-thirds to the City, and one-third to the State. As of August 3, 2004, the City had received $913 million in 9/11 Associated Costs and the State has received $372 million including $49 million for the Port Authority.

Backfill Labor

Stafford Act-eligible backfill labor costs after the WTC disaster exceeded $50 million, primarily for the FDNY, NYPD, NYC Department of Sanitation, and NYC Department of Transportation. To evaluate the eligibility of backfill costs—costs incurred by the applicant to backfill for an employee performing eligible emergency work—PA staff followed the November 1993 memo issued by the PA Division Chief regarding force account (in-house) labor. This memo outlined instances where FEMA could reimburse for backfill, and how this reimbursement should occur. The methodology also contained a final step to validate that the eligible disaster-related overtime and backfill overtime did not exceed the total overtime paid by the department. This was a critical step since some FDNY backfill overtime PWs were greater than ten million.

Cleaning

The collapse of the WTC created a widespread plume of dust and debris. From the beginning, residents, community leaders, and City and State officials expressed concern that the dust may pose a threat to health and air quality. Due to these concerns, the EPA recommended to FEMA that the dust and debris be removed from residential units and unclean buildings in order to reduce the long-term risk of exposure to chemicals such as asbestos.

Based on EPA's advisement and requests from the City, FEMA provided funding for the exterior and/or interior cleaning of 244 buildings and 4,500 residential units in Lower Manhattan, and two unoccupied privately owned buildings in close proximity to the WTC site. FEMA classified this work as debris removal and based its eligibility determination on the EPA's and NYC Department of Environmental Protection's concern over the potential health threats posed by the debris, and the threat to the economic recovery this debris posed to lower Manhattan, as outlined in a letter from NYC to FEMA.

To ensure authorized right-of-entry, as required by the Stafford Act and 42 USC § 5173, the City of New York developed a request form that the building owner or resident needed to sign before work could commence. The authorization form included a stipulation that any insurance proceeds received for activities covered by the EPA/DEP's dust cleaning program would be remitted to the federal government. The State Emergency Management Office maintains responsibility for notifying FEMA of any such remittance.

Death and Disability Benefits

In responding to the WTC disaster, 341 FDNY firefighters, 2 FDNY EMTs, 23 NYPD police officers, 3 State Court Officers, and 37 Port Authority police officers died. Their deaths were the first large-scale casualties resulting from an emergency response effort in FEMA's history. For the first time, FEMA received a request that it reimburse applicants—the City and State of New York—for certain contractually obligated death benefits, increased pension contributions, and other associated costs. Specifically, the City and State requested reimbursement for more than $750 million in death and disability benefit costs, including:

- Funeral Costs and Memorial Services;
- Lump Sum Line of Duty Benefit Costs;
- Increased Pension Costs Due to Line of Duty Deaths;
- Increased Pension Costs Due to Increased Disability Retirements; and,
- Leave Payout.

Upon review, FEMA concluded that funeral and memorial costs, lump sum death benefits, and increased pension costs due to line of duty deaths, although unusual, were a direct result of the disaster and a cost of performing the emergency work. Specifically, FEMA management found $291 million to be in accordance with OMB Circular A–87 Attachment B, Item 11, Compensation for Personnel Services, and item 11d(5).

Given the magnitude of the death benefit claims, the FEMA had an actuary review the applicant's actuarial studies to determine the soundness of the applicant's

methodology and the reasonableness of the assumptions. Based on the actuary's findings, which supported the applicant's claim, FEMA authorized the reimbursements.

FEMA reimbursed the City and State for additional death and disability benefit costs as 9/11 Associated Costs.

FEMA did not approve death benefit costs for City or State employees killed as a result of the disaster where it could not be reasonably demonstrated that these individuals were performing eligible emergency work. FEMA also did not reimburse for State worker compensation costs as FEMA reimbursed the applicant a fringe rate to perform the emergency work, which included a component for workers compensation.

Debris—Time and Material Contracts

The FEMA PA Debris Management Guide (FEMA 325) states that the Time and Material (T&M) work should be limited to a maximum of 70 hours of actual emergency debris clearance work, and shall be permitted only for work that is necessary immediately after the disaster has occurred when a clear scope of work cannot be developed. After the WTC disaster, the NYC Department of Design and Construction—the overseer of the debris removal effort—entered into time and material contracts with four construction managers (CMs) to accomplish the emergency debris removal, hauling tasks, building demolition, and site stabilization. The CMs operated via a letter of intent, and not a complete written contract. Each of the CMs was capped at $250 million.

On September 15, 2001, FEMA approved a written waiver of policy, which allowed the extended use of T&M contracts based on continuing unpredictable and complex site conditions at the WTC. In addition, FEMA waived in part the requirement for competitive bidding on the basis of continuing public exigency and emergency. Due to these contracting circumstances, it was prudent that the federal government provide oversight to ensure that the scope of work and costs of the debris operation were properly controlled. In order to accomplish this, the City and FEMA established and implemented monitoring systems using resources from FEMA, Office of the Inspector General, the DDC, the NYC Office of Management and Budget, the NYC

Department of Investigation, and several private auditing groups.

In November 2001, FEMA tasked the US Army Corps of Engineers (USACE) to provide an independent evaluation of the contract arrangement and recommend whether a T&M contract was still the most feasible and cost effective contract payment basis, or whether another type of contract, such as a lump sum or unit price, would be more suitable. Based on USACE's assessment and recommendation, FEMA extended its T&M waiver to DDC for the duration of the debris operation.

Debris Removal Insurance Program

Generally contractors, such as the four CMs, provide their own general and professional liability insurance coverage and include the costs of insurance as part of their overhead. As such, these costs are generally eligible for reimbursement by FEMA. Because of the extreme conditions related to debris removal at the WTC, and the unique nature of the hazards associated with the debris removal operation, the CMs required a greater amount and scope of insurance coverage than is typically obtained, including coverage for environmental liability.

The City agreed to provide a master insurance program, called the Coordinated Insurance Program, to cover both the debris removal contractors and employees that had worked at the WTC site. However, due to the impact of the disaster on the insurance market, available insurance was severely limited. The City was reimbursed to obtain general liability coverage and marine insurance coverage. These policies did not provide the City with coverage for environmental risks, such as asbestos, or professional liability. Although the City sought coverage for these risks, no commercial insurance was available due to the unknown environmental and health risks associated with the disaster. Because of the unresolved insurance issue, the CMs completed debris removal at the WTC without a written contract.

The major issue for FEMA was the City's insistence that the liability protection apply not only to the contractors, but also to the City for claims brought by City employees that had worked at the WTC site. FEMA had informally advised the City that the contractor-based insurance was eligible under the PA program, but the City-employee based insurance was not and would have to be separated in order for FEMA to provide funding. In addition, FEMA was concerned about the cost effectiveness of the City's proposal.

The passage of the CAR resulted in the City establishing a captive insurance company to process and payout any claims, and FEMA obligating $999.9 million on PW

1554 in September 2003. The draw down of funds will not occur until all final terms and conditions, including the scope of coverage, have been agreed upon.

Emergency Transportation

The WTC disaster caused unprecedented damage and disruption to New York's regional transportation system. The region relies on a complex network of rail, subway, bus, bridges, tunnels, roads, and ferry lines that ties together millions of workers and residents throughout New York City and in surrounding counties in New York, New Jersey and Connecticut. The collapse of the WTC towers caused massive damage to sections of this regional transportation system which serves Lower Manhattan. This network of rail, subway, bus, and ferry lines was disrupted as a result of:

1. The destruction of the Port Authority Trans-Hudson (PATH) WTC station, the terminal station for the PATH lines running under the Hudson River and serving Lower Manhattan.
2. The damage to the Metropolitan Transportation Authority's (MTA) Cortlandt Street Station and the N & R and 1 & 2 subway lines, all located below and adjacent to the WTC towers. (The MTA subway lines run underground along the west side of Manhattan. These subway systems were seriously impacted by the disaster, but unlike the PATH system, did not suffer complete destruction of major system components.)
3. Alteration of surface transit routes made necessary by debris removal operations and infrastructure repairs in the vicinity of Ground Zero.

As a direct result of the disaster, 68,000 commuters who used the WTC PATH station each day had to find an alternative route to work. Approximately 76,000 commuters and residents were forced to find alternatives to their pre–9/11 subway routes.

The direct damage caused by the disaster represented only a portion of the disruption to the region's transportation system, however. The damage caused a ripple effect that disrupted the entire system, affecting every mode of transportation that served Lower Manhattan. For example, the tens of thousands of New Jersey residents who commuted to Lower Manhattan on the PATH each day were suddenly forced onto other modes of transportation. Overnight, the demand for ferry service to Lower Manhattan more than doubled, and Penn Station experienced an influx of new riders as commuters were forced to take New Jersey trains into Penn Station and then take subways downtown. This strained the capacity of existing transportation routes, created dangerous overcrowding, resulted in long waits for service, and caused significant damage to the region's economy.

Restoration of the Lower Manhattan Intermodal System

A traditional interpretation of Section 406 of the Stafford Act would have limited FEMA's funding to the replacement of the WTC PATH station and other physically damaged elements of the system. However, a white paper was developed that provided a broader definition, within the context of the Stafford Act, of what can comprise a "damaged system," which FEMA Headquarters approved. By accepting this definition, FEMA was able to find eligible both directly and indirectly damaged projects that are critical to restoring the functionality of the Lower Manhattan intermodal transportation system. In August 2002, this unique approach resulted in two critical developments:

1. FEMA announced that $2.75 billion appropriated by Congress to FEMA's disaster fund could be

used to help restore the transportation infrastructure system in Lower Manhattan. To this amount, the Federal Transit Administration (FTA) added $1.8 billion, both of which were made available for

transportation projects, for a total of $4.55 billion.

2. FEMA and the US Department of Transportation (DOT) entered into a Memorandum of Agreement

(MOA) in August 2002, which designates the FTA as the responsible agency for administering and

monitoring the distribution of the $4.55 billion. This would enable the Federal government to assess needs and distribute funds in a systematic, comprehensive, and efficient manner.

Although the MOA noted that the FTA needed to disperse the $2.75 billion in accordance with the Stafford Act, this was waived due to the passage of the Consolidated Appropriation Resolution of 2003 (CAR 2003).

In March 2002, FEMA agreed with New York City that the emergency transportation needs of the region justified the increased costs involved in increasing the frequency of ferry services. FEMA agreed to reimburse

New York City and the Port Authority for the operating costs of some new and expanded services initiated post 9/11. This began a series of ferry projects aimed at providing alternatives to commuters seeking ways, other than driving and subways, to reach Lower Manhattan. Eventually, over $47 million was obligated for ferry service and temporary landing projects that provided ferry service from:

- Hoboken to Lower Manhattan;
- Brooklyn to Lower Manhattan;
- Hunters Point, Queens and East River down to Lower Manhattan; and,
- Lower Manhattan Circulator.

Family Center

As part of its rescue and response effort, the City of New York needed to quickly establish space where families and friends of the victims could gather to provide or could obtain information about those missing or presumed dead, and where families of victims could apply for assistance. To meet this need, NYC established the Family Center at Pier 94 in Manhattan, which provided a safe and convenient location where families to obtain information about the missing as well as various services and programs.

Because the Family Center provided some services similar to those of a Disaster Service Center, which are generally not eligible for PA funding, FEMA had to carefully consider the eligibility of the build-out and operation of the Family Center. Basing its decision on 44 CFR § 206.225, FEMA determined that the costs incurred by the City to establish and operate the Family Center were eligible since services at the Family Center, such as providing a centralized site to fill out missing person reports, submit DNA samples, and begin processing death certificates, was an essential community service in the aftermath of this disaster. The total cost to build-out and manage the Family Center was approximately $10 million.

Full Replacement Value (Vehicles)

As a result of the collapse of the WTC towers on September 11, over 200 publicly owned vehicles were destroyed beyond repair. Title 44 CFR § 206.226(g) stipulates that eligible equipment damaged beyond repair may be replaced by "comparable items." In interpreting this federal regulation, FEMA's Public Assistance Guide states:

When equipment, including vehicles, is not repairable, FEMA will approve the cost of replacement with used items that are approximately the same age, capacity, and condition. Replacement of an item with a new item may be approved only if a used item is not available within a reasonable time and distance.

In recognition that the collapse of the WTC towers destroyed hundreds of emergency response vehicles, which significantly and adversely impacted these agencies' ongoing ability to expeditiously deliver emergency services, the Federal Coordinating Officer, in a memo dated December 12, 2001, sought Headquarters' approval for a disaster-specific directive aimed at fully and promptly restoring the services provided by these emergency vehicles, with minimal disruption to the overall recovery process. More specifically, this directive would serve to allow for the reimbursement of new, 2002 model vehicles to replace those lost in the disaster in lieu of analyzing and determining, on a case-by-case basis, whether each destroyed vehicle could be replaced"within a reasonable time and distance."

The FCO's request was granted and documented in PA Program Guidance 8, dated January 16, 2002.

According to this guidance, the reimbursement value of a replacement vehicle would be:

- Based on the estimated cost of its purchase through the applicant's normal procurement process; and,
- Calculated net of deductions for actual or anticipated insurance proceeds.

Lost Instructional Time

On September 11, 2001, the collapse of the WTC forced the NYC Board of Education (BoE) to evacuate schools in Lower Manhattan and cancel classes citywide. Whereas most students were able to return to their respective schools on September 13th, students attending schools within close proximity to the disaster site were displaced and unable to return to either their own school or to provisional school facilities until September 18th. In total, NYC estimated that public school students lost more than 15 million hours of instructional time due to school closures, delayed openings, and school relocations. To replace the lost instructional time, the City proposed implementing an after-school program, contingent on FEMA funding.

While FEMA recognized that school hours were lost as a result of 9/11, a program contingent on FEMA funding would not satisfy the emergency work criteria per FEMA regulations. Ultimately, Congress directedFEMA to pay for this activity in

House Report 107–593. FEMA obligated a $78 million Category G PW to fund an after-school program intended to replace the instructional time lost as a result of the WTC disaster.

Mutual Aid

Not surprisingly, the response from people, non-profits, and other governmental jurisdictions to help NYC respond and recover was enormous. In part due to this response, the President declared every county in New York eligible for Category B emergency work. In light of every county being declared and the response of so many counties without a pre-disaster mutual aid agreement in place with New York City, FEMA found certain mutual aid arrangements eligible even though they were not formally established in writing prior to September 11, 2001. By doing so, several provisions of Policy Series 9523.6 were waived. These waivers and authorities were permitted only because the impact of this terrorist event was catastrophic and well beyond reasonable planning assumptions of the applicants, and because mutual aid agreements were unlikely to have been formulated with all the entities from whom assistance was needed.

In reimbursing local governments within NYS who responded to the aid of NYC, FEMA limited the eligible costs to overtime, travel expenses, lodging, and other direct costs, and reimbursed the mutual aid provider directly. Only applicants who had pre-9/11 mutual aid contracts in place that allowed payment for straight time were reimbursed for that cost. All mutual aid providers outside of the state had to have a pre-9/11 mutual aid contract in place to be reimbursed, in that case through NYC. The City did not request reimbursement for any in-state or out-of-state mutual aid providers because, according to NYC's Office of Emergency Management(OEM) officials, none billed the City.

Specific to DR–1391, the vast majority of mutual aid assistance requested by NYC was provided by various New York State counties. Although numerous counties were called upon to support the response and recovery effort, Nassau, Suffolk, Westchester, and Rockland counties incurred most of the mutual aid costs. These four alone accounted for approximately $10.5 million in mutual aid assistance, with Nassau County providing the bulk—over $7.2 million in mutual aid assistance.

Obtain and Maintain Insurance

Per Section 311 of the Stafford Act and Title 44 CFR 206.253, following any disaster, and as a condition for receiving PA funds, an applicant must obtain and maintain insurance on those insurable facilities (including content, equipment and vehicles) for which PA funding had been found eligible. The insurance must be for the hazard that caused the damage. An applicant is exempt from this requirement only if the state insurance commissioner certifies that such insurance is not, per Section 311(a)(1) of the Stafford Act, "reasonably available, adequate, and necessary." In addition, with regard to requests from public entities that they be allowed to self-insure, Section 311(a)(c) of the Stafford Act notes that only states will be allowed to act as self- insurers.

Prior to 9/11, NYC did not maintain commercial insurance on NYC buildings or property, such as vehicles or building contents. Rather, NYC considered itself to be "self-insured." When damages or losses occurred to a

NYC property, the property was either not repaired or replaced, or else it was replaced or repaired using funds appropriated from NYC revenues.

Following 9/11, NYC requested that it be allowed to continue to self-insure and to be exempted from FEMA's

Obtain and Maintain Insurance requirement. NYC argued that obtaining and maintaining commercial insurance for the damaged or destroyed property eligible for PA funding would be a deviation from normal business practice, resulting in serious fiscal implications to NYC's budget. On March 26, 2002 the NYS Superintendent of Insurance issued a letter stating that NYC was self-insured, and that the type of insurance required was not reasonably available, adequate, and necessary. FEMA's Acting Regional Director declined to recognize NYC as self-insured, but granted a waiver to the Obtain and Maintain requirement based on the NYS Superintendent of Insurance's opinion.

Port Authority Apportionment

One of the most complex challenges of the disaster was determining an insurance apportionment strategy for the Port Authority of New York and New Jersey. The Port Authority reported estimated losses in excess of $4.6 billion, and had $1.5 billion of insurance coverage for all insured risks on a per occurrence basis. Since the Port's projected losses significantly exceeded its insurance coverage—the only applicant to whom this occurred in DR–1391 FEMA worked with the Port Authority to

develop a funding strategy that would provide the Port Authority with cash flow, yet account for the Port Authority's future insurance proceeds.

For the first year and a half after the disaster, while estimates of the Port's overall loss were still being developed, FEMA, NYS, and the Port Authority agreed to apply a 50 percent insurance reduction to each individual funding obligation. The implementation of this strategy allowed Stafford Act grant funds to be released in advance of final insurance resolution. The 50 percent was based on FEMA's analysis at the time of the Port's Preliminary Loss Assessment.

Through subsequent developments and the Port Authority's refinement of its losses, FEMA later modified its funding strategy and effectively reduced its obligation outlay to 26 percent of eligible projects. FEMA and the

State allowed individual project reimbursements to be released with varying percentages applied for insurance proceeds. Even though the Port Authority's loss claim will continue to mature, the financial model—the Insurance Apportionment Strategy—calculated the net FEMA eligible obligation at $409.88 million, representing 26 percent of the total Stafford-eligible costs.

In the end, the Port Authority was granted $397.97 million as Stafford Act-eligible costs obligated via PWs, and an administrative allowance of $2.03 million. FEMA was able to fully exhaust the available insurance proceeds by documenting the amount of eligible work and making provisions through the apportionment process, thus ensuring no duplication of insurance benefits.

Equipment and Contents Repair and Replacement

Costs contained in this category are relatively low since its focus is the repair and replacement of damaged equipment, computer systems, contents and furnishings. More specifically, this category includes costs associated with the:

(1) Replacement of destroyed vehicles;

(2) Installation and replacement of telecommunication and computer systems, and,

(3) Replacement of destroyed building contents and furnishings.

The repair and replacement of larger, more permanent structures, such as buildings, water mains, and transportation components are included in the Infrastructure category.

Death and Disability Benefits

Costs contained within this category are for certain contractually obligated death benefits, increased pension contributions, and other costs associated with the death or disability of emergency personnel as a direct result of the disaster. Specifically, this category includes costs for:

(1) Funeral and memorial services;

(2) Lump sum line of duty benefits;

(3) Increased pensions due to line of duty deaths and increased disability retirements;

(4) Leave payout to beneficiaries; and,

Cost of living adjustments for the State's pension contribution

Hazard Mitigation

This category contains costs associated with FEMA's 404 Hazard Mitigation Grant Program (HMGP), which for DR–1391–NY provided funds for long-term hazard mitigation measures against terrorism. Funding for HMGP is generally 15 percent of the total estimated Federal disaster assistance to be provided by FEMA under the declaration. That 15 percent is cost-shared on a 75/25 Federal/State and local ratio. For this event, it was capped at 5 percent of that total, limited to the disaster area, and intended for projects that protect infrastructure and systems essential to the City's continued viability. These parameters on the HMGP were implemented due to the immense financial size of the disaster, particularly where the disaster assistance that serves as the basis for the HMGP allocation was provided at 100 percent federal expense, with no State or local cost-share. FEMA considered many projects, including those that:

(1) Protect public infrastructure and utilities;

(2) Protect key governmental and healthcare facilities;

(3) Promote awareness initiatives;

(4) Ensure the continuity of government and business operations;

(5) Promote high-rise building safety; and,

(6) Protect public landmarks.

Administration

This category includes costs associated with administering all of the FEMA Federal grant programs for DR–1391–NY. The most significant and costly items in this category are those associated with:

(1) Grant management costs (including the FTA);
(2) FEMA administrative costs;
(3) Contractor costs; and,
(4)Administrative allowances.

New Jersey

Included within this category are all costs funded through EM–3169–NJ. The most significant and costly projects in this category were those associated with emergency protective measures taken by the State of New

Jersey and its associated entities. Specifically, this category contains funds expended by New Jersey resources to:

(1) Provide logistical and operational support to NYC;
(2) Evacuate Lower Manhattan;
(3) Transport and treat the injured;
(4) Establish emergency staging areas for rescue and recovery operations;
(5) Secure bridges and tunnels; and,
(6) Manage traffic to and from New York City.

Not included in this category are New Jersey projects that were sponsored by the New York State Emergency Management Office.

Individual and Family Grant

Costs contained within this category are for projects in which individuals, not public entities, were the ultimate beneficiaries of services. The most significant and costly projects in this category are those associated with the Human Services Program, which includes costs for:

(1) Mortgage and Rental Assistance;
(2) Temporary Housing;
(3) Individual and Family Grants;
(4) Disaster Unemployment;
(5) Crisis Counseling; and,
(6) Disaster Food Stamps.

Also included in this category are funds expended via Interagency Agreements for:

(1) Expanded health care monitoring for rescue workers;
(2) Establishment of a health registry;
(3) Medical screening/health assessments of Federal workers; and,
(4) Residential cleaning and sampling.

Costs associated with operating the Family Center are also included in this category.

While all of the categories of spending listed above are important, the Crisis Counseling program was the most significant FEMA had established since the Murrah Building bombing in Oklahoma City in 1995. As with the Oklahoma City experience, this program was also of a longer duration than most programs associated with disaster-related counseling. The issues and challenges to individuals and families such as Post–Traumatic Stress Syndrome and other mental health challenges caused by such a horrific event are manifested in the size and scope of this program.

The largest program in terms of financial costs was the Mortgage and Rental Assistance (MRA) program. This program was deleted from the Stafford Act with the passage of the Disaster Mitigation Act of 2000. However, that Act and the provisions for the deletion of MRA were not yet in effect in September of 2001. As such, it was still an eligible program and available for this disaster. The MRA program authorized temporary mortgage or rental payments to or on behalf of individuals and families who experienced financial hardship caused by a major disaster. Given the need to show causality, as well as a requirement that the applicants have received a written notice of dispossession or eviction, this had always been a challenging program to administer. Given the population size of the immediate area impacted by this event, this was an especially difficult program to administer in both an urgent and equitable manner. However, despite all of those challenges, a significant number of applicants were assisted through this program.

The most challenging program, among human services programs, was the Individual and Family Grant (IFG) program. Traditionally this program helps individuals and families to replace household items and provides special help for those without adequate insurance to pay for some medical and funeral expenses. The most difficult aspect of the IFG program was the payment for air conditioners based on the contaminated air quality caused by the destruction of the towers.

By the time determinations had been made regarding air quality, most home inspections, FEMA's chief means of verification of damage, had already been performed. The EPA's warnings regarding the air quality were real, as were the concerns of residents. Therefore, rather than re-inspect thousands of homes, FEMA and the State of New York accepted self-certifications by residents as to the urgency of their need and to their contention that they were replacing air conditioners previously owned.

While FEMA and the State entered into this program cognizant of the risk of fraud, as with many emergency- related programs, we err on the side of safety with the assumption that we could assure more accountability as the recovery continues. The aggressive, and at times deceptive, approach by vendors anxious to encourage purchases presented a serious complication. The fact that there was no re-inspection and the vendors' approach contributed to fraud and abuse in the IFG program. Although this program was abused, it also ensured that those most in need of such assistance received help.

Undeniably, the WTC disaster impelled us to move quickly and compassionately. However, it is also our duty to ensure that our programs provide the benefits intended under the law to eligible applicants. The experience with the September 11th IFG program underlines the importance of balancing compassionate service with the need for accountability. To provide a clear understanding of how effectively the program is operating, the

States must perform inspections and, barring those, random eligibility samples throughout the process.

Conclusion

Taken together, these project areas represent an overall picture of the damage and the steps taken to repair the damage and to assist the individuals, families, and communities who suffered the most direct pain and loss from this national event.

Even a brief review of the different categories of spending serves as a reminder of the various forms of disruption and chaos caused by the event but it is also a reminder of the heroic work that took place.

I appreciate the opportunity to share with you the details of FEMA's role in response, recovery, and mitigation for the World Trade Center disaster, and I will do my best to answer any questions you may have.

PREPARED STATEMENT OF MR. RICHARD L. SKINNER, INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY

Good afternoon Mr. Chairman and Members of the Subcommittee. I am Richard L. Skinner, Inspector General for the Department of Homeland Security. Thank you for the opportunity to be here today to discuss the work of the Office of Inspector General (OIG) in response to the terrorist attacks of September 11, 2001, in New York City. During the period of the federal response, I served as the Deputy Inspector General for the Federal Emergency Management Agency (FEMA). Subsequently, I became the Deputy Inspector General, and later Inspector General for the Department of Homeland Security.

OIG RESPONSE TO SEPTEMBER 11, 2001

The events of September 11, 2001, resulted in catastrophic loss of life and physical damage as well as loss to the business and residential infrastructure in the lower part of the Borough of Manhattan. FEMA applied the full range of authorized disaster assistance programs to address the post-disaster needs of the City of New York and its citizens, including grants for Public Assistance, Temporary Housing (specifically Mortgage and Rental Assistance), Individual and Family Grants, Disaster Unemployment Assistance, Crisis Counseling Assistance and Training, and Legal Services. However, due to the unique circumstances of this disaster—i.e., managing the consequence of a terrorist event rather than the consequences of a natural disaster—FEMA had to use its authorities and programs more broadly than ever before. As a result, FEMA's authorities were not adequate to meet everyone's expectations in recovering from the unprecedented needs created by this event.

On September 17, 2001, our investigators arrived in New York City and met with the Federal Coordinating Officer, representatives of the U.S. Attorney's Southern and Eastern District Office, the Manhattan District Attorney's Office, the New York Police Department, the Port Authority Police Department, the City of New York Department of Investigations, and many other investigative organizations with jurisdiction over the World Trade Center disaster. The purpose of those meetings was to provide and receive information; explain our mission of aggressively investigating and recommending prosecution of anyone attempting to defraud FEMA; and, to fulfill our objectives of:

- Participating in public service announcements
- Conducting fraud awareness briefings
- Organizing a multi-agency task force to collectively address fraud
- Reviewing applications through computer matching
- Monitoring debris removal
- Participating in press conferences with the U.S. Attorney's Office
- Distributing FEMA fraud Hotline posters and information

During the initial first eight months, a satellite office was established in Manhattan where our investigators worked round-the-clock, in three shifts with six agents per shift. In April 2002, investigators transitioned to two/12-hour shifts, and maintained six agents per shift. By February 2003, investigators were working one/12-hour shift with six agents. The Agent in Charge of the FEMA OIG Eastern District Investigations Branch Office in Atlanta, Georgia provided supervisory oversight of the World Trade Center investigations.

By early October 2001, we also deployed teams of auditors and inspectors from our headquarters and various field offices to the New York City Disaster Field Office (DFO). Our mission was to (1) assist the Federal Coordinating Officer in reviewing and assessing procedures, practices, and controls in place throughout the operation; (2) identify and prevent fraud; and (3) assure FEMA's Director that all possible actions to protect public welfare and to ensure the efficient, effective, and economic expenditure of federal funds were undertaken. One team of auditors and inspectors worked directly with the Federal Coordinating Officer and monitored set-up and operation of the DFO. Another team of auditors worked with FEMA's public assistance staff while a team of inspectors worked with FEMA's individual assistance program staff.

INVESTIGATIVE ACTIVITIES

We received allegations of fraud in a variety of ways. While the FEMA OIG fraud hotline was our primary source of information, FEMA's disaster assistance program staff, the Manhattan District Attorney's Office, and other federal, state, and local agencies provided information.

Our investigators received over 1,100 complaints resulting in approximately 250 investigations, the majority of these complaints were related to fraudulent applications for Mortgage and Rental Assistance, Disaster Unemployment Assistance, and individual assistance. We worked many of those investigations jointly with the Social Security Administration OIG, the New York Department of Investigations, and other law enforcement agencies. We arrested or indicted 117 individuals resulting in 96 convictions, 10 dismissals, 3 warrants, and 8 investigations pending final disposition. Further, the approximate aggregate dollar amount that can be attributed to our investigative activity is $940,000 in recoveries, $6.9 million in restitutions, $2 million in fines, and $8 million in cost savings to the federal government.

Individual Assistance

Our investigative activities in response to the World Trade Center closely paralleled a profile we learned from responding to prior catastrophic disasters. We projected that the first investigations would involve false claims for individual assistance, which included the Mortgage and Rental Assistance, Disaster Unemployment Assistance, Individual and Family Grants programs, and other associated programs to assist individuals affected by the disaster.

During our initial meeting with representatives of both the U.S. Attorney in the Eastern and Southern Districts, it was mutually agreed that the Manhattan District Attorney's Office would prosecute the smaller individual assistance cases while the U.S. Attorney's offices would pursue debris removal cases.

Examples of the individual assistance cases accepted by the Manhattan District Attorney's Office were:

- Claims for damage to residences owned by others
- Claims for damage to a residence where no damage occurred
- Claims for pre-existing damage
- Claims for mortgage and rental assistance
- Claims in the names of decedents
- Renters filing claims purporting to be landlords

Mortgage and Rental Assistance Program

The Mortgage and Rental Assistance (MRA) program was designed to cover rent or mortgage payments for victims who suffer financial hardship as a result of a major disaster. Victims who were unable to pay their rent or mortgage and received written notice of eviction or foreclosure may have been eligible for MRA grants.

One example of an MRA-related investigation involved a person who was temporarily employed by FEMA at the Applicant Assistance Center in Manhattan. The

employee participated in a scheme to defraud FEMA by filing false claims under the MRA program. To further the scheme, he and seven others obtained, or helped to obtain, over $1 million in MRA grants based upon applications that contained fake phone bills and bogus driver's licenses, which were intended to prove residency at a particular location, or identified residential addresses that were actually commercial mail receiving facilities. Additionally, these individuals enlisted accomplices to create false documents, submit false claims, vouch for information provided to FEMA, and to receive grant payments. In April 2006, with the cooperation of the Secret Service and the Postal Inspection Service, six were arrested and charged in the Eastern District of New York, in a 52-count indictment to include false claims, conspiracy, mail fraud, wire fraud, and making false statements. Two of the individuals pleaded guilty, one remains a fugitive, and prosecution is pending on the remaining four defendants.

Other examples of related investigations include two individuals who claimed damage to their personal property items from debris and smoke filled air in their apartment, which was located 35 blocks from the World Trade Center site. Each received $10,000 in grants from FEMA. Another individual claimed her estranged husband was a window washer at the World Trade Center and died in the attack. She received $3,200 in rental assistance before we determined the husband was alive and living on Long Island. All of these individuals were successfully prosecuted.

Individual and Family Grants Program

The Individual and Family Grants (IFG) program was designed to meet the disaster-related necessary expenses or serious needs of disaster victims which could not be met through other provisions of the *Stafford Act;* or, through other means, such as insurance; other federal assistance; or voluntary agency programs. Eligible expenses may include those for real and personal property, medical and dental expenses, funeral expenses, transportation needs, and other expenses specifically requested by the state.

On October 18, 2001, air purifiers, air filters, and vacuum cleaners with high efficiency particulate air filters were added to the list of IFG eligible items. On March 22, 2002, FEMA and the state decided to add window air conditioners as an IFG eligible item. Eligibility was dependent upon applicants having owned a window air conditioner that was damaged during the event. Traditionally, during a home inspection inspectors would verify damage before recommending the repair or replacement of an eligible item.

However, when air conditioners were added as an IFG eligible property item, home inspections had been completed. FEMA then decided that it would not be cost effective to have inspectors verify damage of a single property item. Instead, the state implemented a self-certification process. Further, on May 1, 2002, FEMA and the state authorized advance payments to applicants who were financially unable to purchase air quality items. Rather than requiring receipts for such items prior to grant approval (which was traditionally required) or an ability to document financial need, applicants were permitted to certify that they were unable to pay for the items and were asked to provide receipts after purchase.

On February 20, 2003, the *Associated Press* reported that people who did not suffer from the effects of contaminated air filed 90 percent of the applications for reimbursement of IFG eligible air quality items. The source of that figure was FEMA's World Trade Center disaster recovery manager. The manager's estimate was based on an assumption that, of the 225,000 applicants for air quality items, only the 25,000 applicants that lived in Manhattan and who were eligible to participate in an Environmental Protection Agency home cleaning program, suffered from contaminated air. Consequently, the manager concluded that 90 percent of the applications submitted were from individuals who had not suffered from the effects of contaminated air.

We determined there was no indication that eligible applicants did not receive assistance. However, because FEMA and state management and control over IFG eligible air quality items was reduced, many applicants received assistance for which they may not have been eligible, which increased opportunities for fraud and abuse.

In response to these concerns, and at our urging, FEMA implemented a sampling program to verify applicant eligibility and to identify abusers. FEMA selected two random samples: one of applicants who repaired or replaced air conditioners, and one of applicants who received advances for air quality items. Although the samples were not designed to be statistically valid, the results suggest that a large number of applicants were not suffering from the effects of contaminated air.

In January 2003, FEMA selected a sample of 4,435 people who applied for assistance to buy window air conditioners and visited their homes to verify that they had window air conditioners before the disaster occurred. FEMA representatives in-

spected damaged air conditioners or, when damaged air conditioners had been disposed of, inspected indentations left in windows by the air conditioners. The home inspections identified 1,704 applicants who had evidence of the prior existence of a window air conditioner, and 2,731 applicants, or 62%, who did not and therefore were probably ineligible for assistance.

The second sample of 5,602 applications was selected in March 2003 to verify the proper use of $5.8 million in advances for air quality items. Applicants who received advances were required to submit receipts to the state within 30 days after receiving the funds, but FEMA said that none of the applicants included in the sample complied with this requirement. As of July 22, 2003, FEMA had completed 5,029 home inspections and determined that 3,347 applicants had purchased the air quality items. FEMA referred the 1,682 applicants, or 33%, who had not purchased the air quality items to the state for collection.

These findings and conclusions were discussed with Manhattan District Attorney's Office prosecutors who expressed concern proving criminal intent. The prosecutors felt it would be their burden to prove that a subject's intended purpose was to defraud FEMA, yet the prosecutors were not certain they could satisfy that element. While prosecutors did state that they would be willing to review such cases, unless our investigators had solid proof of intent, prosecutors would be more likely to decline prosecution. Also, prosecutors expressed concern over the low dollar amount—about $1,200—of each potential case and over the administration of the program, which allowed applicants to receive funds and purchase items with no stated purchase deadline.

The Assistant U.S. Attorneys expressed similar concerns. Specifically, the lack of program criteria allowing applicants to receive funds and purchase items with no stated purchase deadline, and the low dollar amount, made the cases very unattractive. An additional issue for the U.S. Attorney was the appearance of selective prosecution for which a logical defense would be why is the government prosecuting certain individuals when it chose not to prosecute all 200,000 of the potential fraudulent claims.

We reviewed many allegations and referrals concerning this matter and determined, from a historical and reasonable approach, that with few exceptions, the allegations and referrals did not appear to have a great deal of prosecutorial merit. However, both federal and state prosecutors stated that if the case involved false documents, they would be more likely to prosecute those subjects. We conducted 12 investigations, the subjects of which were prosecuted by the Manhattan District Attorney's Office. Two individuals filed claims to obtain filters for their window air conditioners when in fact the high-rise building where they resided had central air conditioning. Another 10 individuals, when confronted by our investigators, confessed to submitting false invoices to support their claims for IFG assistance. Last, we investigated complaints against 16 air quality products companies for using unethical sales tactics and referred them to the New York State Attorney General's office.

Nevertheless, we did have success, in our opinion, mitigating some of the fraud. As a result of FEMA's intensive efforts to educate the public as to the true intent of the IFG Program and its aggressive home inspection sampling initiative, coupled with our investigative initiatives, which received considerable media coverage, more than 100,00 of the original 229,000 applicants voluntarily chose to withdraw from the program. They either returned or did not accept their grant award. Given that the average IFG award was about $1,200, these actions helped FEMA save more than $120 million.

Public Assistance

Public assistance investigations, the majority of which deal with debris removal and generally involve primary contractors and subcontractors, are more complex and take longer to complete than the individual assistance investigations. Examples of public assistance cases the U.S. Attorneys agreed to prosecute dealt with the removal and disposal of disaster related debris. We have long recognized that the nature of debris removal operations make it an area where unscrupulous individuals and firms could potentially use a disaster for personal gain. With our years of experience, we have seen contractors engaged in:

- Submitting false debris removal invoices
- Artificially increasing tonnage hauled
- Inflating the number of employees
- Falsifying labor and material costs
- Bribery, bid-rigging, and kickbacks

Working jointly with the Internal Revenue Service's Criminal Investigations Division and the Postal Inspections Service, we investigated the president and owner

of a disaster recovery and clean-up company. This individual and others were convicted in U.S. District Court of engaging in a fraud scheme to enrich themselves by taking advantage of federal disaster relief funds in New York and two other states. Specifically, the contractor was hired to provide monitoring and maintenance services at the Fresh Kills Landfill on Staten Island. The contractor misrepresented the hourly rates it was paying employees, and submitted false invoices for employee lodging and per diem.

In another investigation, two contractors working for a trucking company were successfully prosecuted. All contractors are required to have a valid New York City permit to do business in the city. We received information that this trucking company submitted an application to remove debris and provided false information as to the owner of the company. Working jointly with the New York Department of Investigations, we participated in the execution of a New York State search warrant at two of its places of business, which produced documentation as to the true owner and manager of the company. One individual was arrested for submitting false documents to the City of New York for a work permit license. A second individual was arrested for making false statements in a deposition as to the ownership of the company. Both were convicted on multiple counts of perjury.

GENERAL MANAGEMENT OVERSIGHT ACTIVITIES

As I briefly mentioned, our auditors and inspectors worked in direct support of the Federal Coordinating Officer responding to specific requests and addressing matters that independently came to our attention. Some of the tasks we performed at the Disaster Field Office related to accounting and auditing, but some were as varied as tracking down missing copy machines. We worked closely with a team of FEMA comptrollers and Office of General Counsel representatives, helping them with a wide assortment of financial matters. Further, we worked with other federal agencies, as well as with state and city organizations and voluntary agencies. Our support included establishing a partnership with program staff to identify and suggest courses of action regarding potential and emerging issues with duplication of benefits, donations management, accountable property, program limitations and administration, DFO training, and safety and security.

Public Assistance

We responded to the World Trade Center attack as a partner with FEMA's response and recovery components. We deployed a team of auditors to monitor public assistance operations and assist in reviewing requests for assistance. The team maintained a presence for more than 18 months after the attack, working with FEMA public assistance staff to ensure that recovery efforts were on track and complied with federal laws and regulations.

Our efforts were far from the traditional role of the OIG as this was an extremely unique situation. We were able to contribute significantly to the effectiveness of FEMA's response by providing proactive oversight rather than reactive hindsight. Early in the process we briefed applicants on how to qualify for FEMA assistance and maintain records, and we reviewed accounting systems of some of the local governments to ensure they were adequate for collecting necessary cost data.

We reviewed requests for funding and the detailed worksheets for proposed projects and met with public assistance program staff on a regular basis to provide them technical assistance on allowable costs. At FEMA's request, we reviewed questionable bills submitted by applicants for payment and FEMA's implementation of its policy on heightened security eligibility.

We did not conduct any traditional compliance audits of public assistance grants, nor did we audit any costs incurred under the *Consolidated Appropriations Resolution Act of 2003,* which provided that costs not eligible for public assistance funding, referred to as associated expenses, would be funded with the remainder of the $8.8 billion of authorized FEMA funding. FEMA estimated that $7.6 billion would be required for *Stafford Act* purposes and $1.2 billion would be used for associated expenses. Associated expenses include such costs as local government employee salaries, heightened security costs, and the "I Love NY" campaign, which encouraged tourism and visitors to the state.

Individual Assistance

In response to congressional inquiries, we reviewed the delivery of individual assistance in New York after September 11, 2001. The review focused on issues that needed to be addressed by both FEMA and Congress as they considered regulatory and legislative changes to improve FEMA's delivery of assistance to victims of future terrorist attacks that result in presidential disaster declarations. The following is a summary of some of the issues raised during our review, *FEMA's Delivery of Individual Assistance Programs: New York—September 11, 2001 (December 2002).*

Eligibility Issues in the Mortgage and Rental Assistance Program

FEMA has not implemented the MRA program on a large scale because previous disasters did not coincide with nor result in widespread unemployment or national economic losses. From the inception of the MRA program until September 11, 2001, only $18.1 million had been awarded in 68 declared disasters, compared to approximately $76 million awarded in response to the New York World Trade Center disaster alone. Because the program was seldom used, Congress eliminated it when the *Disaster Mitigation Act of 2000* (DMA) was enacted, making the program unavailable for disasters declared after October 14, 2002.

FEMA had to face the challenge of implementing this program in a disaster that caused significant economic consequences, including not only the obvious economic impact of the incident itself but also the indirect economic effects felt throughout the nation. The language of the *Stafford Act's* MRA authority established, as a criterion for assistance, a written notice of dispossession or eviction. The law was silent, however, on what constitutes a financial hardship. This omission required FEMA to interpret to what extent a personal financial loss constitutes a financial hardship, and to determine whether that hardship resulted directly from the primary effects of the attack or from the secondary effects on the nation.

The MRA program's limited use, the broad economic impact of this unprecedented event, and FEMA's challenge to differentiate between primary and secondary economic effects contributed to difficulties in delivering timely and effective assistance. The MRA program was unique because it addressed limited, individual economic losses versus physical damage resulting from a disaster. Traditional inspection of damages as a basis for program eligibility determinations, therefore, did not apply to MRA. Individual financial hardships caused by the disaster were evaluated on a case-by-case basis. FEMA attempted to clarify eligibility criteria that required a clear link between physical damage to the business or industry caused by the disaster and an applicant's loss of household income, work, or employment regardless of geographic location.

State Capability to Implement the Individual and Family Grants Program

Applications for IFG assistance rose sharply in June 2002, as applicants requested assistance for air quality items. FEMA believed the increase in new applications coincided with public announcements being made by the Environmental Protection Agency (EPA) regarding the poor air quality in the city and the need for air-conditioning and related items because of the unusually warm spring and early summer. The state believed the surge in new applications coincided with the closing of assistance from many nonprofit organizations. FEMA received an average of 7,660 applications per month from June 2002 to August 2002 for air quality items. Applications for IFG assistance typically do not spike at this point in the recovery phase of a disaster.

The unanticipated increase in applications received after June 2002 also may have been related to two other decisions regarding assistance for air quality items. First, assistance was made available to all households in the five boroughs of New York City. The broad geographic eligibility was not related to the areas of actual impact. A better model might have been to limit eligibility to the same areas identified by the EPA and the New York City Department of Health for purposes of the apartment cleaning and testing program. Had the IFG program and the EPA testing and cleaning program worked more closely in terms of geographic eligibility, the IFG program would have had reasonable and justifiable boundaries. Second, as a result of concerns expressed by certain advocacy groups, applicants were allowed to certify that they were unable to pay for the air quality items (costing as much as $1,600). Funding was advanced to those applicants and they were requested to provide receipts after purchase. There were few limitations placed upon who could qualify for this "unable to pay" option. As I have previously noted, this may have increased the likelihood of fraud and abuse.

Interagency Coordination Challenges

I cannot stress enough the need for interagency data sharing and coordination to improve disaster response, recovery, and oversight. After 9/11, responsibilities shared among FEMA, EPA, the U.S. Department of Justice's (DOJ) Office for Victims of Crime, and voluntary agencies, for example, were not defined clearly enough to distinguish roles and establish the sequence of delivery of assistance. Recovery from the event highlighted the need for data sharing agreements regarding shared roles and responsibilities among key agencies likely to respond to future criminal actions.

Information Data Sharing

Although progress has been made in this area since 9/11, much more needs to be done. Accordingly, I would like to again emphasize the need for interagency data sharing and coordination through three principal means: direct access to FEMA data, computer matching agreements, and real-time data exchange.

Hurricane Katrina clearly demonstrated that law enforcement needs direct access to disaster victims' personal information, not only to reconnect family members and locate missing persons, but also to convicted sex offenders who relocated as a result of the disaster. Hurricane Katrina left over 5,000 children missing and more than 2,000 unaccounted for registered sex offenders. The process employed by FEMA to fulfill law enforcement agency requests for FEMA records under the Privacy Act is untimely. The FBI has indicated that these requests sometimes take days to fulfill. A similar protracted process was used for governors to request information from FEMA to obtain data on sex offenders who relocated to their state. The HHS believes, and we agree, that evacuated, registered sex offenders are a potential threat to children until appropriate law enforcement has information to identify and monitor these individuals. Timely access to FEMA data can assist law enforcement in protecting public safety and security, such as in the apprehension of fleeing felons.

In support of these issues, FEMA published a notice in the Federal Register, on July 6, 2006, adding a new routine use to its Disaster Recovery Assistance system of records that allows for greater information sharing with federal agencies, state and local governments, or other authorized entities for the purposes of reunifying families, locating missing children, voting, and with law enforcement entities in the event of circumstances involving an evacuation, sheltering, or mass relocation, for purposes of identifying and addressing public safety and security issues. As FEMA noted, these routine uses are being added to resolve any ambiguities about FEMA's authority to share information under these circumstances and to ensure that necessary information can be disseminated in an efficient and effective manner. This is a step in the right direction.

Another advantageous means of data sharing involves computer matching. Computer matching agreements among federal agencies that provide disaster assistance are often necessary to detect fraud, waste, and abuse. Agencies such as the Social Security Administration and the Small Business Administration, for example, have expressed a high degree of interest in such agreements with FEMA. An agreement between FEMA and the Department of Housing and Urban Development was recently executed to identify individuals who are receiving excess or duplicate housing assistance relating to Hurricanes Katrina and Rita. Yet, to date, only the HUD computer matching agreement has been executed, eleven months after Katrina's landfall. Without such agreements, the prospect for protecting the taxpayer's dollars and prosecuting fraud is diminished.

One more means of data sharing I would like to convey is the real-time exchange of information among federal agencies that provide disaster assistance. This exchange of information is necessary to verify identity and eligibility, as well as to create a holistic approach for the effective delivery of disaster assistance. According to FEMA's *Guide to Recovery Programs,* the federal government has over 90 disaster assistance programs. Real-time data sharing agreements are necessary to prevent the duplication of federal disaster assistance and to ensure that disaster victims receive the full compliment of disaster assistance needed for a timely and effective recovery. Currently, FEMA has a contract with the commercial data reseller ChoicePoint to authenticate the identity of disaster assistance applicants. Since Hurricane Katrina, approximately $4.3 million has been expended for their authentication services. Furthermore, it is our understanding that FEMA has extended this contract with ChoicePoint through June 2007. However, interagency data sharing agreements between federal agencies that provide disaster assistance would lessen the government's reliance upon commercial data resellers such as ChoicePoint for identity authentication. For example, data sharing agreements between FEMA and the Social Security Administration and the Postal Service can verify the name, social security numbers, and address of an individual applying for disaster assistance. These agreements will result in greater intergovernmental collaboration in the delivery of disaster assistance, which corresponds with the intent of the National Response Plan and FEMA's *Strategic Plan Fiscal Years 2003–2008,* which charges FEMA to serve as the nation's knowledge manager and coordinator of emergency management information.

I would like to note that we have an ongoing review of how FEMA's data sharing processes and procedures can be enhanced to promote effective and efficient disaster response, recovery, and oversight. We look forward to sharing our findings of this review with you when it is complete. The following are examples where interagency data sharing and coordination after the 9/11 terrorist attacks could have been approved.

Response to Residential Air Quality, Testing, and Cleaning Requires More Coordination

EPA was aware, based on its work in the aftermath of the 1993 World Trade Center terrorist bombing, that the World Trade Center complex contained asbestos material. Neither FEMA nor New York City officials, however, initially requested that EPA test or clean inside buildings because neither EPA nor the New York City Department of Environmental Protection could identify any specific health or safety threat. EPA nevertheless advised rescue workers early after the terrorist attack that materials from the collapsed buildings contained irritants, and advised residents and building owners to use professional asbestos abatement contractors to clean significantly affected spaces. Directions on how to clean the exterior of buildings affected by dust and debris were provided to building owners by the New York City Department of Environmental Protection, and directions on how to clean interior spaces were provided by the New York City Department of Health.

Neither FEMA nor EPA traditionally had been involved in testing and cleaning private residences. Neither agency is specifically authorized to provide such services. However, when a potential health and safety threat was identified and New York officials documented that interior testing and cleaning would beneficially impact the City's economic recovery, FEMA used its debris removal authorities under the *Stafford Act* to provide the necessary funding.

However, the program to test and clean residences in lower Manhattan did not commence until months after the disaster. Although FEMA has the responsibility to coordinate recovery from declared disasters, FEMA must depend on the particular expertise of the EPA in circumstances involving possible air contaminants or environmental hazards. EPA must confirm that such hazards constitute a public health and safety threat before FEMA can provide funding for emergency response. We suggested that FEMA be more proactive in requesting EPA to conduct necessary testing and/or studies to determine if a public health or safety threat exists in future, similar disasters so that cleaning efforts could begin much earlier in the recovery phase. FEMA also should address the roles of state and local agencies in such circumstances, as consultation with those agencies would provide useful information in review or evaluation.

Department of Justice Authorities Compliment FEMA Authorities

Because the World Trade Center complex and Pentagon were declared disasters by the President resulting from criminal actions, both FEMA and DOJ's Office for Victims of Crime had authority to provide victim assistance. FEMA's Crisis Counseling Assistance and Training Program (CCP) providers found it necessary to offer support services that went beyond the normal levels of CCP mental health programs. Further, too many entities were involved at the outset to ensure coordination and avoid potential confusion of services provided to victims.

The event uncovered potential DOJ–FEMA overlaps in some programs covering disasters that are also crime scenes. FEMA's CCP program funds crisis counseling and the IFG program reimbursed victims of disasters for medical, dental, and funeral expenses. The *Victims of Crime Act of 1984,* as amended (42 United States Code § 10603), authorizes DOJ's Office for Victims of Crime to provide financial assistance to victims of federal crimes and of terrorism and mass violence in the form of (1) grants to state crime victim compensation programs to supplement state funding for reimbursement of the same out-of-pocket expenses, including mental health counseling; and, (2) grants to state victim assistance agencies in support of direct victim services such as, crisis counseling, criminal justice advocacy, shelter, and other emergency assistance services. Because the event was both a disaster and a criminal act, programs of DOJ's office for Victims of Crime were also applicable. As a result, expenses medical, dental, and funeral expenses were covered by DOJ.

FEMA, the Office for Victims of Crime, and DOJ's Executive Office for United States Attorneys subscribed to a *Letter of Intent* to ensure that victims received needed services and information and to articulate services needed in responding to catastrophic federal crime. The *Letter of Intent* should serve as the foundation for future cooperative activities but more detailed and comprehensive guidance is necessary to ensure that services delivered to disaster victims who are also victims of crime are appropriate, consistent, and not duplicative. Those objectives could be accomplished through a Memorandum of Understanding between FEMA and DOJ's Office for Victims of Crime that formalizes the relationship, the responsibilities and authorities to be applied, programs, time frames, and sequencing when a disaster is also a crime scene.

Coordination with Voluntary Agencies

Voluntary Agencies (VOLAGS) typically provide immediate emergency assistance to victims, while FEMA addresses short and long-term recovery needs. Near the end

of the recovery cycle, VOLAGS address victims' unmet needs. After the September 11, 2001 attacks, individuals donated time, resources, and money in record volumes to a large number of VOLAGS. The overwhelming generosity and rapid influx of cash donations likely contributed to the ability of VOLAGS and other groups to provide higher levels of assistance. Since so many VOLAGS, *ad hoc* organizations, and other entities not traditionally in the sequence of delivery were distributing assistance, it was difficult to collect accurate information necessary to understand the scope of assistance being provided. FEMA, attempting to bring order to the chaos created by the multitude of voluntary organizations, developed a matrix of various government and non-government entities. At one point, this matrix included over 100 organizations and was used to identify their contributions to disaster recovery efforts and the types of assistance provided. FEMA validated the information and became familiar with the kinds of assistance being offered so that staff could make informed referrals. In spite of those efforts, FEMA was not able to assure that all voluntary agencies were coordinated appropriately to ensure that benefits were not duplicated among disaster programs, insurance benefits, and any other type of disaster assistance.

Historically, FEMA has not considered the assistance of voluntary agencies to be duplicative of its assistance in most declared disasters. In response to this event, however, VOLAGS far exceeded their traditional role in the provision of assistance. FEMA, to ensure timely assistance to victims, decided to activate its own individual assistance program and to treat VOLAG and other non-governmental assistance as non-duplicative. Had FEMA expended the resources necessary to fully identify and quantify such assistance, the timely provision of urgently needed assistance would have been delayed. FEMA acknowledges, however, that some people may have received assistance for similar losses from more than one source.

Regardless of FEMA's decision not to identify and quantify voluntary agency assistance on a case-by case basis, the potential that duplication occurred did exist although the nature and amount of duplication remains unknown. FEMA needs to be better able to anticipate the proactive role non-governmental organizations will play in disaster recovery operations and attempt to coordinate relationships with those organizations through protocols such as Memorandums of Understanding to alleviate the potential for duplicating benefits.

Improvements have been made since the 9/11 attacks. The Coordinated Assistance Network was established through a memorandum of understanding in 2003 and was first piloted during the 2004 hurricane season in Florida. The following organizations signed this document: American Red Cross, Salvation Army, Alliance of Information and Referral systems, United Way of America, United Services Group, National Voluntary Organizations Active in Disaster, and Safe Horizon. The goal of the Coordinated Assistance Network is to afford more efficient and effective service coordination among voluntary, as well as governmental, agencies during disaster events. It was designed as a communication mechanism for services providers and to identify any gaps or redundancies in services. The network allowed registered organizations to access information on available services and to share information on the levels of services delivered to individuals, families, or households. It also allowed disaster victims to explain their needs and register only once, as registration afforded disaster victims a registration with all service providers on the network. In response to the 2005 hurricanes in the Gulf Coast region, five organizations were using the network and 81,817 clients records were in the system as of September 30, 2005.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions that you or the Subcommittee may have.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Management, Integration, and Oversight, Committee on Homeland Security, U.S. House of Representatives

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INDIVIDUAL DISASTER ASSISTANCE PROGRAMS

Framework for Fraud Prevention, Detection, and Prosecution

Statement of Gregory D. Kutz, Management Director
Forensic Audits and Special Investigations

GAO-06-954T

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Accountability·Integrity·Reliability

Highlights

Highlights of GAO-06-954T, a testimony before the Subcommittee on Management, Integration, and Oversight, Committee on Homeland Security, U.S. House of Representatives

Why GAO Did This Study

Federal agencies spend billions of dollars annually to aid victims of natural and other disasters and acts of terrorism. Managers of federal disaster assistance programs face a dual challenge—delivering aid as quickly as possible while at the same time ensuring that relief payments go only to those who are truly in need. Due to the very nature of the government's need to quickly provide assistance to disaster victims, federal disaster relief programs are vulnerable to significant risk of improper payments and fraudulent activities.

On February 13, 2006, and on June 14, 2006, GAO testified concerning extensive fraud, waste, and abuse in the Individuals and Household Program (IHP), a component of the Federal Emergency Management Agency's (FEMA) disaster assistance programs. GAO identified significant internal control weaknesses that resulted in FEMA making tens of thousands of Expedited Assistance payments that were based on bogus registration data. GAO also found numerous other internal control failures in FEMA's IHP disaster assistance program, resulting in an estimate that FEMA made $600 million to $1.4 billion in improper and potentially fraudulent payments to registrants. The purpose of this testimony is to establish a framework for preventing, detecting, and prosecuting disaster assistance fraud.

www.gao.gov/cgi-bin/getrpt?GAO-06-954T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gregory Kutz at (202) 512-7455 or kutzg@gao.gov.

July 12, 2006

INDIVIDUAL DISASTER ASSISTANCE PROGRAMS

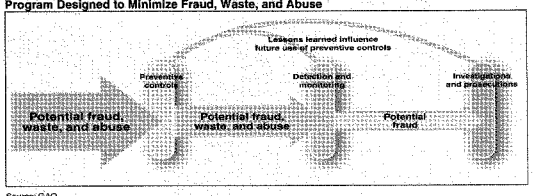
Framework for Fraud Prevention, Detection, and Prosecution

What GAO Found

Recent GAO audits have illustrated the importance of an effective fraud, waste, and abuse prevention system in federal disaster assistance programs. GAO's Standards for Internal Control in the Federal Government provide a framework for internal control that can be used to minimize fraudulent, wasteful, and abusive activity regardless of whether dealing with the effects of natural disasters like hurricanes Katrina and Rita, or coping with the destruction left by the terrorist attacks of September 11, 2001.

The figure below illustrates that a well-designed fraud prevention system should consist of three crucial elements: (1) upfront preventive controls, (2) detection and monitoring, and (3) investigations and prosecutions. The figure also shows that upfront preventive controls can help screen out the majority of fraud, and are the most effective and efficient means to minimize fraud, waste, and abuse. Detection and monitoring, and aggressive prosecution of individuals committing fraud, while also crucial elements of an effective system, are less effective and generally cost more.

Program Designed to Minimize Fraud, Waste, and Abuse



Source: GAO.

Audit work has long confirmed that upfront preventive controls are most effective when they require validation of data provided by disaster registrants against other government or third-party sources, and physical inspections when possible. Preventive controls should also include procedures designed to identify problem registrants prior to payments. Training personnel on fraud awareness and potential fraud schemes is also an integral component in preventive controls. Collectively, these preventive controls can help improve program integrity and safeguard tax dollars.

An effective fraud deterrence program must also include resources to continually monitor and detect potential fraud, and aggressively investigate and prosecute individuals who received assistance fraudulently. Monitoring and detection include data-mining for suspicious registrations and payment usage, and setting up fraud hotlines. Finally, program integrity is enhanced by investigating and prosecuting individuals who take advantage of program weaknesses. However, the high costs of prosecutions highlight our conclusion that upfront preventive controls are most effective in preventing fraud, and that lessons learned from detection and prosecutions should be used to improve preventive controls.

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss fraud prevention and detection related to the federal government's efforts to provide assistance to individuals and households in the aftermath of disasters.[1] Effective fraud prevention in relief programs is an important issue, regardless of whether dealing with the effects of natural disasters like hurricanes Katrina and Rita, or coping with the destruction left by the terrorist attacks of September 11, 2001. Agencies are faced with many challenges in the aftermath of a disaster and must devote resources not only to distributing money and relief quickly to victims, but must also minimize fraud, waste, and abuse to ensure only legitimate victims receive assistance.

On February 13, 2006,[2] and then again on June 14, 2006,[3] we testified concerning extensive fraud, waste, and abuse related to hurricanes Katrina and Rita in the Individuals and Household Program (IHP), a component of the broader disaster assistance program from the Federal Emergency Management Agency (FEMA). The February testimony focused on control weaknesses that resulted in FEMA making tens of thousands of Expedited Assistance (EA) payments that were based on bogus registration data. Our June 14, 2006, testimony discussed breakdowns in internal controls, in particular the lack of controls designed to prevent bogus registrations, which resulted in an estimated $600 million to $1.4 billion in improper and potentially fraudulent payments. Based on these findings we have made recommendations to FEMA to develop effective systems and controls to minimize the opportunity for fraud, waste, and abuse when FEMA decides to provide assistance in the future. Crucial internal controls and control weaknesses we identified during our work on hurricane disaster relief, and

[1] In the aftermath of a disaster, the federal government typically activates numerous programs to help disaster victims. Examples of programs include individual assistance, public assistance, and hazard mitigation. Individual assistance provides financial and other direct assistance to individuals and households. Public assistance provides grants to states, local governments, and non profit organizations to provide services such as debris removal and housing accommodations to disaster victims. Hazard mitigation provides grants for long-term hazard mitigation projects.

[2] GAO, *Expedited Assistance for Victims of Hurricanes Katrina and Rita: FEMA's Control Weaknesses Exposed the Government to Significant Fraud and Abuse*, GAO-06-403T, (Washington, D.C.: Feb. 13, 2006).

[3] GAO, *Hurricanes Katrina and Rita Disaster Relief: Improper and Potentially Fraudulent Individual Assistance Payments Estimated to Be Between $600 Million and $1.4 Billion*, GAO-06-844T, (Washington, D.C.: June. 14, 2006).

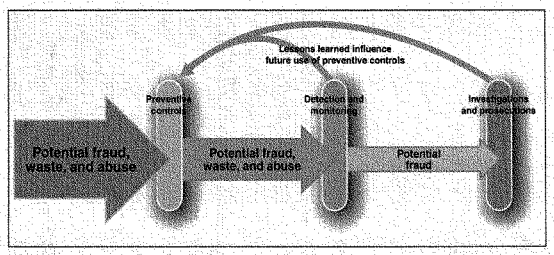
requirements in the Comptroller General's Standards for Internal Control in the Federal Government,[4] are directly relatable to controls over any individual assistance program, regardless of the cause of the disaster. My testimony today will focus on the importance of fraud prevention controls, fraud detection efforts, and the aggressive pursuit and prosecution of individuals who commit fraud against the government in a time of disaster.

Summary

The establishment of effective fraud prevention controls over the registration and payment process, fraud detection and monitoring adherence to those controls throughout the entire program life, and the aggressive pursuit and prosecution of individuals committing fraud are crucial elements of an effective fraud prevention program over any assistance programs with defined eligibility criteria, including disaster assistance programs. The very nature of the government's need to quickly provide assistance to individuals adversely affected by disasters makes assistance payments more vulnerable to applicants attempting to obtain benefits that they are not entitled to receive. However, it is because of these known vulnerabilities that the federal government, and more specifically FEMA, needed to have had effective controls in place to minimize the opportunities for individuals to defraud the government. Figure 1 provides an overview of how prevention controls help to screen out the majority of fraud, waste and abuse, and how detective controls and prosecution can help to further minimize the extent to which a program is vulnerable to fraud.

[4] The Federal Managers' Financial Integrity Act of 1982 (FMFIA) required that GAO issue standards for internal control in government resulting in the issuance of *Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-98-21.3.1, (Washington, D.C.: November, 1999).

Figure 1: Program Designed to Minimize Fraud, Waste and Abuse



Source: GAO.

The results of our work serve to emphasize the fundamental concept that fraud prevention is the most effective and efficient means to minimize fraud, waste, and abuse. Preventive controls should be designed to include, at a minimum, a requirement that data provided by registrants be validated against other government or third-party sources to determine whether registrants provided accurate information on their identity and place of residence. Inspections and physical validation processes should also be conducted whenever possible to confirm registration information prior to payment. System edit checks designed to identify problem registrants and claims (e.g., duplicates) before payments are made are also critical. Finally, providing training on fraud awareness and potential fraud schemes to all key government and contractor personnel is important in stopping fraud before it gets into the program. Prior to implementing any new controls, and well in advance of any disaster, agencies must adequately field test the new controls to ensure that controls are operating as intended and that legitimate victims are not denied benefits. In addition, as fraud prevention controls are increased, agencies must provide safety precautions to assist any disaster victims who are inappropriately denied relief due to preventive controls.

Although more costly and less effective than preventive controls, fraud detection and monitoring after payments have been made is also critical. Key elements of the detection process include data-mining for fraudulent and suspicious registrants, reviews to establish the accountability of funds, and the establishment of hotlines to receive tips of potentials fraud. For example, after the initial registration process, agencies need a control

system that includes continual monitoring, to include data-mining registrations—similar to the data-mining we conducted—to identify potentially fraudulent registrations in their claim system. Also, control weaknesses identified through detection and monitoring should be used to make improvements to preventive controls to reduce the risk for fraud, waste, and abuse in the future.

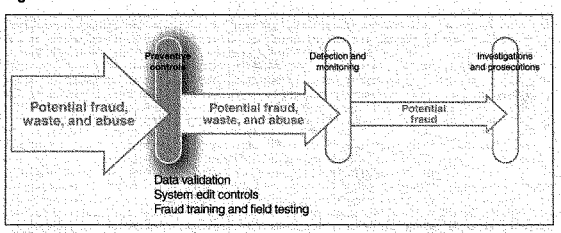
Another element of a fraud prevention program is the aggressive investigation and prosecution of individuals who committed fraud against the federal government. The deterrent value of prosecuting those who commit fraud sends the message that the government will not tolerate individuals stealing assistance money, serving as a preventive measure for future disasters. For hurricanes Katrina and Rita the Justice Department has set up the Katrina Fraud Task Force, which has investigated and convicted numerous individuals who received assistance fraudulently from FEMA. Further, schemes identified through investigations and prosecution can be used to improve the fraud prevention program.

Fraud, Waste, and Abuse Prevention Controls

Prevention is the most effective and efficient way to minimize fraud, waste, and abuse in any federal program, including disaster assistance, and is also a key element described in the Standards for Internal Control in the Federal Government.[5] The most crucial element of fraud prevention is to substantially diminish the opportunity for fraudulent access into the system through front end controls. Figure 2 displays how preventive controls fit within a larger fraud, waste, and abuse prevention program.

[5] GAO/AIMD-98-21.3.1.

Figure 2: Preventive Controls



Source: GAO.

Fraud prevention can be achieved by requiring that registrants provide information in a uniform format, and validating that information against external sources. In the current environment, agencies have at their disposal a large number of data sources that they can use to validate the identity and address of registrants. However, our work related to FEMA's management of the IHP program for hurricanes Katrina and Rita found that their limited use of a third-party validation process left room for substantial fraud. Effective fraud prevention controls require that agencies enter into data-sharing arrangements with organizations to perform validation. System edit checks are also key to identifying and rejecting fraudulent registrations before payments are disbursed. In addition, an effective fraud prevention system is not complete without adequate fraud awareness training of all personnel involved in the distribution of relief. Finally, any new systems or processes need to be field tested to ensure that the system is working properly prior to implementation.

Data Validation

Prior to a disaster registrant gaining access to relief payments, key registrant information must be validated. For this program, data such as names, social security numbers (SSN), primary residences, citizenship status, and any other information which determines eligibility must be validated upfront, prior to agencies accepting the registration, or at least prior to disbursements being made. Obtaining releases from registrants which allow an agency to validate data with other sources such as social security records, tax records, and other information is an important step that can facilitate effective validation of data.

Depending on the turnaround time needed for a payment, agencies can chose to validate records with federal government databases, or validate information with third-party contractors who can confirm key information with publicly available data from credit reports and other sources almost instantaneously. When using these third-party sources it is also important to at least periodically authenticate[6] the data within the program with the source of the information such as Social Security Administration (SSA) or Internal Revenue Service (IRS) records. Regardless of the sources used, all key data concerning a registration has to be validated to minimize the risks to acceptable levels prior to the registrant being accepted in the program. For example, because FEMA lacked basic identity validation controls, they accepted thousands of IHP registrations from registrants who provided social security numbers that had never been issued or belonged to deceased individuals. In addition, because FEMA failed to validate damaged address information, we found thousands of dollars were paid to individuals for bogus damaged addresses.

For data to be properly validated, it should be recorded in a uniform format. Once key data elements relating to disaster relief eligibility are determined, our work has shown that it is important to record the information in a format that will facilitate data validation with external sources. Otherwise, agencies may be faced with thousands or tens of thousands of registrations being rejected or placed in a manual review status because data was not recorded accurately. This is also particularly important when recording names, identity information, and addresses in order to prevent registrants from getting multiple payments by changing the spelling of their address or name. For example, data collected by hotels providing lodging that was paid for by FEMA did not record occupant's SSN or FEMA registration ID numbers. Thus, there were no common data elements that could be used to ensure people already staying at FEMA paid hotels did not also improperly receive rental assistance.

Within the federal government, many organizations such as SSA, United States Postal Service (USPS), and IRS maintain information on disaster assisted registrants. These are all data sources that we have used in prior

[6] For purposes of this testimony, data validation refers to the process of comparing data provided by a registrant with publicly available data (e.g., credit reports) or government databases to ensure accuracy. Data authentication refers to the process of periodically authenticating data that have been validated by third-party contractors with source databases such as SSA or Internal Revenue Service records.

forensic work to identify fraudulent and improper payments. However, proactive actions are necessary on the part of agencies responsible for providing disaster assistance to enter into data-sharing agreements with organizations that own the data. Agreements have to be in place prior to any disaster occurring for agencies to take advantage of data-validation sources. Also for tax information, consent must be requested from the registrant at the time of registration.

Finally, whenever possible, registration data and specific loss claims should be validated by a physical inspection of the disaster damage prior to payment. In some cases, as with the massive destruction caused by Hurricane Katrina, physical inspections in a timely manner are not possible, and therefore acceptance of data must be done through electronic verification. However, within the FEMA IHP program we found significant fraud related to expedited assistance payments that were made prior to any physical inspection being performed. In the cases we found, many fraudulent registrations could have been identified and rejected if inspections were performed because they would have seen that properties did not even exist, as we found when performing our own inspections. For example, FEMA failed to perform physical inspections on our undercover registrations, which used completely bogus property addresses and vacant lots. Had a physical inspection been performed, FEMA could have identified the fraudulent information and denied the expedited and rental assistance payments.

System Edit Controls

Disaster relief programs must also have a network of system pre-payment edit checks in place to ensure that obviously false or duplicate information is not used to receive disaster relief payments. System edit checks can be performed before or after a registration is accepted into the system, but to be an effective preventive control, they must be performed prior to the distribution of a payment. Edit checks should include items such as ensuring that the same SSN was not used on multiple registrations, or that the registrant provides a verifiable physical address for which the disaster damaged is based on. In the case of FEMA's IHP program, we found the lack of effective system edit checks allowed numerous individuals to fraudulently register numerous times and receive multiple payments using the same name, social security number, or address. In one case, the lack of controls allowed an individual to register eight times using the same name and SSN and receive multiple disaster assistance payments. In addition, accepting applications with obviously inaccurate data exposed FEMA to the risk that disbursements would be made based on obviously false data. For example, we found during our work that FEMA paid millions of

dollars in IHP payments to individuals who used a Post Office Box as their damaged physical address in order to receive assistance. In those cases system edits should have identified the Post Office Box as an invalid physical address and forced the applicant to provide a valid street address for the damage property in order to be considered for disaster assistance.

Results of our work also showed that agencies must follow through and accurately implement—and not short-change—existing system edit checks to provide assurance that the program is protected. We found in the course of our work that FEMA had designed controls that may have prevented some fraudulent payments. However, our work also indicated that these controls were circumvented, for example, when FEMA designed scripts to override system edit checks that had identified registrations as potential duplicates, in an effort to disburse funds as quickly as possible. Adhering to existing control procedures is therefore also crucial when maintaining effective fraud prevention.

Fraud Training and Field Testing

Beyond the uniform recording and validation of data, other controls, including a well-trained work force that is aware of the potential for fraud, can help prevent fraud. Personnel involved in a disaster program, including government employees and call center and inspection contractors, should receive training about the potential for fraud within the program and the likely types of fraud they could encounter. Fraud awareness training with frontline personnel is crucial because they are part of the first line of defense and therefore play a key role in fraud prevention. If the personnel accepting registrations and performing physical inspections of properties and documents are aware of fraud indicators and suspicious activities, they will help to identify potentially fraudulent activity as soon as it occurs. Where possible, incentives can be provided to contractors not just to process registrations and claims quickly, but also to prevent fraud.

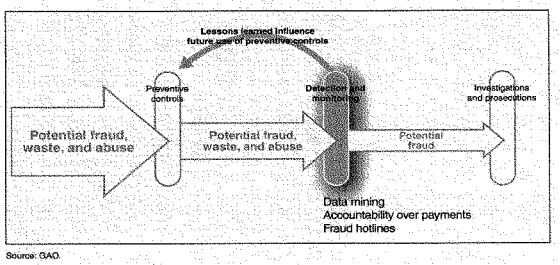
In addition, when implementing any new controls, it is important to field test all systems prior to putting them in place. As stated in a recent testimony on the IHP program, FEMA acknowledged that they had instituted several new processes that had not been tested. Weaknesses in these new processes, including the lack of validation controls over key data elements, resulted in our findings of approximately $1 billion dollars in potential fraud in the IHP program. On top of reducing the risk of untested controls allowing substantial fraud, field-testing also helps to ensure that new controls do not improperly deny benefits to valid registrants. A safety net for those registrants who are wrongly denied

disaster relief due to preventive controls should always be in place to ensure they receive assistance. This process should include staff who are adequately trained to expeditiously handle exceptions.

Detection and Monitoring

Even with effective preventive controls, there is substantial residual risk that fraudulent registrants are likely to gain access to a disaster relief program and begin to receive payments. Therefore, after a registrant has successfully passed through upfront controls and begun to receive payments, our work at FEMA illustrated that agencies must continue their efforts to monitor the execution of the disaster relief program. Detection and monitoring efforts are addressed in the Standards for Internal Control in the Federal Government[7] and include such activities as data-mining registrations, which have received payments, ensuring accountability over funds and monitoring how the disaster assistance is being spent, and establishing mechanisms to identify the existence of fraud. Figure 3 provides a perspective on how these controls fit into an overall fraud prevention program.

Figure 3: Detection and Monitoring Controls



Source: GAO.

Data-mining of registration data within the program should be done to look for suspicious information after payments have been made. Along with data-mining efforts, proper accountability controls over the distribution of funds and the monitoring of fund usage is key to obtaining

[7] GAO/AIMD-98-21.3.1.

reasonable assurance that relief payments are being used to mitigate the effects of a disaster. Also, setting up hotlines to identify potential frauds is an important activity that should be in place when distributing disaster funds. Finally, any lessons learned from detection and monitoring efforts should be used to improve preventive controls to reduce the risk for fraud, waste, and abuse in the future.

Data-mining

Despite effective preventive controls, there is still risk for fraud, waste, and abuse within disaster programs once payments are made. Therefore, it is important that program managers continuously data mine registrations for suspicious activity. A robust data-mining program can include many different efforts. Examples of fraud indicators include but are not limited to searching for anomalies like those found at FEMA, including multiple payments sent to the same address or bank account. Abnormalities such as numerous residents in a damaged apartment building all relocating to the same location may also suggest fraud. Comparing recipient data against other government assistance programs such as databases containing information on Red Cross or FEMA paid for hotel rooms can help to identify duplication of benefits between programs. However, due to the difficulties of collecting overpayments, system edit checks that occur prior to payments being made are preferable to data-mining after payments have occurred.

The data-mining we performed on FEMA's IHP program showed how important constant monitoring and detection can be. We searched for and found examples where the same individual received several rental assistance checks from FEMA while at the same time residing in a hotel room paid for by FEMA. We also found instances where multiple family members from the same household registered numerous times and received duplicate payments. Using external databases of federal and state prisoners, we found instances where prisoners had fraudulently registered for and received disaster relief payments while incarcerated. As shown by our examples, data-mining efforts should be done in a manner that uses creative solutions to search for potential fraud using all available data sources. To the extent that data-mining identifies systematic fraud, that intelligence should be fed back into the fraud prevention process and system edits so that for future disasters the fraud is detected before money is disbursed.

Accountability and Proper Use of Relief Payments

When part of the disaster assistance comes in the form of cash or a cash equivalent such as a debit card, our work at FEMA shows that it is crucial for agencies to maintain strict accountability over who has received the assistance. This can be achieved by obtaining signatures of release from an agency official and, if appropriate, from the issuing bank official, along with a signature of acceptance from the relief recipient. Agencies should also be able to link each distribution of cash to a specific applicant. In the case of FEMA and their distribution of debit cards, adequate accountability was not maintained, resulting in more than $1 million worth of debit cards being distributed without a record of who received them.

In addition, depending on the type of assistance provided and the means in which the assistance was distributed, it can be important for an agency to monitor the usage of disaster relief funds. Our review of FEMA's IHP program found that almost all money was distributed via check or EFT, which did not allow us to review whether the money was spent on disaster-related needs. A small amount, approximately $80 million, of IHP money was distributed via debit cards, which allowed us to see whether funds were being used appropriately. In this case, the vast majority of debit card money was still withdrawn as cash, but the remaining amount appeared to have been used for disaster-related needs. However, we did find a small number of purchases for nondisaster items such as football tickets, alcohol, massage parlor services, and adult videos. By monitoring these types of uses and contacting and possibly penalizing those who misuse funds, agencies may be able to ensure that disaster funds are used to help mitigate losses and not for inappropriate items.

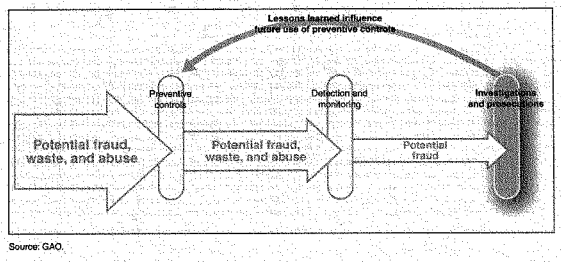
Fraud Hotlines

To detect existing fraud and prevent new cases in the future, agencies should also set up mechanisms to identify and investigate existing cases. The use of hotlines where individuals can anonymously call and report potential fraud can provide valuable investigation leads. The Department of Homeland Security (DHS) Office of Inspector General set up one such hotline specifically dedicated to fraud related to hurricanes Katrina and Rita. Similar hotlines are useful within any disaster relief program to help identify any fraudulent activity not caught by controls. In conjunction with fraud identified through data-mining or hotline tips, agencies should have in place teams ready to investigate leads, not only for future prosecution, but also to provide suggestions for how the fraud can be prevented in the future.

Investigations and Prosecution of Offenders

The final aspect of a program designed to reduce fraud in a disaster assistance program is the investigation and aggressive prosecution of individuals who have fraudulently received disaster assistance. Suspicious cases identified through preventive, detective, and monitoring controls, along with hotline tips, should be referred to investigators for further review. In the course of our work performed on IHP fraud for hurricanes Katrina and Rita, we identified tens of thousands of potentially fraudulent registrations. We have already referred thousands of those cases to FEMA and the Katrina Fraud Task force for further investigation and expect to refer others for additional investigation and possible prosecution. While the criminal investigative process is general a lengthy process, we are aware that several individuals that we referred have already been indicted. This included one individual indicted for fraudulently obtaining over $25,000 from FEMA based on bogus registrations. Figure 4 displays how investigations and prosecutions fit into an overall fraud prevention program.

Figure 4: Investigations and Prosecutions



Source: GAO.

While investigations and prosecution can be the most visible means to deal with fraudsters, they are also the most costly and should not be used in place of other more effective controls. Instead, agencies need to focus on prevention before money is spent. Still, by successfully prosecuting fraudsters, agencies can deter others who are thinking of taking advantage of disaster programs. In the end, investigations and prosecutions are a necessary part of an overall fraud prevention and deterrence program, but should be a last resort when all other controls have failed. In addition, knowledge from these investigations and prosecutions should be fed back

into the fraud prevention process to better handle future disasters and enhance existing fraud prevention and detection programs.

Concluding Comments

Managers of federal disaster assistance programs face a dual challenge—delivering aid as quickly as possible while at the same time ensuring that relief payments go only to those who are truly in need. To meet this dual challenge, managers must recognize that fraud prevention and the rapid distribution of assistance are not conflicting mandates; instead, both can be accomplished if effective controls are in place and operating as intended. Of the controls discussed today, fraud prevention controls are the most useful and cost-effective means of reducing the loss of money due to fraud, because payments, once out the door, have proven extremely difficult to recover. Implementing an effective system of fraud prevention controls including upfront controls, post payment detection and monitoring, and prosecuting those who have exploited control weaknesses are crucial to building the American taxpayer's confidence that federal disaster assistance is given to those in need.

Mr. Chairman and members of the Committee, this concludes my statement. I would be pleased to answer any questions that you or other members of the Committee have at this time.

Contacts and Acknowledgements

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PREPARED STATEMENT OF THE HONORABLE ROSE GILL HEARN, COMMISSIONER, NEW YORK CITY DEPARTMENT OF INVESTIGATION

Good afternoon Chairman Rogers, Congressman Meek, Members of the Committee. It is a privilege to address this Committee and describe the foresight of and efforts made by the City of New York to prevent fraud and waste in connection with the clean up of the World Trade Center site immediately following the destruction of the Twin Towers and surrounding buildings. New York City's experience demonstrates that the proactive measures taken were highly effective in detecting and preventing fraud and waste, without compromising the ability of the emergency efforts to proceed with remarkable efficiency.

Appointed by Mayor Michael R. Bloomberg, I am the Commissioner of the New York City Department of Investigation, known as DOI, which is one of the oldest law-enforcement agencies in the country. Created in the wake of the Boss Tweed scandals of the 19th century, DOI is an agency of New York City's government charged with rooting out, but perhaps more importantly, preventing corruption within or impacting City government. That mission is a challenging one as New York City is one of the largest employers with one of the largest budgets in the country. DOI often works with the federal and state prosecutors who have jurisdiction over the City of New York. We work jointly with other law enforcement agencies such as the New York City Police Department, the FBI and the federal Postal Inspectors. DOI is also empowered by law to investigate and report on potential corruption hazards and to advise the Mayor and the other branches of City government on measures they should take to prevent corruption and the waste of City funds. Thus, we do not just try to catch criminals after they have committed crimes, but we also devote a substantial amount of our resources to preventing crimes before they happen and to preventing the needless loss of precious City resources through waste and inefficiency.

DOI offices are located on Maiden Lane just up the block from what was the World Trade Center. On the morning of September 11th, DOI personnel and detectives responded to the scene to help with the evacuation of the buildings. When the Towers collapsed, the cloud of dust and smoke came rushing down Maiden Lane, and debris rained down on our building. For days thereafter, DOI personnel became part of the on-site digging and security operation. My own experience included seeing the apocalyptical sight at the World Trade Center: people jumping from the fireline seventy stories high in the North Tower; followed by the explosion of the second plane into the South Tower; and the collapse of the Towers as if they were sandcastles. The City then mobilized in an extraordinary way, and DOI was part of that.

In the aftermath of the 9/11 terrorist attack on the World Trade Center, the City had to undertake a clean-up operation that was unprecedented in scope and cost. Moreover, it was recognized that the City's clean-up would have to be safe, include a sensitive on-going search for remains, and allow businesses and residents to return swiftly to the densely populated Wall Street financial district, whose economic viability was crucial, not only to the City, but to the Country as a whole.

To achieve the goals of the World Trade Center clean-up, it was understood that vast amounts of government money would have to be spent and spent quickly. Indeed, some of the members of this Committee were instrumental in seeing that New York received the money it needed for the historic clean-up and recovery effort. However, experience has taught us that the expenditure of large sums of government money in an emergency situation increases the likelihood of fraud, inefficiency and price gouging. Accordingly, based on the concerns of the possibilities of fraud and corruption in all aspects of the clean-up effort, Mayor Rudolph Giuliani's office asked DOI to put in place a monitoring program to prevent exploitation of the emergency situation by unscrupulous firms and individuals. That initiative was continued by Mayor Bloomberg, who took office on January 1, 2002, and with it responsibility for the site and its clean-up, which was completed in July 2002. Mayor Bloomberg required DOI and the other agencies to continue to be vigilant and proactive about corruption and waste issues at the site, a priority in the Bloomberg Administration.

DOI had already established under non-emergency circumstances such a procedure for monitoring various municipal projects, for example, construction projects within the City, where there had been a particular concern about corruption. Thus, DOI drew on that experience in putting a monitoring program together for the World Trade Center site but, of course, on a much larger scale.

In order to accomplish and better manage the necessary clean-up, the City divided the 16-acre World Trade Center site, Ground Zero, into four quadrants. A construction manager, or CM, was retained for each of the four quadrants. (*A map of*

Ground Zero as divided into the quadrants is attached to my written materials.) The Cbs were paid based on the labor, time and materials they used to carry out the clean-up. The CMs, in turn, had hundreds of subcontractors throughout Ground Zero, for example, truckers, waste disposal, and demolition companies—industries with a long history of organized crime involvement.

Thus, these contracts were not only enormous, but as "time and materials" contracts, they presented specific vulnerabilities to fraud and abuse from unscrupulous contractors, subcontractors and suppliers from which the City needed to protect itself. In addition, the work of the contractors and oversight of that work, was complicated by the multiple activities going on at Ground Zero during the clean-up due to the fact that the 16-acre site was a crime scene with an active recovery effort underway for the remains of the thousands of victims of the disaster. In combination with the fact that the work was to be carried out under the direction of four CMs, rather than one, the potential for fraud was increased. Thus, the purpose of the DOI monitoring program was, to the best of our ability, ensure that the City knew what work was being performed at the site and that the billing was appropriate and legitimate.

The Ground Zero clean-up was remarkably well-coordinated and ultimately well-accomplished because one agency, the City's Department of Design and Construction (DDC), was given the responsibility of managing the project. DDC is the City's construction and engineering expert. All four of the Ground Zero CMs reported to DDC. Thus, given that DOI was tasked with monitoring the four CMs, we collaborated closely with DDC.

DOI created and implemented the World Trade Center Integrity Compliance Monitorship Program, which was in place by early October 2001. This program required each of the four Ground Zero CMs to retain an onsite "Integrity Monitor" selected by DOI. Through DOI, each Integrity Monitor had the authority to review and audit all of the books and records of the contractors working at the site, and to maintain a physical presence on the site, including around the perimeter of Ground Zero. By virtue of this oversight program, the Integrity Monitors scrutinized the contractors' activities in real time and functioned as the City's eyes and ears. DOI also required the Monitors to establish a hotline number where anyone could call with concerns or information. A key feature to the effectiveness of the Monitors was that they reported directly to DOI on the contractors activities. Thus, if there were any issues or problems, they were addressed immediately. Reports of their findings were made on a frequent basis to DOI, which set up a trailer right at Ground Zero where meetings could readily and frequently take place. DDC was included in many of those discussions and received regular reports as well. DDC also hired an auditing firm to assist its Engineering Audit operation with auditing and payment issues. Together with the Monitors, this created strong oversight to detect and prevent fraud and waste.

The Integrity Monitors were themselves closely monitored by DOI in order to ensure that they were performing the kind of work that was really needed by the City, and in order to enable DOI to act on their findings quickly when necessary. The Monitors had to be tethered to a pivotal government oversight agency like DOI would make them a much less effective and useful tool.

DOI's Integrity Monitor program was a good government step because it was preventive in nature. By embedding the Monitors with the individual contractors, the monitoring program prevented fraud and waste by any contractors that were unscrupulous or sloppy, both: (1) instituting proper record keeping and work procedures to create a culture of legal compliance within each contractor's operations; and (2) ensuring accurate accountability to the City.

The Integrity Monitor model requires specialized firms with legal, accounting, law enforcement and investigative expertise. Because this model had been used in New York City by DOI, we were fortunate to have a number of highly qualified firms ready from which to pick, with whose work we were already very familiar. . The Monitors selected by DOI, who did an outstanding job under very difficult circumstances, were four of the New York areas leading monitoring firms: Getnick & Getnick for the Turner Construction quadrant; Stier, Anderson and Malone, LLC for the AMEC Construction quadrant; Decision Strategies for the Tully Construction quadrant; and Thacher Associates, LLC for the Bovis Lend Lease quadrant.

Thus, DDC was responsible for overseeing the operations of the four CMs, subcontractors and suppliers performing work at Ground Zero, and under the direction of DOI, the four Monitors maintained oversight of those activities.

DOI oversaw the work of the Monitors by reviewing the results of their investigations and audits and by helping to direct and focus their activities. DOI held joint meetings with all of the Monitors together every week in order to facilitate the dissemination of information among the Monitors and to ensure the coordination of

joint efforts. This was particularly important because the coordination helped to ensure that the decentralization of the clean-up effort did not in itself breed fraudulent schemes, such as having individual workers reported on the payrolls of different companies for work performed at the same time or subcontractors double bill for work through multiple CMs. DOI was also in constant communication with DDC and other government agencies, to make sure that information obtained by the Integrity Monitors was communicated quickly to the entities that most needed it. Finally, DOI communicated with the other area law enforcement and prosecutorial agencies on matters disclosed by the Integrity Monitors and ensured an appropriate flow of information between these agencies and the Monitors.

Initially, the Integrity Monitors maintained an on-site presence at Ground Zero on a 24-hour basis, seven days a week. Their duties fell into general categories of: deterrence, detection and documentation. In order to perform these duties, the Integrity Monitors engaged in legal, investigative, forensic accounting and engineering analysis. To perform their jobs, they reviewed books and records; identified and corrected inadequate financial and quality controls; analyzed financial records to ensure accuracy and basic contract compliance; assisted with clarifying agency policies at the site; analyzed laws and contracts; gathered intelligence for the law enforcement community; detected and corrected incompetence; and monitored the day to day work on the site. And they did all of this with a sensitivity to the City's needs for efficiency, speed and cost control.

Specific investigative, auditing and monitoring activities engaged in by the Integrity Monitors included:

- Background checks on companies and individuals working at Ground Zero;
- Establishment of a hotline to enable anonymous tips and to field complaints from workers on the site;
- Observation of employees sign-in/sign-out procedures and reviewing sign-in and sign-out sheets;
- Interviews of employees on-site;
- Reviewing payrolls to ensure that there were no fictitious employees on the payroll, through comparisons of payroll records with payroll checks issued and payroll records with the daily sign-in/sign-out sheets;
- Reviewing payrolls for prevailing wage violations and other labor law violations;
- Monitor swipe card system at the site for employees;
- Monitor equipment on site to verify its presence and use; ensure billings conformed accordingly;
- Auditing inventories of equipment on site and verifying whether it was rented or owned by the company, and verifying that the City was properly billed accordingly;
- Monitor GPS tracking system for trucks removing debris;
- Conducting spot checks and surveillances of supplies, equipment, activities at the site;
- Monitoring of material deliveries;
- Reviewing truck manifests;
- Verifying that materials that were ordered were in fact delivered;
- Verifying that the materials that were ordered and delivered were in fact job related;
- Verifying that the costs of materials were not inflated through forensic audits;
- Reviewing invoices and verifying that appropriate mark-ups were made, that there were no computational errors, and that there was no over billing and/or double billing;

While it should be noted that the vast majority of contractors on the site performed their work exceptionally well and with integrity, as a result of all of these types of intensive investigating and auditing efforts and more, the Integrity Monitors prevented a significant amount of waste, fraud and abuse in the Ground Zero clean-up. To a significant degree, the prevention came as a result of their presence on the site alone, which in and of itself, served as a deterrent to misconduct. For example, the sign-in sheets at the site from the earliest days of the clean-up prior to the arrival of the monitors, contained the names of individuals who allegedly did work at the site who were associated with organized crime. Moreover, some of those early sign-in sheets also contained the names of alleged workers on multiple sign-in sheets for work done (impossibly) at the same dates and times. However, when the four Monitors went into place and the CMs and the subcontractors all knew the Monitors were closely analyzing such items, these probable illegitimate and duplicative labor costs were no longer showing up on the payroll records billed to the City.

Indeed, corroborating the fact that the Monitors served as a deterrent, early on during the clean-up, DOI was advised by a local prosecutor of an intercepted con-

versation between two organized crime associates in which they lamented that the on-site presence of the Monitors at the World Trade Center site was making it impossible for anyone to overbill the City via the usual scams, because the site was being so closely scrutinized. We couldn't have said it better ourselves.

In addition to the deterrence of the type of willful misconduct lamented in that intercepted phone call, it is clear that the Integrity Monitors' activities further prevented waste and abuse through the establishment of proper record keeping systems, their physical presence on the site and their frequent audits of the billings. While, as with the general deterrence, it is difficult to precisely quantify the savings resulted from the institution of good record keeping procedures, direct observations and the quick detection of problems through frequent audits, the fact that significant savings that resulted from these activities is clear. For example, based on the submission and review of required documentation, the Integrity Monitors found evidence that purchased equipment initially billed to the City was also listed as equipment leased to the City. Thus, the City was being charged a rental fee on equipment it had already purchased and for which it had already been paid. As a result, these charges would not only then be disallowed (a quantifiable savings) but future improper billings on this equipment would not occur (a more difficult to quantify but clear savings nonetheless). Similarly, a review of required documentation by the Integrity Monitors revealed that requests for payments for rental equipment at times included fuel costs where such costs were built into the rental fees. Again, these costs would be disallowed (easily quantifiable savings) and not billed going forward (more difficult to quantify).

In another instance, the Integrity Monitors on-site spot checks resulted in a clear, but difficult to quantify, savings. Some debris-removal trucks were found to be operating with broken odometers. Had the trucks been allowed to continue to operate with this type of mechanical failure, they could have easily deviated from their approved travel routes, a problem observed with some trucking from the outset of the debris removal activity. The work of the Integrity Monitors resulted in the early detection and systemic correction of this problem and thereby reduced the ability of unscrupulous truckers to misdirect the debris or misuse the free dump tickets they were given in connection with their work at Ground Zero.

The Integrity Monitors background checks on contractors also resulted in the indictment of two principals of a Yonkers carting firm working at Ground Zero by the Manhattan District Attorney's office for lying about their ties to organized crime in documents filed with the City. Not surprisingly, invoices submitted by this same carting firm were identified by the Integrity Monitors as containing numerous instances of over-billing by that contractor.

Significant quantifiable savings through the identification and correction of sloppy, and sometimes willfully abusive, practices were also achieved by the Integrity Monitors. For example, in one instance, bills submitted to the City for payment by one subcontractor were so fraught with errors and improper mark-ups of heavy equipment and services, and lack of documentation authorizing the performance of services and labor charges, that they were reduced by two thirds—from $2.6 million originally billed to $795,000. In another instance, after long discussions concerning various billing issues between a Monitor and a subcontractor based on the Monitor's review of the records, the subcontractor agreed to revise prior billing submissions—translating to an estimated downward adjustment of $1 million.

In yet another example, one Integrity Monitor examining subcontractor invoices submitted to the City totaling more than $7.3 million, identified over-billing in the amount of $3 million, or almost 42% of the total invoice. In another type of overbilling uncovered and stopped by the Integrity Monitors, certain subcontractors were found to have impermissibly marked-up their bills beyond the 10% allowed for overhead and the 10% allowed for profit. .

Double billing for workers, time and materials were caught through the Integrity Monitors' frequent audits and on-site observations. So, for instance, the Monitors caught a subcontractor submitting invoices for debris removal at two different locations at exactly the same time, using the exact same vehicles and drivers. This matter, among others, was referred to the local prosecutor's office.

These are just a few examples to highlight the kinds of activities engaged in by the Integrity Monitors in connection with the World Trade Center clean-up and the savings to the government that resulted from those activities. They clearly demonstrate the effectiveness of the Integrity Monitor model, where the Monitors are embedded in a project from the beginning, and where they report directly to a government agency that ensures the appropriate focus of their work and the quick and effective dissemination of their findings.

It is clear that, as a result of the World Trade Center Integrity Compliance Monitorship Program, the government saved a significant amount of money by pre-

venting and curtailing fraudulent activity, waste and abuse of public funds. In total, we have estimated that, based on their extensive work and forensic analysis, the Integrity Monitors recommended in excess of $47 million in cost savings and that their very presence on the Ground Zero site and their frequent audits produced additional significant savings that cannot be quantified. All of these efforts not only protected public tax money, but helped to preserve the faith of the taxpayers in the quality and integrity of government services.

In conclusion, DOI makes the following recommendations to the Federal Government: (1) have a list of pre-existing list of known, experienced and vetted monitors in various fields of expertise and disciplines; (2) put an integrity monitor in place at the outset of any situation that will call for a large, costly government response operation, so that proper record keeping and work procedures can be instituted to create a culture of legal compliance within the operation, and ensure accurate accountability to the government; (3) have the integrity monitor(s) report to a government oversight agency with a broad governmental mandate encompassing fiscal integrity and law enforcement (*e.g.,* in New York it was DOI); and then (4) closely work with the integrity monitors and the other government entities concerned with addressing the emergency at issue throughout the duration of the project.

Thank you for this opportunity to speak to you today. At this time, I would be pleased to answer any questions that the Committee members or other representatives may have. Attachment

PREPARED STATEMENT OF MR. DAVID J. VAROLI, GENERAL COUNSEL, NEW CITY DEPARTMENT OF DESIGN AND CONSTRUCTION

Chairman Rogers; Congressman Meek; members of the committee: Good afternoon. Thank you for inviting me to testify before you, it is both an honor and privilege to be here today on behalf of the City of New York, Mayor Michael R. Bloomberg, Commissioner David J. Burney, AIA, and the City's Department of Design and Construction.

I want to thank you, Chairman Rogers, for calling this hearing.

Today's hearing is entitled "9/11 Federal Assistance to New York: Lessons Learned in Fraud Detection, Prevention, and Control." As the Counsel to the City's Department of Design and Construction ("DDC"), I am here today to discuss the recovery and clean-up efforts of the City following the terrorist attacks of September 11, 2001, which was the largest unplanned demolition project in American history. Every day the City encountered head on an unpredictable and complex site and responded with innovation and comprehensiveness to all issues. Yet, from the outset, the City's objective was for the work to be done in conformity to FEMA standards in order to minimize the costs and financial exposure to the taxpayers of the City and the country.

This July, DDC is celebrating its 10th anniversary. DDC was created to oversee the work of building and repairing the City's municipal infrastructure. DDC designs and constructs the City's sewers, water mains, roadways, police and fire stations, daycare centers, jails, municipal offices, and a variety of other structures in support of the City's infrastructure. We have expertise in the fields of engineering, architecture, and construction services. We work with some of the best and biggest private sector firms in the world. In addition, DDC works with a lot of small and new firms. Our business is to know the construction business and to deliver quality and cost efficient services to our clients and the ultimate users—the people of New York City.

As you have heard from my colleague, Commissioner Rose Gill Hearn, DOI is similar to DDC in that it also has an expertise and it knows its business very well, which is finding and rooting out fraud, waste, and corruption. DOI has created a system of inspector generals that are placed in each agency and has established a sophisticated infrastructure to monitor and combat government corruption both on the inside and in the vendor community.

As will be described in greater detail, DDC immediately hired four construction management firms—Bovis Lend Lease, Tully Construction, AMEC, and Turner Construction (who I'll refer to as the "Construction Managers"). The Construction Managers were engaged to manage the debris removal and coordinate the work of the many trades working at the site. Moreover, DDC immediately issued a task order against a requirements contract for the auditing services of KPMG to assist in the engineering audit functions traditionally handled by DDC. DOI and its private inspector generals (who I'll refer to as the "Monitors") monitored the Construction Managers' compliance with the City's laws, regulations, and policies from an integrity perspective. This included background checks of all major principals; investigations of potentially fraudulent matters; surveillance and review of day-to-day operations; verification of payroll reports to comply with DDC policies and prevailing

wage laws; operating an integrity hotline to receive 24/7 allegations of misconduct or violations; making recommendations to the Construction Managers and DDC; and, verifying payments to subcontractors and vendors. The Monitors functioned independently of DDC and reported their findings directly to DOI, which then forwarded pertinent information to DDC.

Before I describe the system put into place by DDC, DOI, and the rest of the City, I want to first set the stage by going back in time to the day before September 11th. It was a Monday, September 10th. The weather in the City was outstanding. The skies were clear blue and the sun shone brightly. Similar to the weather on September 11th, it was a beautiful summer day even though it was already the third day of public school. On September 10th the City did not have a plan to deal with an act of war against the City. However, the City did have in place a form of government that encouraged expertise in certain fields. The City, with a strong executive branch, was separated into a series of agencies with, for the most part, single missions and goals. This is an important point worth stressing. City agencies like DDC and DOI are experts at what they do and, over time, have created systems and contracts to provide their services in an efficient manner. For example, the City has experts in the following municipal services—sanitation, emergencies, health, construction, law, environment, police, fire and the prevention of corruption at the government level, to name just a few.

On the morning of September 11th, the day was starting as good as it ended the night before. A suit jacket was all that was needed and kids were still wearing shorts to school. The Hudson River was sparkling as the sun rose above the skyscrapers from the East. By 8:40, public school children were in school and most people were at work or commuting to work. Then, as we all know, in a matter of minutes, the world changed for New York City, Pennsylvania, Washington, D.C., and the United States of America. We had all been attacked and violated. A war had been brought to our doorsteps and into our backyards. After the first Tower fell that morning, the clear blue skies were immediately replaced with a thick dark haze of dust. We lost more than our clear blue skies and Sun that morning.

My perspective is both a personal and professional one. You see, I was there the day our country's world changed. I was in Tower 1 and Building 5, after the two planes hit, searching for my two-year old and his daycare classmates. Later that morning, my children and I saw the brave men and women jump from the towers, and at 9:59 in the morning I fell on top of my children in an attempt to protect them from the falling debris as the South Tower fell. My perspective also comes from having lived across the street from the World Trade Center and having my children's daycare set up in Building 5. During the clean-up, DDC and the other governmental agencies operated out of my children's elementary school at Public School 89. In fact, my office was my daughter's classroom. It is a day my family, my city, and my country will never forget.

There are many success stories that followed the City's and the country's response following the attacks. Two of the success stories are how the City cleaned up the debris in such a short time and how the City worked to detect and prevent fraud. We believe that the recovery, demolition, and clean-up was a success for the following reasons: first, all branches of government—Federal, State, and local—gave one entity—DDC—responsibility for managing the administrative, financial, and legal aspects of the project; and second, the events of the tragedy forged a strong partnership between the three levels of government and further forged a strong partnership between DDC, the Construction Managers, and the over 200 subcontractors. With the responsibility for managing the project, DDC then looked to the respective experts in-house and in City government in each of the fields of administrative, financial, technical, and legal and brought them on the team—the City's Department of Investigation, to name one of the most important agencies, worked closely with DDC. Moreover, in the middle of all the chaos following the attacks, the City put into place one of the best proactive fraud prevention programs, whereby the City utilized the best men and women, and technology available to monitor every aspect of the project. The institution of the Monitors by DOI and the retention of KPMG by DDC earlier on established a certain tone for the project of respect and an expectation of law-abiding behavior. These two steps created a system of verification and reconciliation of all payment requisitions, and extensive field monitoring work.

DDC worked with a team of public and private entities in the attempted recovery of survivors once the Towers fell, and DDC lead a team of public and private entities in the deconstruction of the war-damaged buildings and in the removal of the ensuing construction debris. DDC's mission was clear—assist the City in restoring order to the City by cleaning up the debris in a timely and cost effective manner.

The recovery aspect of the City's job did not meet any of our dreams, expectations, or prayers. Once the Towers fell, we did not find any survivors. We did not find alive any of the people who did not evacuate in time or any of our Police or Fire that had not gotten out in time. Words cannot express how we all felt as the days turned into a month and we had found no survivors.

As for the demolition and debris removal work, the cleanup of the World Trade Center site far exceeded anyone's expectations. In the aftermath of the tragic loss of life, safety was the City's number one priority as we proceeded to demolish the remaining buildings and cart off the debris. Another key priority was to prevent fraud and theft. Thanks to extraordinary efforts by the City and all of its agencies, its contractors and consultants, and cooperating state and federal agencies, the City had an excellent safety and fraud prevention record.

Early projections had the City cleaning up the site for two or more years. In fact, the City finished cleaning up the site in nine months. The City worked for twenty-four hours a day, seven days a week, for nine full months. The only day off was on November 12, 2001. The irony of that day was that the Commissioner, First Deputy Commissioner, myself, and a skeletal crew of DDC employees who reported for work to catch up on paperwork, immediately dropped everything and went out to the Rockaways, Queens, following the crash of Flight 587 to aid in the recovery. As for the World Trade Center project, in a matter of days DDC had created a crude management structure, which then materialized into a clear management structure with an organization chart. In nine months, DDC demolished the wrecks of the remaining structures—Buildings 3, 4, 5, 6, and 7, and the skeletal walls of Towers 1 and 2, and DDC removed 1,642,116 or slightly over one and a half million tons of heavy steel and debris.

Together, DDC and DOI, with the assistance of the Monitors and KPMG, instituted a program to monitor any attempts at fraud or waste, while at the same time never stopping the debris removal process. Furthermore, DDC and DOI put into action our respective expertise, with the assistance of many other City agencies, State agencies and Federal agencies. To name just a few of the other City agencies that played an important role there was the City's Office of Emergency Management, Police Department, Fire Department, Buildings Department, Environmental Protection Department, Transportation Department, as well as the Port Authority of New York and New Jersey.

It is important to understand that in a normal "planned" demolition and debris clean-up project, architects and engineers study the as-builts and other related blueprints of the building to be taken down. Experts in how to bring down a building in a neat fashion are retained and consulted. Prior to any demolition work, the contents of a building are emptied, the area around the building is restricted, and only a limited work crew is allowed nearby the site both during and after the demolition. The end result is usually a controlled and self-contained destruction, with no loss of life and limited external property damage.

None of this happened before September 11th. We have all seen the pictures and film footage. War brings chaos and in the City on September 11, we were surrounded by tons of chaos.

In addition to having people still in the buildings as they came down, the buildings were loaded with all of their contents. The City did not have the time to study the buildings before they came down. There was nothing controlled about how the buildings came down. In fact, it was the complete opposite. Chaos was the order of the day. As I mentioned earlier, I lived nearby the World Trade Center. In my apartment, every surface was covered in the dust and debris from the collapse of the Towers. And, as I also stated earlier, the City was faced with the largest unplanned demolition project—7 direct buildings destroyed, including two of the largest office towers in the world, plus damage to numerous nearby buildings, and, most sadly, the unprecedented loss of life and destruction of families—parents faced with burying their children, spouses faced with burying their spouses, and children faced with the reality that their parents are gone forever, as well as their childhood innocence.

As we now know, DDC was placed in charge of coordinating the deconstruction of the remaining structures and to remove all debris. DDC's approach was to hire the four Construction Managers and to break down the 16-acre site into 4 quadrants or areas. This enabled the agency to track and coordinate the flow of labor and equipment onto and off the site, and to monitor daily and nightly the amount of progress made. DDC contacted four of the largest construction firms in the City who had either prior experience in the area, New York City, or the World Trade Center complex. Every morning and evening the City's best construction people—private and public—would meet in a kindergarten classroom and discuss what work was to be done that day and to review what had taken place during the prior twelve hours.

Having these meetings in a kindergarten classroom sitting in chairs appropriate for a six year old was good for comic relief at such a sad time.

When all this started, no one knew what we were looking at in the sense of time to complete and cost. DDC recognized very early on that it would need help in dealing with all of the auditing and payment issues. The City had in place a contract with KPMG, a large accounting firm for consultanting purposes. The firm also has a construction and forensics auditing division. DDC utilized KPMG to work with DDC's engineering audit officer to institute an audit engineering team for the entire project. I have not mentioned this earlier, but please keep in mind that during the nine months DDC worked on the project, DDC also continued to service all of its other clients and kept on building the City's infrastructure in the rest of the City (DDC manages a current portfolio of design and construction projects in the billions of dollars). In addition, DOI continued its mission with regards to all other City agencies.

What does a nine-month demolition and recovery clean-up project mean in terms of sheer numbers and dollars? The City paid the four Construction Managers cumulatively almost a half billion dollars or to be precise $476,907,125.54. As I stated earlier, the City removed 1,642,116 or slightly over one and a half million tons of steel and heavy debris. The daily average of men and women working at the site ranged from 1,096 people in the early months to 346 people in the last month. In total, 2,400,000 man-hours were expended during the project. Hundreds of pieces of equipment from the largest crane in New York City history to small hand tools were used throughout the project. In addition to the four Construction Managers that reported directly to DDC, there were approximately 200 different subcontractors and consultants working on the project.

Included in the $476,907,125.54 paid to the Construction managers, was $24,661,101.93 paid to DOI's Monitors. DDC also paid KPMG $15,315,507.29 for all of its services. In the fall of 2001, DDC installed a Global Positioning System in all trucks—private and public—that came onto and left the site. In addition, in the winter of 2002, DDC instituted an electronic check-in system to gain access to the site. This system instituted on January 31, 2002 reported 5174 people accessing the site in the remaining months of DDC's demolition and debris removal operation.

DDC and DOI instituted a lot of innovative procedures to ensure compliance and accuracy. The use of KPMG is one example of an innovative procedure. For example, KPMG provided audit expertise in prevailing wage compliance and documentation; verification of actual numbers of personnel working based on shift logs 24/7; determination of equipment usage on a given shift by established categories—operational-in-use, standby-staffed by an operator to be deployed when directed, and idle-being serviced or repaired; verification of costs of material, rental and owned equipment based on costs and rental rates in effect on September 10, 2001; verification of costs of professional personnel on established salary and benefit schedules; and certification of marine transport of debris loads by examination of vessel logs.

With regards to reviewing the payment requisitions submitted by the four Construction Managers, DDC and KPMG in consultation with DOI and its Monitors, FEMA, and the four Construction Managers, put into place a payment requisition review process as follows:

An innovative detailed system of checks and balances was instituted by DDC and DOI to ensure that the taxpayers' money was spent in accordance with FEMA's and DDC's policies and regulations. DDC's engineering audit officer and KPMG, would audit a sample from each payment requisition for each subcontractor cost category to assure proper documentation exists and there is agreement; check for proper equipment rates, labor rates, material prices and markups in compliance with industry standards, and prevailing wage prices; take withholdings of payment on a percentage basis per issue identified; enter all findings into a central electronic database; and submit a report to DDC and the Construction Manager for review and comment. DOI and its Monitors would review the payment requisitions submitted by the Construction Manager as they relate to fraud, waste, and abuse. DDC would send field monitors, who were not auditors, out to cross reference the payment requisition with their daily field logs for agreement; DDC's project managers, who also were not auditors, reviewed the payment requisition packages for reasonableness of expenses, agreement with costs with field reports, and supporting documentation; and, the DDC project managers would also recommend withholdings to DDC's engineering audit officer. FEMA would review the payment requisitions for accuracy, agreement with proper source documents, and eligibility of cost items for reimbursement and scope of work; and would also use their own field monitors to verify the daily reports.

With regards to tracking the time and material tickets submitted by the approximately 200 subcontractors, DDC and KPMG created a very detailed methodology. Each group in the process had a unique focus and role. The system or methodology worked as follows: KPMG's role was to assess and enhance processes and controls over field operations, including time and materials data capture and processing; and to monitor and sample debris removal cost data on a daily basis. DOI's Monitors' also had a role. The Monitors focus was to review supporting documentation for all subcontractor payment requisitions for fraud, waste, or abuse. DDC's project managers' role was to monitor all documentation so that the work was completed in a timely and cost-effective manner, and to ensure that payment requisitions contain supporting documentation. And, finally, FEMA's role was to monitor documentation to ensure that work being performed and billed for was eligible for payment by the Federal government, and was reasonable and cost-effective.

To follow through on each of these important roles, a detailed procedure was instituted by DDC. For example, KPMG fulfilled its role by breaking out its review into three distinct parts—labor, equipment, and materials. For labor, it would take random, 10% samples of names from shift sign-in sheets and physically verified that the workers were present. For equipment, it checked that all large equipment from the Construction Manager's equipment logs were present and entered their findings with the following notation—working, standby, or idle. As for material, it would collect daily a copy of receiving slips and make notes in their daily observation logs, and report findings to DDC's engineering audit officer. DOI's Monitors, as already highlighted by Commissioner Rose Gill Hearn, also had a comprehensive system to review all labor, equipment, and materials.

As I conclude my testimony today, again I would to take this opportunity to thank the Committee for convening these Hearings. I would also like to highlight some of the issues we encountered during the nine months it took us to complete the recovery, demolition, and debris clean-up.

First, and foremost, the issue of how this country will respond, God forbid, to another act of war on its shores. I believe the destruction that follows an act of war should be treated differently than a natural disaster. As Commissioner Gill Hearn mentioned, the work done at World Trade Center was performed under a criminal investigation the entire time. There were times when a construction crew had to stop work to allow the FBI, ATF, Secret Service, FDNY, and/or NYPD search for some item.

Moreover, we had to respond to a lot of different federal rules and regulations as administered by FEMA that had been created over time in response to flood and hurricane damage. These policies and regulations did not fit the mold here. In the end, after several meetings and the act of writing letters, we would receive an exemption to a set policy or regulation. But there has to be a better way.

In closing, like a lot of other people, I have read the stories of how this nation responded to the World Wars that scarred the prior century. What I took from those stories was the ideal that a democratic and diverse nation such as ours can and will rise up to meet any challenge. After my personal experiences on September 11th, it is funny to say this, but I consider myself lucky to be in New York and to work for the City of New York. I witnessed first hand the best in people following that day's attacks. Similar to how the federal government and private industry responded to the call by President Roosevelt at the start of World War II, the government of the City and the private industry located in New York City also answered a call on behalf of itself and the country.

PREPARED STATEMENT OF MR. NEIL V. GETNICK, PRESIDENT, INTERNATIONAL ASSOCIATION OF INDEPENDENT INSPECTORS GENERAL

Good afternoon Chairman King, Chairman Rogers, and members of the Subcommittee. My name is Neil Getnick, and I am an attorney and the Managing Partner of the law firm, Getnick & Getnick, which is located in New York City. It is a privilege and an honor for me to appear before you today to speak about my firm's participation as an Integrity Monitor in the clean-up and recovery effort which took place at the site of the WorId Trade Center after the terrorist attacks upon our Nation on September 11th. I am especially honored to appear this afternoon with New York City's Commissioner of the Department of Investigation, Rose Gill Hearn. The Department of Investigation has long utilized Integrity Monitors to assist New York City in fighting fraud, waste and abuse in City projects and departments, and was responsible for the appointment of Integrity Monitors to participate in the clean-up and recovery effort at Ground Zero.

New York City has shown that government can join together with private individuals, serving as Integrity Monitors, to effectively and economically combat and pre-

vent fraud, not only in the area of disaster relief, but also in the regular day-to-day business of government. Historically, the use of Integrity Monitors was an essential component of the City's campaign to combat mob infiltration and corrupt influence in key industries and markets, such as wholesale food markets, commercial carting, and school construction. The Integrity Monitors proved highly effective and the City expanded their use. Examples of this are found not only in the disaster relief effort at Ground Zero, which I will address in more detail shortly, but also in situations where the City enters into contracts with private business and has a concern that there is the potential for misuse of taxpayer funds, and therefore appoints an Integrity Monitor to oversee a particular contractor or project. New York City's innovative use of private individuals and firms as Integrity Monitors is an example of government and the private sector working together for the public good in a cost-effective manner.

Although I am speaking today in my capacity as the Managing Partner of Getnick & Getnick, I am also the President of the International Association of Independent Private Sector Inspectors General ("IAIPSIG"). IAIPSIG is a nonprofit professional association whose mission is to preserve and promote integrity, honesty, impartiality and professionalism in the work of IPSIGs, monitors and independent investigators. An IPSIG is an independent, private sector firm (as opposed to a governmental agency) that possesses legal, auditing, investigative, and loss prevention skills, that is employed by an organization (i) to ensure that organization's compliance with relevant laws and regulations, and (ii) to deter, prevent, uncover, and report unethical and illegal conduct committed by the organization itself, occurring within the organization, or committed against the organization. Notably, an IPSIG may be hired voluntarily by an organization or it may be imposed upon an organization by compulsory process such as a licensing order or contract issued by a governmental agency, by court order, or pursuant to the terms of a deferred prosecution agreement. The IPSIG may also, in appropriate cases, participate with management in enhancing the economy, efficiency and effectiveness of the organization. Members of the IAIPSIG adhere to a comprehensive Code of Ethics and have been appointed as Integrity Monitors by local, state and federal agencies, as well as voluntarily retained by private industry.

When I speak about Integrity Monitors today, I am speaking about an IPSIG which has been imposed upon an organization, and in the case of disaster assistance we are referring to construction management firms and general contractors, as a condition set forth in the contract to provide disaster relief services. This was the situation that existed at Ground Zero.

After the attack on the World Trade Center on 9/11, Mayor Giuliani and top New York City officials realized that, as with any construction-type project, the potential for fraudulent and abusive behavior was present at Ground Zero. The City was determined not to allow that type of behavior to occur. Within a few weeks after the disaster the New York City Department of Investigation reached-out to private firms with extensive past experience as Integrity Monitors on City projects and in short order put into place an Integrity Monitor program to oversee the recovery and clean-up process. There were four construction management companies assigned to oversee the disaster clean-up, and the site was divided into four quadrants with each construction manager assigned to a particular quadrant. Our firm, Getnick & Getnick, was assigned as the Integrity Monitor to oversee the work performed on the quadrant assigned to the joint venture between Turner Construction Company and Plaza Construction Corporation. The other three Integrity Monitors were Thacher Associates, LLC, assigned to monitor Bovis Lend Lease; Stier, Anderson and Malone, LLC assigned to monitor AMEC Construction Management, and DSFX (Decision Strategies) assigned to monitor Tully Construction. Each of the four monitors were well known to the Department of Investigation, having been pre-qualified to serve as Integrity Monitors in the past and having successfully handled other monitorship assignments for the City.

It is important to note what the appropriate role of an Integrity Monitor is, and is not, at a disaster relief site. There are many participants from the private and public sectors who take part in a disaster relief project. There is a construction manager whose job is to: manage the day-to-day operations on the work site; hire and supervise all subcontractors; interact with the relevant governmental agencies overseeing the project; prepare daily information logs; prepare billing requisitions; in addition to other responsibilities. Typically, a government agency with in-house engineering capability oversees the performance of work by the construction managers and the subcontractors working under them. At the World Trade Center, the New York City Department of Design and Construction performed this task. Numerous governmental agencies inspected the work for compliance with applicable laws, rules and regulations, such as OSHA requirements and safety and environmental regula-

tions. At the World Trade Center site, in addition to the New York City Police and Fire Departments, various federal agencies were present on a daily basis, including representatives from the Federal Emergency Management Agency, the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Federal Bureau of Investigation, among others.

An effective Integrity Monitor does not duplicate or supplant the functions of these other participants in the project. Rather, an Integrity Monitor uses a multidisciplinary approach, bringing to a project its unique knowledge and expertise in the following areas: (i) legal, (ii) investigative, (iii) auditing, (iv) loss prevention, and (v) other project-specific requirements such as engineering, environmental, etc. The Integrity Monitor utilizes these specific skill sets to review and monitor policies, procedures, and practices in the area of record-keeping and billing, as well as for the actual field work. The Integrity Monitor evaluates these procedures and work progress to assess efficiency, accuracy and compliance with all applicable law, rules and regulations. It reports its findings to the assigned governmental agency, as in the case of the World Trade Center the Integrity Monitors reported to the Department of Investigation. Much of the information reported to the Department of Investigation was subsequently shared with the monitored companies and the other governmental agencies involved in the project. An Integrity Monitor in many cases, and this was certainly true at the World Trade Center, works with the monitored parties to develop programs and procedures which prevent corrupt practices, ensure compliance with all pertinent laws and regulations, and promote the efficient and cost-effective completion of the project. For example, when a billing issue was discovered which did not fall into the category of potential criminal behavior, the Integrity Monitor brought the issue to the attention of the construction manager and the Department of Design and Construction, discussed ways to avoid that problem in the future, and the billing was adjusted to reflect the proper amount. This is an example of how the Integrity Monitor facilitated corrections and improvements so that the City was not overbilled. In cases where corrupt and fraudulent behavior was suspected, whether in the area of billing or construction-related matters, the Integrity Monitors reported the matter to the Department of Investigation and then worked with it and the appropriate law enforcement agencies to assist in the investigation and in some instances, ultimate prosecution, of the responsible parties.

Because of the unique role and skill set of the four Integrity Monitors assigned to the recovery and clean-up at Ground Zero, we were able to provide coordinated assistance to the companies and governmental agencies working at the site, as well as to serve as a deterrent to those seeking to take advantage of the disaster situation for their own selfish gain. Members of the Integrity Monitor teams had expertise in legal, investigative and forensic accounting work and were former government lawyers, police officers and accountants with many years of experience working in law enforcement and on criminal investigations. We were in the field on a daily basis, observing the work in progress, speaking with the workers on the site, monitoring a complaint hotline 24 hours a day, and gathering significant intelligence. We reviewed billing submissions, checked back-up documentation, visited home offices of subcontractors when appropriate, and compared the billing submissions with our own observations in the field. Using this approach, we worked together with the Department of Investigation and the other governmental and private agencies on the project, to expose and prevent waste, fraud and abuse.

My firm has been appointed or retained as an IPSIG and Integrity Monitor on numerous federal, state and local projects across a wide variety of industries. Based on that experience generally, and at the World Trade Center disaster site specifically, I would like to highlight for you the types of improper and often criminal behavior which can take place during the clean-up and recovery phase of a disaster site, which, because of its emergency nature, is typically billed on a time and materials basis, as opposed to a fixed price basis following a competitive bidding process.

• *Improper Payroll and Labor Billing:* (1) ghost employees on the payroll; (2) employees who sign-in and out of the work site but who go to off-site work locations during the day, often to work on private jobs in nearby areas; (3) employees who "loan" their identity to others who work in their place and receive a portion of the wages, with the balance being pocketed by the employee named on the books; (4) excess labor present on site resulting in inefficient use of work force, i.e., workers on site who are not being utilized; (5) contractors paying employees substandard wages and billing the government at a higher rate; (6) bribes to union officials to permit non-payment of pension and welfare benefits to union employees; (7) inflating the amount of union benefit payments in labor bills submitted to the government; (8) work slow-down to incur overtime pay.

• *Improper Equipment Billing:* (1) billing for equipment not present at the site; (2) billing for equipment present at the site which is either unnecessary or is not

functioning and in need of repair; (3) billing for repairs which were not performed or which were occasioned by off-site use; (4) billing for inflated rates higher than those permitted by contract; (5) billing for inflated rates higher than those charged on private work; (6) double-billing of equipment; (7) excessive and inaccurate billing for fuel needed to operate equipment on site.

• *Improper Materials Billing:* (1) billing for substandard materials required for proper job performance; (2) inflating the price of materials purchased for the site; (3) inadequate inventory control resulting in billing for materials which are removed from the job site and used at a different location; (4) double-billing for materials; (5) kick-back schemes and bribes resulting in inflated prices for materials used on the work site.

• *Safety and Environmental Issues:* (1) failure to properly train employees in safety procedures and use of equipment, and to enforce those procedures on the job site; (2) failure to properly dispose of hazardous waste material; (3) billing for substandard and ineffective environmental monitoring and testing; (4) performance of unnecessary and duplicative environmental monitoring and testing; (5) billing for safety equipment not utilized at the disaster site; (6) utilization of machinery and equipment on site which does not comply with current safety and environmental standards; (7) failure to maintain adequate site records and logs to determine whether required site safety and environmental standards are met.

• *Subcontractors:* (1) selection of subcontractors based on improper criteria which does not include ability and pricing, such as payment of bribes, personal relationships, etc.; (2) improper mark-up of subcontractor billings; (3) retention of subcontractors unqualified and incapable of providing required services; (4) improper vetting of subcontractors' qualifications and background.

• *Security:* (1) insufficient site security and spotty enforcement of security regulations, such as failing to check identification and to inspect deliveries, allowing for unauthorized personnel and goods on work-site; (2) theft of property from site due to inadequate security, inventory control and theft prevention procedures; (3) inadequate coordination between various organizations and individuals responsible for site security.

• *Management of proiect:* (1) relationships between construction managers and subcontractors which prevent objective evaluation of job performance; (2) corruption of supervisory personnel by bribes, threats, etc., (3) inadequate supervision and implementation of appropriate procedures to prevent fraud, waste, abuse, and violations of rules and regulations; (4) inability to perform necessary tasks and assignments.

Many of these kinds of activities were identified as issues or potential problems by the Integrity Monitors at the World Trade Center clean-up and recovery project, and have been encountered during other monitorships we have worked on in the past. Due to the multidisciplinary approach and extensive experience in combating fraudulent and criminal activity on construction and other government projects which the Integrity Monitors brought to bear on this challenging task, and our partnership with City Government, we were able to identify and address these problems, and, when appropriate, work with law enforcement agencies to gather evidence for criminal prosecution. As a result, the money spent on 9/11 disaster relief at the World Trade Center site was spent for its intended purpose.

I understand that the Committee on Homeland Security is considering legislation which will address fraud prevention in disaster relief programs. Based on our extensive experience in working as an Integrity Monitor and IPSIG on various governmental assignments, we offer the following suggestions with respect to that proposed legislation:

• A list of pre-qualified organizations which can act as Integrity Monitors should be established so that qualified individuals can quickly mobilize to monitor disaster relief programs. These organizations should have among its members individuals with legal, investigative, forensic auditing and loss preventions skills, and have extensive experience in acting as Integrity Monitors on other government projects.

• The obligations and duties of an Integrity Monitor at a disaster recovery site should be clearly delineated, and should include adherence to a Code of Ethics such as the one followed by members of the IAIPSIG (copy attached to this testimony).

• The construction manager or contractor overseeing the disaster relief project should be required as a condition of its contract with the government to cooperate with the Integrity Monitor, including providing access to all books and records and access to all personnel, and require all of its subcontractors to do the same. The four construction managers working at the World Trade Center disaster site entered into such agreements with each of their respective Integrity Monitors as a condition of the CMs providing construction services at the site.

• The hallmark of an IPSIG and an Integrity Monitor is its independence. Integrity Monitors should have no prior business or personal relationships with the monitored entity which would create a conflict of interest, or even the appearance of one.

• Indemnification should be provided to the Integrity Monitor, similar to the type of indemnification provided to public officials acting during the course of their official duties.

• Payment to the Integrity Monitor for services provided should be guaranteed on a regular basis to ensure that the Integrity Monitor is not thwarted in carrying out its obligations by companies that might withhold or delay payment in an attempt to deter the Integrity Monitor from performing its duties.

Any construction project, even one which is anticipated and planned in advance, is susceptible to fraud, waste and abuse. By its very nature, a disaster recovery project is more vulnerable to this type of conduct. As we have seen with the World Trade Center recovery and clean-up after 9/11, however, the appointment of Integrity Monitors allowed the City of New York to detect improper behavior on a real-time basis, and not just after the fact. This enabled the City to remedy problems and bad practices quickly, and thus save significant sums of money. Even more noteworthy, however, is the preventive effect the Integrity Monitors had at Ground Zero in stopping fraudulent and wasteful conduct before it occurred by their presence and involvement at the site. This deterrent effect is invaluable. The use of Integrity Monitors at future disaster relief sites will have the same impact and will ensure that the money designated for disaster recovery is used for its intended purpose.

Thank you for the opportunity to address you this afternoon on this very important topic. I am happy to answer any questions you may have for me at this time.

PREPARED STATEMENT OF MS. CARIE LEMACK, CO-FOUNDER, FAMILIES OF SEPTEMBER 11

It is an honor to be given the opportunity to testify in front of the House Committee on Homeland Security's Subcommittee on Management, Integration and Oversight. I would especially like to thank Chairman Rogers and his impressive staff for inviting me here today. The work you do in overseeing the Department of Homeland Security is vital to ensuring that our nation's protectors remain focused and prepared for the threats our country faces.

Today we are not here to talk about these threats, though they remain constant and require our continued vigilance. Today we are here to talk about our response when these threats strike, and how to more effectively deploy aid to those in need.

A quick note; while I am a co-founder of Families of September 11, today I speak as a daughter of a 9/11 victim. My views are my own and have not been voted on or endorsed by the Families of September 11 board of directors, of which I am a member.

There are three things that I believe responders need to keep in mind when trying to eliminate fraud and inappropriate use of funds for terrorism victims. First, we have to recognize that in the United States today, "family" is not just the traditional husband, wife and 2.5 kids. There are couples who never married, but have made lifelong commitments to each other; re-married fathers, with children from both a current and previous marriage. There are young workers who support their elderly parents and disabled siblings. When administering aid, an organization or government agency has to be able to take non-traditional familial structures into account.

Accordingly, if an aid organization advertises that it is collecting and distributing donations for disaster victims, it must abide by its promotions. The agency cannot choose which subset of victims to support after the fact. If they advertise to help all victims, they must help all victims.

Another issue that must be addressed is how a recipient can monitor and report fraud. Those who are collecting aid and managing the flow of funds for their family are in the best position to identify when something is amiss, but oftentimes, at least in the majority of cases after 9/11, there was no way for the head of household to know who else was applying for, and receiving aid in the name of the victim. Information should be available to the victims and their family representative, not held in secret by the agencies that are unequipped to handle the tremendous influx of requests and inquiries.

Lastly, any type of aid distribution should go through an opt-in database system, not one that is opt-out. That is, let the families decide who sees their personal financial information and which groups they would like to apply to for aid, instead of automatically giving their private information to all aid organizations that then decide which programs they are eligible for. This process will also help families detect and prevent fraud in their loved one's name. The opt-in system should be used in

concert with a single application, instead of the system used after 9/11, when each aid agency had its own application that required hours of duplicating efforts from the families the aid was supposed to help.

These three issues became clear to me after my personal experiences with post-9/11 aid. My mother, Judy Larocque, was the CEO of Market Perspectives, a small market research firm employing approximately 20 people in Framingham, MA, my hometown seventeen miles west of Boston. Mom was 50 in September 2001, about to turn 51 on October 27th. She had two daughters; my older sister, Danielle, who at the time lived in Chicago, and me.

Mom's dream was to get both her daughters back home after we left Massachusetts for college in California. In the fall of 2001, it looked like her dream was going to come true. On Labor Day weekend, Danielle and her boyfriend, now husband Ross, came to Boston to visit. I took Mom to a Red Sox-Yankees game, we ate lobster and steamers, and we enjoyed a peaceful weekend spending time together. When Danielle and Ross left to return to Chicago, Ross told Danielle he thought he could definitely live in Boston. Mom and I were ecstatic.

On September 10th, Mom was as proud as ever. Danielle taught her first class as an adjunct professor at Northwestern Law School that day, and Mom beamed. When I called her late that night, I woke her up. Even in her sleepy state, the first question she asked me was "Did you call and congratulate your sister?" Of course the answer was yes. We were as close as any mother and daughters can be. Mom made sure of that. Whenever Danielle and I fought, she made us hug, and told us "you are always going to be sisters, that will never change".

That bond became even stronger after 9/11. There are not words to describe the pain and grief of losing Mom, my best friend, my confidant, my comforter, my rock. We all know of the horrors of that day, September 11, 2001, so I will not go into that any further. Instead, I will focus on the troubles we encountered after 9/11.

Immediately, we began to understand that the methods in place to deal with victims' families are not made for today's familial structure. Mom was recently divorced, and since Danielle and I were not considered dependents, Mom was treated as a single woman with no children. I cannot even begin to imagine how furious that designation would make her.

American Airlines was the first organization we came in contact with that treated us differently. They kept me on hold for hours, never confirming Mom was on Flight 11. At one point, I remember thinking that she could not have been on that flight, because an airline would not treat victims? family members this poorly. Unfortunately, I was wrong on multiple counts.

When Danielle asked for help in getting home to Boston from Chicago, the American Airlines representative gave her the number for Amtrak, and told her that the trains were all booked. We then learned that Mom's name was released to the media sometime in the afternoon of 9/11, even though we had expressly asked American Airlines not to give out her name.

Only later did we find out that there was a lot of information we were not told about. There was a meeting at Logan Airport on the morning of the 12th that we were not invited to. The only explanation for the omission was that we were not considered immediate family, though we can never really know if that is why information was kept from us.

Perhaps all of this would have been different had Mom had a husband. Instead, she had two daughters in their twenties, trying their best to handle her affairs, but not considered her children by aid agencies and the like.

As we struggled with that hurdle, we also learned that the specifics of her murder were being taken into account, without our prior knowledge, to determine if her family was eligible for aid. To prevent improper practices, organizations need to make clearer their criteria and procedures ahead of time to ensure all families receive appropriate treatment.

This lesson became apparent in the American Red Cross' decision not to give aid to the families of those who loved ones perished on the four planes. They claimed that the airlines? legal obligations would be substantial enough to help those families. They did this without alerting the public, all the while collecting donations in the name of the "9/11 victims and their families".

The ramifications of this decision may not be immediately apparent, but they were severe. Suddenly, many of Mom's friends who donated to the American Red Cross asked us about the aid we were getting to help pay Mom's mortgage on our childhood home. When I had to tell them we were not eligible for the aid, they became angry, frustrated, and wanted me to provide the explanation.

It seemed that everywhere we went, we saw solicitations for the American Red Cross. It was incredibly painful to feel like a second-class victim's family member, as if we were not good enough for the generosity that the American public put forth.

When we went to Framingham's Town Hall to get copies of our birth certificates to apply for Mom's death certificate, we were faced with another reminder of our low status. There on the counter was an appeal to help the victims in New York and Washington by giving to the Red Cross. When we asked if the woman at the counter knew there were victims right here at home, her eyes welled with tears.

Families need to be accepted as what they are. When an ad is placed saying an organization is raising money to help victims? families, it must either specify which type of families, or be open to all affected families. To this day, all the scholarship money that was raised for the "children" of 9/11 victims only goes to dependent children of a certain age. I was a 27-year-old daughter of a 9/11 victim, but was deemed ineligible for any 9/11-related scholarships or aid when I began graduate school in 2002. I may not be what most considered when they donated money for 9/11 children, but there is no doubt in my mind, nor would there be in my mother's, that I lost a parent on 9/11.

As a co-founder of Families of September 11, a national organization of 9/11 victims' family members, survivors and concerned members of the public, I heard the stories of many non-traditional family members who fell through the cracks of aid organizations in the months following 9/11. There were the engaged, some of whom were supposed to be married only four days after the attacks, who were not eligible for most types of aid. I remember vividly speaking with a woman whose ex-husband had remarried before he was killed on 9/11, so that the new wife received all of the aid. The problem occurred because the man had fathered children with both women, and the first wife was unable to collect money to help her young son. The story of a couple who chose not to marry, but lived together for seventeen years comes to mind, with the victims' parents getting aid, but not the partner who was left with bills and a mortgage. This scenario was played out over and over again with many of the gay and lesbian victims whose partners were left with no legal and varying social status to receive aid.

Aid organizations must recognize the differing aspects of American families as we know them today. They must be flexible and accommodating. To its credit, the American Red Cross and United Way did finally come around and begin to help non-traditional families. But this change came only after tremendous pressure. It should not be the responsibility of the victims to have to actively lobby those who are purporting to help them. Instead, the aid organizations should welcome their input and act on it, not resist it until Bill O'Reilly or his counterparts repeatedly attack their practices on national television.

The Department of Homeland Security (DHS) could play a crucial role in solving this problem. Currently, there is no Office of Victim Assistance in DHS, which means that while there are lots of people thinking about how to deal with preventing and immediately responding to a disaster, there is no one trained to deal with the people a disaster might affect. If DHS has trained professionals on hand who specialize in assisting disaster victims, perhaps the good people at American Airlines and other corporations can leave victim support to those better suited.

The designation of who is eligible for aid, and who is not often walks a thin line. We are all aware of the reports of limousine drivers and mistresses who racked in large sums of money from aid organizations because they were able to prove, however tenuously that they suffered losses after 9/11. But there are some programs, and some individuals for whom this designation is crystal clear. What is less precise, however, is how to identify and respond to them.

After Congress created the Victim Compensation Fund (VCF), families were faced with a difficult decision: should they give up their right to pursue litigation against those liable in their loved one's death in order to receive an unknown amount of money from the government? This was made even more difficult by the fact that when the regulations for the VCF were finalized, there was strong resistance in Washington against any type of in depth investigation into the 9/11 attacks. How could a family decide whether or not to pursue litigation, when we had no way of knowing what really went wrong?

For Danielle and me, however, this decision was simple. We knew that we had to pursue litigation in order to get to the truth, and therefore do our part to ensure that what happened to Mom and nearly three thousand others would never happen again. If the airlines, security companies and others had been forthcoming, we might have chosen differently, but based on their secretive behavior, we felt it was our obligation to shed light on the truth in our call for accountability.

There was someone who did not share our sentiments. He wanted to collect money, and was not interested in seeking the truth. His name is Wayne Larocque, and he is Mom's ex-husband.

One day while on the phone with an attorney and my sister, I decided to look at the list the Department of Justice had created of those who had applied for the

fund. At the time I was President of Families of September 11, and I felt an obligation to do what I had advised our members to do; stay informed, be diligent, and make sure no one was fraudulently applying to the VCF in your loved one's name.

When I saw Wayne's name on the list, applying on behalf of Mom, I was shocked. That disbelief soon turned to action, and Danielle and I quickly contacted VCF officials. As I understood it, Wayne applied, and in his application, he failed to mention that Mom had two daughters who were her legal next of kin.

We were not allowed to see Wayne's application, although we did contact the proper authorities to ensure that Mom's rights, and our own were not violated and that no fraud was ultimately committed. His application could have jeopardized our participation in a lawsuit; the airlines have tried to have any family that even minimally applied to the VCF thrown out of the pending litigation.

Even today, I have no way of knowing what other money Wayne applied for and received. Perhaps there is none. But if he was willing to go the trouble of filling out the VCF form (which was much more involved that most aid applications), I can only imagine how easy it might have been for him to collect other money. Without having access to information regarding who applied for and received money in Mom's name, I can have no way of knowing if any fraud was committed, and therefore cannot report and deter it.

There are systems that are very exact when determining how to compensate victims' families. Worker's compensation for example, does a terrific job of knowing exactly how much each family gets, and to whom it goes. I know this, since we were not eligible for worker's compensation aid, but Mom's mother, my grandmother, was. Based on my experiences with it, I feel very confident that little to no fraud got through the their system, nor the system the Social Security program uses. I do not believe it is too much to ask aid agencies to have some sort of system that could allow a victims? family to know who is asking for and receiving aid in a victim's name, in an effort to curb fraud. In the case of the VCF, this type of transparency clearly worked.

This database should be part of an opt-in system that could be used to streamline aid distribution. After 9/11, Americans, and for that matter, people from across the globe, showed their patriotism, unity and compassion in a generous outpouring of support and donations. Speaking for myself and my family, we were overwhelmed with the selfless giving of time, money and love from our neighbors, friends, communities and fellow Americans.

The job of collecting and distributing the aid was not an easy one. Those agencies that stepped up to the plate and volunteered to house and give out the money might not have been fully aware of the difficult task that lay before them.

On the Tuesday before Thanksgiving 2001, I drove from Boston to New York City for a meeting with other 9/11 family members and New York Attorney General Elliot Spitzer to discuss how to streamline the aid distribution process. He suggested creating a database of 9/11 families? financial information, so that the aid organizations could review our status and decide how best to divvy up the aid.

I agreed that idea of a database was useful, but thought it should work in the opposite direction. The families needed one list of aid agencies with a common application, that told them the criteria and amount of aid each agency was offering. This way, families could fill out one form, and could then decide to which organizations they wanted their application sent. For many families, the idea of deciding which agency was able to see their information was extremely important.

Unfortunately, we were unsuccessful in creating this database. As I understood it, the aid agencies did not want to collaborate in drafting and approving a single application and did not like the opt-in idea.

The result was that families had to spend hours on the phone, or in queue at the Family Assistance Center, repeating the same information over and over again to different aid agencies. Not only was it frustrating to the families, it also led to an environment that could foster fraud. There was no way to keep track of which agency was paying which bill for a family, possibly resulting in multiple payments, whether intentional or not.

For future events requiring aid distribution, I highly recommend the opt-in, single application approach. Families have every right to know who sees their financial information, which an opt-in system provides. Using an opt-out approach assumes that every family completely understands the complicated system—after suffering a traumatic loss, this is just one more unnecessary burden to place on a grieving, overwhelmed family.

A single application is a seemingly simple, yet hard to implement process. Each aid agency uses its own, slightly modified approach, and there is no overseeing authority to make them all collaborate for the benefit of the recipients. If Congress can get them to work together now, before another event, perhaps the victims of

the next catastrophe will receive an improved, more streamlined and easier to use response process.

This is an area that DHS could address. If an office of victim assistance is created, it could house a ready-to-be-deployed database that will immediately serve disaster victims. With one data collection point, families are spared the unenviable task of repeating their personal data, and are capable of monitoring aid activity for their family. This office could also develop rules and strategies for dealing with any fraud that is detected and increase family-approved information sharing among agencies and aid organizations.

The generosity demonstrated by the public towards 9/11 victims? families and survivors was tremendous and deserves to be lauded. However, the treatment of the aid after it was collected was less then perfect. We need to learn from the mistakes committed in the past to improve the process for the future.

Mom always taught Danielle and me to be accountable for our actions. If we erred in some way, we did our best to admit it, correct it, and make sure it didn't happen again. I can think of no better way to honor my mom than to apply this same standard to post-9/11 aid and response. This is why I fought so hard for the creation of the 9/11 Commission, and again for the implementation of its recommendations, and that is why I am here today to work with you to create the best aid response we can for the future.

Thank you very much for this opportunity to speak before you. I am happy to take any questions.

PREPARED STATEMENT OF MS. LEIGH A. BRADLEY, SENIOR VICE PRESIDENT FOR ENTERPRISE RUSK, AMERICAN RED CROSS

Chairman Rogers, Congressman Meek, and Members of the Committee, my name is Leigh Bradley and I am the Senior Vice President for Enterprise Risk at the American Red Cross.

I want to thank you for providing me with the opportunity to appear before you today to talk about the American Red Cross response to the attacks of September 11th—work that is ongoing to this very day. I appreciate the opportunity to share with you our lessons learned regarding fraud prevention, detection, and controls.

The attacks on the United States that occurred on September 11, 2001, tested the American Red Cross and America in ways we had not experienced as an organization or as a nation. It is a day that will remain burned into the minds of all who witnessed on national television two of our nation's tallest and proudest buildings fall more than 100 stories, a massive inferno at the Pentagon and a plane crash in a remote field in Shanksville, Pennsylvania. Thousands of innocent people died on September 11, including members of the first response community who put their lives at risk to save others. Since September 11, thousands more have since suffered from the physical and emotional stress of responding to these vicious attacks. All who witnessed this day will remember where they were, what they were doing, and will always recount their feelings and emotions as we, as a nation, were overcome with grief.

The American Red Cross had been America's partner in disaster preparedness, prevention and response for nearly 120 years on that fateful day in September. In our long history, we have aided soldiers on the battlefield, supported victims of all disasters, and provided support to first responders.

Our experience in the aftermath of the Oklahoma City Bombings in 1995 helped to prepare us for this day. Almost immediately after the first plane struck the World Trade Center, Red Cross volunteers and personnel were on the scene ready to aid in the response.

I want to acknowledge the work of Alan Goodman who is with me today. Alan is the Executive Director of the American Red Cross September 11th Recovery Program (SRP). For the past four years, Alan has been at the helm of this program, which has provided longer term recovery to tens of thousands of individuals and families, including families of the deceased, the physically injured rescue and recovery workers and their families, and people who were living or working in the areas of the attacks.

Response to September 11, 2001

One year after the terrorist attacks occurred on 9/11, the American Red Cross issued a report to the American people regarding the activities of the Red Cross, the Liberty Disaster Relief Fund, and the execution of the September 11th Recovery Program. Included in this report was a chronology of our response, which is attached to my testimony. (Appendix I)

Before I discuss the Red Cross response to 9/11 and some of the lessons learned, it is important that I briefly share what the Red Cross traditionally does during times of disaster and how this response differed.

The American Red Cross responds to disasters in communities across the nation each and every day. In fact, we respond to more than 70,000 disasters each year. The vast majority of disasters we respond to are single family home fires. We also respond to large-scale disasters, such as hurricanes, floods, tornadoes, and man-made events. There is one constant in all of our response operations and that is to ensure the immediate emergency needs of our clients are met.

Individual client assistance has been provided by the American Red Cross for as long as the organization has been in existence. Red Cross individual client assistance includes much more than just financial support. In fact, traditional individual client assistance has been based on a cadre of services to ensure that the health and welfare needs of our clients are met. This includes feeding and sheltering operations, mental health assistance, first aid, and relief and recovery referrals. We partner with other nongovernmental organizations, the for profit community, and with all levels of government to ensure that the emergency needs of disaster victims are met. In each response, our first priority is to ensure that those affected by disaster have a safe shelter and are provided with the basic necessities of life.

The next priority is to assist families in taking the first steps toward recovery. This is the purpose and concern that individual client assistance is designed to serve. It has long been the case that while shelter, feeding and the distribution of critical items are sufficient to stabilize individuals and families, it is not sufficient to meet all short term emergency needs necessary for disaster victims to begin their individual road to recovery. Critical items of assistance such as resources for food, changes of clothing and bedding bridge the gap between mass care activities and the receipt of state and federal recovery assistance. This allows a family a modicum of independence and a flexible resource for the types of essential items mentioned above. Ultimately, within the framework of disaster assistance provided by other agencies, as well as state and federal programs, individual client assistance helps bridge the gap between mass care activities and loans, temporary housing, and other assistance.

The response of the American public in the wake of 9/11 was extraordinary. When thousands of Americans needed help following the attacks, tens of thousands volunteered with the Red Cross, and tens of thousands made financial contributions. The American Red Cross received more than $1 billion in contributions. While the Red Cross often provides financial assistance for the immediate emergency needs of our clients, the intent of our donors was to ensure this money was earmarked for the victims of 9/11.

To that end, we created the Liberty Disaster Relief Fund as a distinct and segregated fund for those financial donations and to assist those directly affected by the September 11th attacks. Former Senate Majority Leader George Mitchell was appointed as the independent overseer of the fund. Under the distribution plan, and consistent with the Red Cross mission of providing immediate emergency disaster relief, the majority of funds were to be distributed to the families of those who were killed in the September 11 attacks, those who were seriously injured, and others directly affected by the disaster.

For an organization that is accustomed to providing de minimus amounts of financial assistance—money that is meant to provide for immediate emergency needs such as a change of clothes, toiletries, or diapers for children—this meant providing much larger sums of money.

The American Red Cross had two phases of response to the tragic events of September 11. Phase One represents the immediate response to the terrorist attacks, dating from September 11, 2001 through October 1, 2002, and is referred to as the Relief Operation Phase. Phase Two encompasses the long term recovery effort, dating from October 2, 2002 to the present, and is referred to as September 11th Recovery Program (SRP) Phase.

Relief Operation Phase

- **Family Gift Program #1 (FGP I)**—The FGP I provided three months of rent, food, utilities and other ongoing expenses to family members of those missing, deceased, or injured from the World Trade Center (WTC), Pentagon, or Shanksville, Pennsylvania events.

SRP Phase

- **Family Gift Program #2 (FGP II)**—The FGP II began on December 6, 2001, and provided six months of living expenses to family members and injured clients who received FGP I and nine months of expenses to clients who initially sought financial assistance after December 2002.

• **Family Gift #3 (FGP III)**—FGP I and FGP II met the early financial needs of the victims covered under the Family Gift Program. The first two gifts were designed to cover the first nine months of living expenses and these gifts were all disbursed prior to June 30, 2002. In January 2002, the Cross determined that the Family Gift Program should also cover unmet essential living expenses for an entire year through September 11, 2002. The third Family Gift (FGP III) was created to cover expenses for the months ending on September 11, 2002. The third Family Gift (FGP III) was created to cover expenses for the months ending on September 11, 2002. No funds were distributed for FGP III until July of 2002.

Specifically, FGP III granted expenses, depending on whether or not clients received the previous two gifts, to financially dependent immediate and extended family members of decedents, child guardians, and the "seriously injured." The "seriously injured" were defined as individuals who were in the immediate vicinity of the WTC, the Pentagon or the Pennsylvania crash site on 9/11 and as a result suffered a verifiable, serious physical injury or illness for which they were admitted to a hospital for at least 24 hours between 9/11 and 9/18/01. The FGP III ended on June 15, 2004.

• **The Supplemental Gift Program**—The Supplemental Gift Program began in August 2002. Each estate and seriously injured client was originally eligible to receive a gift of $45,000 to be distributed to those individuals named as executors or administrators of the estate. In November 13, 2002, the Liberty Committee approved an increase of the gift amount to $55,000.

To be eligible for the Supplemental Gift, injured clients must have met the FGP III criteria and additionally have been totally disabled for 90 consecutive days. Gifts to estates were awarded with the agreed upon restriction that they be distributed only to individual beneficiaries, rather than to charities or academic institutions. Supplemental gifts made to the seriously injured have no other restrictions following verification of eligibility.

• **Special Circumstances Gift Program (SCG)**—The SCG Program is a needs-based gift provided to seriously injured who qualified for the Supplemental Gift as well as financially dependent extended, nontraditional, and traditional family members who were eligible for the FGP III, had not received substantial amounts of assistance from other sources, and continued to have unmet needs. All awards were determined by a Review Committee on a case-by-case basis, taking into account the individual's unmet financial needs, the level of dependence on the deceased and any 9/11 related special circumstance. The SCG ended in December 2004.

• **Disaster Responders**—Clients who were officially deployed as disaster responders to the WTC, Pentagon, or Pennsylvania are eligible to receive all of the above benefits if they meet other specific criteria, such as for injury or economic need.

• **Additional Assistance**—An additional assistance program began in April 2003 to assist disabled individuals and family members. Eligible clients were able to receive up to six months of financial assistance for demonstrated unmet, essential housing and living expenses. This program ended in December 2005.

To be eligible, family members were required to demonstrate financial need and one of the following: financial dependence upon the decedent, a mental health condition that led to a continuous 90-day period of disability, or had been appointed the legal guardian of the minor child/children of a decedent. Disabled individuals were required to have suffered a 90-day disabling respiratory, mental health or physical disability and demonstrate financial need.

Joint Relief Operation Phase and SRP Phase

• **Displaced Residents**—Clients whose primary residence was south of Canal Street in Manhattan and who were displaced from their homes, had their homes damaged, or had access to their homes disrupted were eligible to receive assistance which may include relocation, temporary housing costs, rent/mortgage, cleaning, moving, storage, and air purifiers.

• **Economically Impacted**—Clients who worked below Canal Street in Manhattan and were unemployed due to the 9/11 attacks were eligible for three months of assistance with rent, food, and utilities until February 7, 2002. After February 7th, clients were eligible for a one month grant disbursed according to household size. The last day for economically impacted clients to register for Red Cross assistance was March 28, 2002.

In total, the September 11 Recovery Program has provided support to nearly 60,000 individuals and families directly affected by the September 11 terrorist attacks. While the direct services provided by SRP, including financial assistance and

referral to social work agencies for case management needs, ended on December 30, 2005, the program had been established around five major initiatives:

- **Long Term Mental Health Services**—based on financial need, this program provided financial assistance for services including individual, group and family counseling; psychotropic medication coverage; hospitalization; and inpatient and outpatient substance abuse treatment. Programming will continue through the end of 2007.
- **Long Term Health Care Services**—this program provided financial assistance and clinical case management for uncovered health expenses directly related to injuries or illnesses caused or exacerbated by the events of 9/11.
- **Family Support Services**—This program provided individualized support and guidance to eligible families to ensure that they had access to the resources they needed for their recovery. Trained Red Cross Family Support specialists assisted with determining health care and mental health needs, identifying resources, making referrals, providing assistance through three financial assistance programs, identifying long-term needs and planning for the future.
- **Assistance to Residences**—For displaced residents with ongoing needs, the Red Cross provided air purifiers and HEPA vacuums, helped to relocate individuals and families, and provided reimbursement for expenses incurred during displacement. In addition, this program offered mental health assistance to affected residents who experienced emotional trauma as a result of 9/11.
- **Communication Coordination**—To help meet the needs of those affected by the September 11 attacks and maximize efficient use of resources, the Red Cross coordinated with other groups including community organizations, constituency groups, advocacy organizations, local elected officials, faith-based and interfaith organizations, and other nonprofit and government agencies providing direct services and benefits to those affected. The Red Cross is a founding member of the 9/11 United Services Group (USG), which coordinated 13 service agencies to help ensure that those affected by the events of September 11 were able to get the help they need. The Red Cross assisted the USG in developing a shared database that has helped various charities provide financial assistance and services to victims of the September 11 attack more efficiently.

At the end of the first quarter of 2006,[1] the Liberty Disaster Relief Fund had collected a total of $1.080 billion. Approximately $738 million of the funds received has been expended in financial assistance to those directly affected; $159 million has been expended for immediate and long-term program costs; $66 million has been expended for indirect services; and about $60 million has been used for fund stewardship. As of the end of March, 2006, $55 million remained in the Liberty Fund.

The Red Cross will use the balance remaining in the Liberty Disaster Relief Fund to support non-profit agencies that can deliver a variety of services to the people whose lives were the most seriously affected by the terrorist attacks in the communities where they live and work. These services include mental health and wellness for adults, adolescents and children; health diagnosis and treatment for rescue and recovery workers; financial assistance; and community recovery in lower Manhattan.

Fraud Prevention, Detection and Controls

Waste, fraud and abuse are very serious issues to the American Red Cross. As an independent nonprofit agency, we rely on the donations of the American public to provide services free of charge to victims of disaster. We have an obligation to our donors to ensure that we are good stewards of the donated dollar. The Red Cross treats its obligation to deter and detect fraud or abuse with the utmost seriousness and when appropriate seeks prosecution of fraudulent activity to the fullest extent of the law.

During times of disasters there are individuals who take advantage of the generosity of the American people and of the very agencies and institutions that provide services to those in need. That has held true in all Red Cross disaster responses, and unfortunately, it was evident during our response to September 11. Attached to my testimony are examples of fraud that we witnessed as an organization during our response to September 11. (Appendix II)

We learned a number of valuable lessons in our response to 9/11 and have implemented a number of changes in the Red Cross response to disasters and to prevent, detect and control fraud. I will address some of the lessons learned and elaborate

[1] These figures represent contributions and expenditures through March 31, 2006 and are the most current data available. The next report of the Liberty Disaster Relief Fund will be released on the fifth anniversary of 9/11 on September 11, 2006.

on fraud prevention, detection and controls that have been put in place as a result of our response to 9/11.

But first let me describe the 9/11 compliance and enforcement response. 1,473 cases were investigated by the Red Cross involving actual or potential allegations of fraud, and many of these cases were referred to federal, state and local prosecutors for full investigation and prosecution. There were some cases that were not pursued by law enforcement and these were reviewed by the Red Cross for possible civil prosecution as I discuss below.

Methods of Prevention

The Red Cross executed a number of policies and methods to mitigate fraud from occurring. These include:

1. Except where immediate assistance was necessary, require applicants for assistance to document financial need and/or injury caused or exacerbated by the disaster.
2. For every eligibility requirement, we established a corresponding documentation requirement that was specific and enforced.
3. Required applicants to affirm that the information provided and recorded in the case file was accurate and true.
4. Whether automated or manual processes, developed more effective case tracking mechanisms to detect and track fraud and ensure that those not entitled to benefits did not receive them.
5. Implemented at the outset of any disaster relief effort the types of fraud detection and prevention efforts, including cooperation with other charities and governmental entities.
6. Make certain that all decisions about program design and eligibility criteria were made by a centralized authority and were communicated to the field clearly, in writing.
7. Developed forms and procedures that minimize discretion for case workers and clearly articulated the ground rules for discretionary decisions by supervisors.
8. Delineated clearly the responsibilities of all those involved in the review and approval process by making clear that someone was obliged to make sure all necessary information and documentation was provided.

Methods of Detection

Detection of fraud in the aftermath of September 11th occurred in a variety of ways. The most prevalent and successful methods include:

1. **Casework**—Many cases involved the presentation of false documents, false identities and false victims.
2. **Internal Controls**—Disaster Accounting was alerted to duplication of benefits, forged checks, changes in address, etc.
3. **Neighbors, Family Members and Associates**—Individuals would alert the Red Cross to the possibility of fraudulent claims, which were investigated.
4. **Law Enforcement**—Red Cross was alerted to on-going investigations involving FEMA, NYPD and NYFD as to the possibility of fraud.
5. **Case Audit Unit**—would discover inconsistent data, documentation and statements, which would lead to further investigation.

The Red Cross identified 20 cases as possible targets for civil suits. Hogan & Hartson LLP, a nationally recognized law firm, represented the Red Cross in these civil proceedings on a pro bono basis. After further investigation on these 20 cases, we decided to refrain from pursuing ten of the 20 cases because of factors, such as an inability to locate and serve the defendant with legal process or the defendant did not have sufficient financial assets that could satisfy a judgment. However, we filed suit in the remaining 10 cases. The total amount sought to recover in these 10 cases is $111,352. As of this date, two cases have been completed, with $25,894 recovered through settlements. There is a settlement in a third case for $15,600, with monthly payments of $100 for 156 months. The defendant made the first payment but has defaulted on remaining payments. We have filed a motion with the court to enforce the settlement agreement, which is pending. We have obtained a default judgment in a fourth case and we are moving forward with the appropriate procedures to garnish the defendant's wages. The remaining six cases are in various stages of active litigation.

One of the lessons that the Red Cross learned from 9/11 was the need to more aggressively pursue fraud perpetrated against the Red Cross though the civil court process and to include verifying that Red Cross insurers kept their commitments to pay fraud claims filed by the Red Cross. Two cases illustrate this point.

- In the Southeastern Connecticut Chapter matter, the Red Cross filed an employee dishonesty claim with Royal Insurance Company arising out of the em-

bezzlement of 9/11 funds by the Executive Director of the Southeastern Connecticut Chapter. The Red Cross filed a claim with Royal for $173,657, the total amount of the loss, even though the local prosecutor valued the provable loss as $120,000. In December, 2003, the Red Cross reached a settlement of our claim with Royal for $97,710. The policy at the time had a deductible of $50,000, so we received from Royal $47,710. It was determined between the Chapter and Red Cross National Headquarters that the Liberty Fund would receive 79% of this settlement.

• In the Hudson County Chapter matter, the Executive Director of the Chapter embezzled $1,113,577 from the Chapter that was a provable loss. With additional costs associated with the embezzlement that were covered by our fidelity loss policy, the total claim submitted to Royal Insurance was $2,490,593.70. Royal Insurance paid part of the claim in the amount of $1,676,024.65 in August, 2003, leaving $787,796 as an amount that Royal said was not covered by the policy. The Red Cross filed suit against Royal and the case was settled for $475,000 in November, 2003. Thus, the total amount recovered from Royal in this matter was $2,151,024.65.

The Red Cross will continue to work with federal, state and local law enforcement regarding fraud against the Red Cross and will actively pursue in the civil courts those provable cases not prosecuted in the criminal courts. The Red Cross also will file appropriate claims with its insurance companies and will pursue claims for any fraud losses against those insurance companies that wrongfully deny claims.

Methods of Controls

The detection and prevention of fraud is a small, but important component of the design of a disaster relief program. The September 11th Program provides myriad examples of the kinds of fraud that people will try to perpetrate if substantial sums of money are available. Many types of fraud can be minimized by taking proper steps in the design and controls of the eligibility criteria and documentation requirements for the programs.

In developing a response to any disaster, the Red Cross must do at least two things; 1) define the individuals who are eligible to receive assistance and; 2) define the assistance that each will receive.

An important issue for defining eligibility is creating an authoritative list of those who are entitled to benefits/assistance. This was an ongoing problem for all of the charities that responded to the September 11 attacks. In a future disaster, it will be important for the charities and governmental entities to work together to develop a comprehensive list of those injured, deceased, and entitled to benefits. Where an individual seeks benefits for a relative who is not on the list, some additional documentation should be required. Additionally, documentation beyond a simple assertion that an individual was killed must be provided for claims of death. Many of the significant cases of fraud against the Red Cross (in dollar terms) occurred when people falsely claimed that a loved one had been killed.

A well-designed program with appropriate levels of controls should balance the interest in minimizing fraud with the interest in ensuring that victims receive assistance without undue administrative burden.

Failure to obtain adequate documentation or documentation of any kind was a significant problem in the early Family Gift Programs (FGP I; FGP II) when the standards of "assumed" and "attested" eligibility were utilized. Many case files have nothing (other than case worker notes) to substantiate the claims made or the assistance provided. This problem was rectified when the "demonstrated" eligibility standard was used for the final family gift distribution. Although there are numerous examples of individuals who forged documents, a substantive amount of fraud was committed by those who lied, but were never asked to provide documentation to back up their claims. A number of additional suspected fraud cases were identified when applicants were unable to provide the required documentation to substantiate their additional claims of ongoing financial assistance.

Finally, those who design future financial assistance programs must be cognizant that the ability often given to case workers to be creative and flexible in helping applicants to obtain benefits or assistance often has the effect of encouraging case workers to bend or break rules for eligibility. To the extent such flexibility is encouraged, it should be done at the supervisory level and it should be clear that flexibility cannot result in providing additional funds to those who are not eligible.

Coordinated Assistance Network (CAN)

One of the great successes to come out of the entire nongovernmental organization community's response to 9/11 was the development of the Coordinated Assistance Network (CAN). Our experiences in 9/11 showed clearly that having clients find their way through a web of service providers caused added confusion in an already

trying time. Several disaster clients were lost within the improvised system; others were shuttled from appointment to appointment, having to tell their painful story time and time again.

The Coordinated Assistance Network provides the framework and tools to make casework management easier and more efficient though advanced collaboration and also adds additional safeguards to prevent fraud. CAN enables disaster clients to visit any one of the participating organizations, tell their story, provide required documentation, and—with their permission—have that information shared automatically with the partner agencies that are able to assist them. Through a secure, web-based system, an agency can instantly review each client's specific situation and the services received—in real time—helping to provide better services to the client, eliminate duplication of benefits, and measurably lessen the burden for each participating agency.

Since 9/11

In addition to the valuable lessons we have learned and incorporated as a result of our response to 9/11, our nation has continued to see individuals take advantage of the generosity of the American public and the agencies responsible for helping victims recover from disaster. This past year, the American Red Cross provided assistance to more than 1.4 million families impacted by the devastation wrought by Hurricanes Katrina, Rita and Wilma. $1.2 billion of emergency financial assistance was provided to those million families. To stop those that attempt to cheat the system, the Red Cross participates in the Department of Justice's Hurricane Katrina Fraud Task Force, which also includes members from the FBI, the United States Secret Service, the Federal Trade Commission, the Postal Inspector's Office, and the Executive Office of the United States Attorneys, among others. The Red Cross is assisting in hundreds of investigations now in progress. Every resource is precious to the Red Cross and we are taking every measure to aggressively pursue any illegal activity. To date, there have been 76 indictments and 55 convictions.

As of June 14, we are investigating 7,109 cases of suspected and actual fraud. These represent a combination of cases turned over to law enforcement and cases being investigated internally. We estimate the potential of approximately $9.5 million in cases stemming from this fraud.

There were instances where individuals or families received duplicative assistance that was neither fraud nor abuse on behalf of our clients, but rather a simple oversight or human error. I am pleased to report to this Committee today that as of May 1, 2006, the American Red Cross had collected $2.3 million in returned assistance from clients who had received duplicate payments.

As a result of the fraud we have experienced during and since 9/11 and the 2005 hurricane season, the American Red Cross is incorporating even stronger controls to mitigate future abuses. These include improvements to our Client Assistance System (CAS) software, with reporting enhancements to provide a single system of record to support the delivery of assistance to those in need; and improvements in chapter advance procedures and new monitoring and control processes to support the use of the cash-enabled client assistance cards (CAC).

Closing Remarks

Mr. Chairman, Congressman Meeks, and Members of the Committee, I want to thank you again for providing me the opportunity to share with you our experiences in our response to September 11. The American Red Cross provided assistance to nearly 60,000 individuals and families impacted by the devastating attacks on America on September 11, 2001. As the September 11th Recovery Program begins to wind down nearly five years after the first plane struck the World Trade Center, the American Red Cross continues to respond to disasters, both natural and man-made, each day in communities across the country.

We are proud to be America's partner in disaster prevention, preparedness, and response, and we urge all Americans to be prepared for whatever disaster may strike.

I am happy to respond to any questions you may have.

Appendix I

September 11, 2001

- Four airplanes are hijacked and crash into the twin World Trade Center towers, the Pentagon, and an open area near Shanksville, Pennsylvania. The terrorist attacks affect tens of thousands of victims and their family members throughout the United States. Millions more across the country and around the world are overcome by grief, fear, and compassion.

• Within minutes, the American Red Cross immediately responds. More than 6,000 trained disaster volunteers are mobilized. Emergency Response Vehicles are deployed to help victims and rescue workers.
• When the towers collapse, an Emergency Response Vehicle from the Red Cross in Greater New York is hit with debris and rubble. There is great concern throughout the organization for the welfare of the staff.
• Volunteers open 13 shelters in the New York area for people left homeless or stranded.
• Volunteer mental health professionals trained in disaster response are dispatched to the shelters, crash sites, the flights' points of origin and destination, and other major transportation hubs, providing physical and emotional support to the victims, their families, rescue and recovery workers and thousands of others affected by the tragedy.
• After the FAA grounds all commercial traffic in the United States, Red Cross chapters across the country help hundreds of thousands of travelers stranded at airports nationwide.
• Respite centers are established near the crash sites to provide the police officers, firefighters, rescue and recovery workers, and others with places to turn for physical and emotional relief.
• The Red Cross begins taking spontaneous donations to help the victims of the attacks and their families. Individuals and businesses in America and around the world begin donating money and blood in record numbers.
• The Red Cross blood donation line receives more than a million calls. (The most received previously in one day was 3,000.)

September 12, 2001

• The City of New York opens the Compassion Center for families whose loved ones are missing. There, the Red Cross provides mental health counseling and meals.
• The Red Cross sets up a phone bank at the offices of PBS affiliate WNET Channel 13. Mental health volunteers take calls there from people in need of assistance. At Red Cross headquarters, a 24-hour Emergency Communications Center is activated.
• At the request of the White House, the Red Cross mans a blood drive for White House staff.

September 13, 2001

• Within one day, volunteers answer more than 13,000 calls at the Emergency Communications Center.
• A special Amtrak train containing relief supplies leaves Union Station in Washington, D.C., bound for New York.
• At the request of Congress, the Red Cross commences a two-day blood drive in Senate and House office buildings.

September 15, 2001

• Three new mental health brochures are released to help people around the country address and cope with the emotional trauma created by the disasters.

September 16, 2001

• Working with Microsoft and Compaq, the Red Cross launches the Family Registration Web, an online network to help unite loved ones with survivors of the attacks.

September 17, 2001

• Acting in part on counsel from the Red Cross, the City of New York moves the Compassion Center to a new location where it becomes the Family Assistance Center. The Red Cross continues to play a major role, offering financial assistance, bereavement counseling, guidance and help with gathering information. Red Cross crisis counselors are aboard all shuttles carrying family members to the center. In addition, the Red Cross provides meals for both families and workers.
• When the world financial market reopens, Red Cross mental health volunteers are at major transportation hubs to offer counseling, provide mental health information and to let people know that help is available.

September 18, 2001

• Eighteen teams of Red Cross workers go door-to-door in the Restricted Zone in downtown New York to assist residents who choose to stay in the area. Each team is made up of six people and includes a mental health professional, a disaster specialist, and a family service worker.

September 20, 2001

• The Red Cross establishes the Liberty Disaster Relief Fund as a separate, segregated account to fund relief services related to the September 11 attacks.
• The Red Cross commences a series of blood drives at federal departments, including Commerce, Health and Human Services, Justice, Transportation and Defense.

September 23, 2001

• The Red Cross launches an unprecedented Emergency Family Gift Program to help families of the deceased and seriously injured meet their immediate financial needs. This gift program assesses each family's needs and provides a grant for living expenses such as food, clothing, utilities, mortgage or rent payments, funeral, and related expenses. The program places funds in the hands of families, often within one business day.

September 27, 2001

• The Red Cross launches a nationwide, toll-free hotline offering assistance and referral information for anyone seeking help from the Red Cross. 1–866–GET–INFO and a call center in Virginia become important components of the overall Red Cross response to September 11.

October 9, 2001

• By the end of the fourth week, the Red Cross has served 5,854,373 meals, answered 64,211 hotline calls, and helped people affected by the disaster by making 61,104 mental health contacts and 31,717 disaster health contacts.

October 12, 2001

• The Red Cross announces that at least $300 million will be needed for the Red Cross response. Because future terrorist attacks seem imminent, the announcement states that funds raised will be spent on other terrorist-relief programs, including a strategic blood reserve, Armed Forces services, and community outreach.

October 31, 2001

• The Red Cross ceases active fund-raising for the Liberty Disaster Fund. At this point, the organization has received more than $500 million in September 11-related donations.

November 6, 2001

• In testimony before Congressional and Federal officials, the Red Cross announces that it has spent or committed close to $154 million in less than seven weeks. Within that short time frame, the organization has already helped 25,000 families affected by the September 11 terrorist attacks, provided more than 10 million meals and snacks to families, police officers, firefighters, investigators, and rescue and recovery workers. Trained mental health workers also have provided emotional support to more than 144,000 people.

November 11, 2001

• The Red Cross in Greater New York commences a two-day training seminar for more than 700 tri-state mental health professionals who interact with citizens affected by the events of September 11.

November 12, 2001

• On the second day of the training seminar, Red Cross volunteers on staff at the event are quickly mobilized to serve the needs of victims of a plane crash in Belle Harbor, Queens, a neighborhood that has already lost a number of residents to the September 11 terrorist attacks.

November 14, 2001

• With nearly $550 million in the Liberty Disaster Relief Fund, the Red Cross announces that it will use the fund to meet the immediate and long-term needs of the victims of the September 11 terrorist attacks exclusively.

December 4, 2001

• The Red Cross extends its financial assistance to economically affected individuals to cover the cost of rent or mortgage, utilities and food for up to three months.

December 27, 2001

• The Red Cross names Senator George Mitchell, former Senate Majority Leader, as the independent overseer of the Liberty Disaster Fund to ensure donors that their contributions will meet the ongoing and long-term needs of the families affected by the September 11 terrorist attacks.

• The Red Cross announces that it will spend $317.5 million by the end of 2001 on aid to more than 36,000 families affected by the September 11 terrorist attacks.

• At this point, the Red Cross has received more than $667 million in donations to the Liberty Disaster Fund, which has grown by more than $100 million since the organization stopped soliciting donations.

January 31, 2002

• Senator George Mitchell and the Red Cross announce the Liberty Disaster Fund Distribution Plan. This plan calls for distributing the majority of funds to those directly affected by the disasters and reserves a portion of the fund to respond to long-term needs of the families, rescue workers, and others affected by the disasters. Senator Mitchell also announces plans to expand the direct Family Gift Program to cover expenses for up to one full year.

March 11, 2002

• Six months after the terrorist attacks, the Red Cross has received $930 million in contributions, of which it has expended more than $550 million to date. The organization has distributed $169 million to more than 3,200 families of the deceased and those seriously injured. More than 51,000 families displaced by the attacks have received $270 million. An additional $94 million has funded the provision of 14 million meals, mental health services to 232,000 people and health services to 129,000 people.

May 1, 2002

• Senator George Mitchell releases the first of his quarterly reports on the distribution of the Liberty Disaster Fund. The report states that the Red Cross "fairly responds to the needs of victims, complies with the intentions of Red Cross donors, and is consistent with the Red Cross mission of providing emergency disaster relief."

• Despite having discontinued solicitation of contributions for the Liberty Disaster Fund for many months, continued donations bring the fund's size to more than $950 million, nearly double the amount received when the Red Cross stopped soliciting donations.

June 5, 2002

• The Red Cross announces a series of bold changes in its disaster fund-raising practices. The national initiative expands efforts to educate donors about the Red Cross General Disaster Relief Fund and institutes a new system of affirmative confirmation and acknowledgement to ensure all disaster-related donations are directed as intended. The program is called Donor DIRECT, which stands for D(onor) I(ntent) RE(cognition), C(onfirmation) and T(rust).

June 21, 2002

• The Red Cross announces the start of the final phase of the Family Gift Program. The Red Cross also announces the Supplemental (Estate) Gift Program, which will provide one-time gifts of $45,000 to the estates of those who were killed in the attacks, as well as to those who were seriously injured.

August 1, 2002

• Senator Mitchell releases the second quarterly Liberty Disaster Relief Fund report, which finds that the Red Cross continues to distribute the fund properly to meet the needs of the families and individuals affected by the September 11 terrorist attacks. More contributions bring the total receipts to the Liberty Disaster Fund to $988 million.

August 22, 2002

• The Red Cross announces the details of its September 11 Recovery Program. The Program will allocate more than $133 million to provide services over a period of three to five years to the families most directly affected by the September 11 attacks. These funds are to be used primarily to help pay for mental health and uncovered health care services, as well as family support and assistance to affected residents in downtown Manhattan.

September 11, 2002

• As the nation marks the one-year anniversary of the terrorist attacks of September 11, 2001, the Red Cross continues to help provide family support, mental health, and spiritual counseling for affected families and individuals. In addition to providing support on the day of the anniversary, the Red Cross is also offering assistance to help pay the expenses for families who wish to travel to a memorial service that will take place in affected cities across the country but who might not otherwise have the means to attend.

- Within one year, $643 million has been distributed or committed to those directly affected by the September 11 disasters. Another $200 million is projected to be distributed by year's end depending on the pace of family responses received and the processing and verification of necessary documentation.

Appendix II

Examples of fraudulent cases:

October 2002 Daniel Djoro reported that his brother, "Daniel Zagbre," had perished while at the World Trade Center for a business meeting. He produced his "brother's" Social Security number and driver's license to prove "Zagbre's" existence. We had flown him from Lansing, Michigan to New York City to retrieve the death certificate. But "Daniel Zagbre" was in fact a fictitious name the defendant himself had used. Djoro eventually defrauded the Red Cross and Safe Horizon out of $269,000, of which he has repaid $138,000. *(Prosecuted by Manhattan DA)*

August 2003 Cyril Kendall, a father of 12 children, claimed that a 13th child had died in the WTC attack. He told the Red Cross and Safe Horizon that his son was in the North Tower for a job interview with the American Bureau of Shipping, a legitimate company. To prove the existence of his "son," Cyril showed Red Cross workers a picture of himself as a young man. He stole over $119,000 from September 11th Recovery Program and $190,000 in total. *(Prosecuted by the Manhattan DA)*

January 2004 Terry Smith received over $136,000 from the Red Cross after claiming his wife died on 9/11 while visiting a friend at the WTC. He also claimed that he and his wife had 10 children and needed the funds for health care and child care. Our staff became suspicious when he was reluctant to produce a New York death certificate. His wife was actually deported to Jamaica in 1999. *(Prosecuted by the US Attorney, Southern District, California)*

November 2004 Donna Miller claimed that her husband, Michael, died in the attack on the World Trade Center. When she was unable to provide documentation of Michael's death, the September 11th Recovery Program contacted the authorities in Michigan. After further investigation by the Kent County Sheriff's Department, Detective Steve Moon found that her deceased husband was actually still alive. She collected over $98,000 from the Red Cross and Safe Horizon. *(Prosecuted by the Kent County (MI) District Attorney)*

Jonathan Finkelstein received $51,000 for injuries he said he suffered as a volunteer paramedic at Ground Zero. However, the September 11th Recovery Program learned that not only was he never at the World Trade Center site, but the documentation supporting his injury claims was forged by his wife at the doctor's office where she worked. He repaid the $51,000 in court-ordered restitution upon pleading guilty to the charges. *(Prosecuted by the Manhattan District Attorney).*

THURSDAY, JULY 13, 2006

10:00 A.M. IN 311 CANNON HOUSE OFFICE BUILDING

SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT

HEARING

"AN EXAMINATION OF FEDERAL 9/11 ASSISTANCE TO NEW YORK: LESSONS LEARNED IN PREVENTING WASTE, FRAUD, ABUSE, AND MISMANAGEMENT, PART II-RESPONSE"

WITNESSES

PREPARED STATEMENT OF MS. RUTH A. RITZEMA, SPECIAL AGENT IN CHARGE FOR NEW YORK, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Chairman Rogers, Ranking Member Meek, members of the Subcommittee; thank you for inviting me to testify today on the lessons learned after the events of September 11, 2001. Although this hearing is about the oversight efforts in fraud detection, prevention and control, which I will elaborate in great detail on, I wanted to start off my testimony by quickly sharing with you how the events of that day directly and intimately impacted me.

Events of September 11th

The Department of Housing and Urban Development's Office of Inspector General (HUD OIG) Office of Investigations, of which I am the Special Agent in Charge, was at 6 World Trade Center. It housed approximately thirty-five HUD OIG employees—special agents, forensic auditors and support staff.

On that morning, fortuitously, our New York City special agents were out of the office at a quarterly firearms qualification. Unfortunately, our forensic auditors and support staff were on site when the first plane hit the North Tower, which was adjacent to our office. All of the auditors and support staff in the building heard the explosion and one of our secretaries, who saw pieces of the plane and building fall, immediately told everyone to evacuate prior to any alarms going off. They fled across the street near the financial district where they watched the building burn. The group became separated when the second plane went into the South Tower.

Four of my special agents from our regional sub-office in Buffalo, New York, had flown in for their firearms qualification and they were to meet at our building at 9:00 a.m. for case reviews. The agents were traveling on the subway and made a lucky mistake by getting off at City Hall instead of the next exit that would have put them in the basement of the World Trade Center complex at exactly the wrong time.

I had meetings scheduled for that day in New Jersey and was across the river when I received a page from an agent about a fire at the World Trade Center. When I heard on the radio about the second plane going in, and worried about my own people, I immediately headed into the City using the shoulder of the New Jersey Turnpike to bypass the stopped traffic. As I approached the extension, I could see the towers on fire. I repeatedly tried to get through to headquarters, the staff or the offices, but as hard as I tried I only got a busy signal.

As I was driving towards the City, the first of the two towers collapsed before my eyes and I heard on the radio that the Pentagon had also been attacked. I drove through the Holland Tunnel to the federal building located at 26 Federal Plaza, which is six blocks away from the World Trade Center and is also where the HUD OIG Office of Audit is located. A Federal Bureau of Investigations (FBI) agent told me that the emergency law enforcement command post was setting up at the church adjacent to the World Trade Center complex.

Running down Broadway, I was struck by how surreal the whole situation appeared. The beautiful cloudless day had turned all dark with soot and smoke in the air. People tried to turn me away from Ground Zero until I threw on my "Federal Agent" vest cover. I stopped from time to time to try to get help for a couple of people who had pretty serious burns. I then continued to run to the command post to check and make sure that our people were out safe. I just arrived at the church adjacent to the towers when the second tower collapsed literally right in front of me.

At that point, I have no memory of what happened during the collapse. My next memory is being about a block away with firemen all around and hearing screaming radio transmissions of firemen who were getting buried and were desperately trying to give their coordinates; "we're at two o'clock from the fountain" (the fountain was

located in the middle of the plaza). After the air cleared some, another FBI agent saw me and told me that we were rallying in Chinatown and he and I ran there.

I immediately agreed to work with and assist the FBI in any capacity. Our Assistant Special Agents in Charge (ASACs) had rallied our agents and were standing by for instruction. One of my ASAC's and I went back to what was formerly our office and watched the building burn. Shortly thereafter, 7 World Trade Center collapsed. Training from my years in the military kicked in as we dispersed and established security perimeters to deal with the rumors and false reports swirling about in the dark mist of that day. Thankfully, and most importantly, we accounted for our people, but we had lost everything else—our evidence, all our case files, and our equipment. The HUD OIG had previously suffered a tragedy when one of our special agents died in the Oklahoma City bombing and I was very grateful how lucky we were considering our proximity to the devastation.

A command post was set up at 290 Broadway and it seemed that every law enforcement-related agency was in that room with a phone that rarely worked and a handwritten piece of paper taped in front of their table to identify their agency. Our OIG agents were stationed all over the city—at command post, airports, Ground Zero or whatever other hot spot came up. They also searched for evidence with rakes, shovels and gloved hands at the landfill in Staten Island. This command post was move to the "Intrepid" in the Hudson River and to a garage on the West Side Highway where for the next few months our special agents continued to assist in the terrorist investigation and to transition back to HUD-related oversight activities.

Auditing Activities

In the aftermath, Congress authorized HUD to provide the State of New York with $3.483 billion in Community Development Block Grant (CDBG) disaster assistance to aid recovery and revitalization and earmarked at least $500 million of this to compensate small businesses, nonprofit organizations, and individuals for economic losses. Out of these funds, the Empire State Development Corporation (ESDC), designated by New York State to develop and administer economic and business recovery grant and loan programs, was allocated $700 million. The Lower Manhattan Development Corporation (LMDC), established to administer and develop programs to rebuild and revitalize lower Manhattan, was allocated $2.783 billion.

Direction from the legislation insisted on speed in assisting businesses located in lower Manhattan hardest hit by the attack. For instance, applicants for Business Recovery Grants (BRG) were required to have a response to their request within 45 days of application submission. Congress also insisted on the utmost integrity from the program and required that the HUD OIG maintain a continuous audit activity of funds allocated to the rebuilding efforts. The Congress required that we report on the expenditure of the funds every six months. Our audit objectives to fulfill this mandate were to determine whether ESDC and LMDC:

- Disbursed the CDBG disaster funds to applicants in a timely manner;
- Disbursed the CDBG disaster funds to eligible applicants in accordance with HUD-approved action plans;
- Had financial management systems to adequately safeguard the funds; and
- Developed and implemented adequate procedures for monitoring the CDBG disaster assistance programs.

HUD OIG called for a meeting with Inspectors General from all the affected agencies to begin investigative and auditing coordination and cooperation in the New York/New Jersey office. Early collaboration with other agencies was important to the success of our auditing efforts. As a result, procedures were developed that provided that if an entity already received a Small Business Administration (SBA) grant and applied for a BRG grant, that entity could not receive a BRG grant if the total of both grants exceeded its economic loss. Likewise, we met with Federal Emergency Management Agency (FEMA) officials to also work on the issue of duplication of benefits among our programs.

We further collaborated with the Internal Revenue Service (IRS) to obtain a copy of an applicant's tax transcript, which was then used to verify that the tax information included on the application for computing economic loss was accurate. We discovered that some applicants did not file a tax return but still submitted a tax return on their BRG application and/or they sometimes included a higher taxable income than what was actually filed with the IRS in order to inflate economic loss. The auditors referred these over for investigation.

Additionally, we coordinated with the Social Security Administration (SSA) to test whether the social security numbers from our audit sample were legitimate. If our auditors discovered a discrepancy (i.e., the age of applicant did not agree with the

age registered with the SSA), they referred it to investigations. In general, if the auditors detected any suspicious information during the course of its financial review, for instance, in the ESDC's Business Retention Grant (BRG) or Small Firm Attraction and Retention Grant (SFARG) programs or in the LMDC's Residential Grant program, it referred it to investigations for further review. This greatly enhanced anti-fraud and abuse endeavors.

HUD OIG auditors took a proactive approach that stressed prevention of fraud and abuse, as opposed to solely a detection emphasis whereby audits would take place long after the funds had been expended. The unusual nature of this audit recognized that the funds needed to be disbursed quickly and that Congress had waived the pre-set CDBG statutory requirements that governed the parameters of who were to receive grants. Early in the program our audits identified significant weaknesses in internal controls and program design. We conducted audits in an almost real-time basis that gave the auditee an early opportunity to take corrective action and improve controls and procedures for future expenditures. Audits were started no more than six months after the disbursements had been made. While this was resource intensive and caused a strain on our other operations as we had not been given any additional funds to undertake this initiative, we felt it was important that we remain aggressive and in the forefront.

To date, we have audited over $1 billion dollars in disbursements. The results of these audits include findings of duplication of benefits and payments; of overpayments; of ineligible and unsupported costs, and of improvements needed in collection efforts. For example, our audit work found that over $2 million had been disbursed to the Hudson River Park Improvements Program contrary to the terms of the subrecipient agreement.

In furthering our early collaborative work with the SBA, only eight months after the attack, we issued an interim audit report noting the duplication of benefits between SBA loans and the ESDC's BRG program. We also reported on concerns we had with the calculation of recipients' economic loss amounts for the BRG program. As a response, ESDC developed procedures and formulas that tried to prevent duplication. ESDC also revised its application for the BRG program to require recipients to itemize the amount of claimed economic loss. In addition, it has responded by:

- Revising and enhancing controls and procedures to minimize ineligible and incorrect grant payments;
- Instituting additional efforts to collect grant overpayments;
- Hiring additional internal audit and investigative staff; and
- Establishing an audit staff of retired New York State Department of Public Service Commission employees to review the claims submitted by utility companies under the Utility Restoration and Infrastructure Rebuilding Program (i.e., they have completed audits of claims for two utility companies and disallowed in excess of $33 million of the companies' $99 million claim for reimbursement).

Investigative Activities

In addition to our audit work evaluating operational and administrative controls and other financial matters, we are also intensively involved in anti-fraud and abuse efforts. We have grouped our efforts into the three general areas of HUD expenses: immediate disaster relief funding, mid-term grant relief, and long term rebuilding expenditures. Our Office of Investigation works in cooperation with the Office of the United States Attorney to prosecute recipients that have fraudulently obtained CDBG funds. We have established working relationships with other federal agencies and State and city entities. Very early on, due in large part to what our auditors were initially finding, we met with the U.S. Attorney's office to discuss the vulnerabilities and fraud patterns that were identified.

Originally established as an informal group by the U.S. Attorney's office, the World Trade Center Fraud Working Group solidified and began to meet monthly to discuss fraud concerns and share information on schemes. The working group was made up of high-level management that allowed for the discussion of complex matters and encouraged an environment where issues were expeditiously addressed. The working group attempted to, among other things, identify all the various agency dollars flowing into lower Manhattan, de-conflict cases, use automation to detect criminal activity, pass on criminal trends to enable better training, coordinate cases for maximum impact, identify legal weaknesses in the various programs and pass on recommendations to make them more fraud resistant, coordinate amnesty programs, and facilitate federal, State and local prosecutions.

This concentration of law enforcement and prosecutorial efforts resulted in the arrest and conviction of many perpetrators and also generated publicity that we believe had, to some extent, a deterrent effect. Members of the group included the:

- Office of the United States Attorney's-Southern District of New York

- Office of the Manhattan District Attorney
- Department of Labor-Office of Inspector General
- Department of Transportation-Office of Inspector General
- Federal Emergency and Management Agency—Office of Inspector General
- Small Business Administration-Office of Inspector General
- Social Security Administration—Office of the Inspector General
- Environmental Protection Agency—Office of Inspector General
- Internal Revenue Service—Criminal Investigation Division
- U.S. Postal Inspection Service
- New York City Department of Investigation
- Lower Manhattan Development Corporation
- State of New York—Office of Inspector General
- State of New York Insurance Department

Through our joint efforts, we have identified a number of types of potential criminal vulnerabilities that relate to the disaster assistance funding for lower Manhattan. These include:

1. False Statements and Claims
2. Wire Fraud
3. Mail Fraud
4. Theft or Bribery
5. Tax Evasion
6. Bid Rigging
7. Prevailing Wage Fraud
8. No Show Jobs
9. Artificial Price Market Inflation
10. Contract Fraud: Invoicing and Double Billing
11. Environmental Crimes
12. False Payrolls
13. Public Corruption
14. Embezzlement
15. Insurance Fraud
16. Collusion
17. Kickbacks

Every day our HUD OIG agents are at work on cases of fraud stemming from disaster funding for lower Manhattan. We received over 115 referrals as well as work we initiated. Although a number of our cases have been completed, we still have 62 cases open that are under investigation.

An example is the case against an individual who claimed his executive search firm sustained damage at 2 World Trade Center. He was convicted on 18 counts of defrauding nearly $350,000 from private and government agencies of disaster benefits including grants and loans. FEMA, SBA, HUD and the Red Cross were among the targets of his fraud. Using forged documents, he received Business Recovery Grants for non-existent equipment that was supposedly lost when the tower collapsed.

In a further example, as I speak to you today, there is a trial that is proceeding against a man who submitted fraudulent applications to government programs, received $118,000 that he was not entitled to, and applied for another grant when his scheme was uncovered. The amount of the grant award was calculated on the size of the business's expenses. So while his business was eligible for funds, he padded his application with thousands of dollars of phony expenses. He included lists of fake employees, business expenses, social security numbers, checks, wage reports that he supposedly filed with New York State—but never did, lease agreements, and signatures that were forged onto other documents.

Another case involved a Maryland man, who was sentenced to 24 months incarceration, to 26 months of probation, was ordered to pay restitution of $170,000, voluntarily forfeited $280,000 to the government, and was fined $10,200 for obtaining Business Recovery Grants claiming he had a business in lower Manhattan. In reality, the floor he claimed he was on was actually entirely occupied by a city agency. He offered a tax return that listed his business in lower Manhattan and reported gross earnings of $3.3 million. Our investigation proved he had no business in lower Manhattan but worked from his home in Maryland and that the business reported minimal gross earnings.

Two other instances illustrate some of the early matters we were investigating. A New Jersey resident, who sublet his unit in lower Manhattan, fraudulently submitted a two-year commitment grant application, claiming he resided at his apartment on Pearl Street. A Manhattan woman claimed she lived on St. John Street and intended to stay in her apartment until the following year. In reality, she had

moved uptown to W. 63rd Street. She had given LMDC a doctored lease and repeatedly lied about her address.

A case of public corruption was brought against an official of the New York State Division of Housing and Community Renewal. This official illegally obtained a LMDC Residential Retention Grant saying his father lived with him in lower Manhattan and he then sublet the unit at market rent prices.

Moreover, we found individuals who thought they would have easy access to money by establishing phony addresses. One such individual gave his address as 121 Reade Street, when in fact he lived further uptown on West 21st Street. This cost him a $2,000 fine, 200 hours of community service and one year's probation.

The LMDC Residential Grant Program received more than 40,000 applications and distributed more than $235 million. With each successful prosecution, we hoped that people who had lied to receive grant money had become anxious. To give these people a limited chance to come forward, a Fraudulent Grant Recipient Amnesty program was established. To date, over 160 households have returned money to the program.

Lessons Learned from September 11th Experiences

In addition to the establishment of a joint fraud working group, there are a number of initiatives that occurred, some of which we helped facilitate, which we believe are important to fraud detection, control and prevention.

A lower Manhattan Construction Command Center was organized to coordinate all construction valued at over $25 million. As a result, a **Construction Integrity Team** was established which, among other things, consists of federal and local OIGs working in cooperation to evaluate vulnerabilities and improper activities. It has shared information so as to assist each of the contracting agencies in vetting contractors and subcontractors and to ensure the integrity of the process. It has set up an information campaign to deter fraudulent activity. It is also a productive venue to share facts on fraudulent and abusive trends. As construction and redevelopment begins, we anticipate that we will see more fraud and abuse involving contractors as HUD's funding moves away from benefit reimbursement to development efforts.

In order to provide a mechanism for the State and City to receive information on potential improper activity relating to construction, a Fraud Prevention Hotline was created under the direction and control of the Command Center. It was designed to receive allegations of corruption or criminal activity by any agency employee, public official, contractor employee, agent, subcontractor, vendor, or labor official. This hotline began operations in 2005. Posters publicizing the hotline are, and will be, located in all construction work sites and trailers. A press release was issued to inform the public. In addition, flyers are inserted in paychecks and stickers are placed on the back of employee identification cards in order to highlight the hotline's presence. Moreover, a website was created that contains a complaint form.

We also cooperated on a project that has established an employee baseline background check from third party databases that is overseen by a screening company. The background review will search for organized crime connections, terrorism ties, any previous histories of violence in construction, and theft and integrity issues. While recognizing that some employees involved in construction may have had past criminal problems, this check will try to evaluate the nature of the crimes committed. It is important that the unions buy in to this process, as they did so with this project, or it will be very difficult to undertake.

Our oversight efforts have shown that the most effective way to proceed is to have monitoring be constant, continuous and at all the different levels of activity. **Monitors** should be concerned with: funds disbursement from the U.S. Treasury to State financial institutions; disbursements from the grantee to the sub-grantees; invoices and paperwork of the grantees and sub-grantees; timely reports for award and expenses; and timely reports on fraud prevention.

As I believe you have heard about in previous testimony, we also advocate the use of integrity monitors, also sometimes known as **Independent Private Sector Inspectors General** (IPSIGs). These are monitors with legal, auditing, investigative and loss prevention skills that are employed usually by a government entity to ensure compliance with relevant laws, regulations and contracts. They can be helpful in the procurement or licensing phase of contracts and can assist in the vetting of initial contractors. In general, they act to deter, prevent, uncover and report unethical or illegal conduct that is especially useful if agency resources are inadequate to handle the response needed.

The HUD OIG labored to provide useful **fraud awareness training** to granting agencies. We gathered trends in criminal activity from a host of other law enforcement agencies in order to facilitate our training. We worked together with the ESDC and LMDC to train them on fraud detection techniques, particularly before

grants were disbursed, as well as on identifying fraud indicators. This enabled the grantees to subsequently identify possible fraud and retain the necessary documentation for prosecution. We established a rapport that was designed to receive referrals from them on a timely basis. Although hard to measure, we believe these joint efforts helped to prevent, or to mitigate, a number of potential frauds as well as to uncover, and provide, evidence of criminal activity. We are currently working on a training module that will be geared to the contracting community as rebuilding efforts begin in earnest and that will include instruction in areas such as bribery awareness, false invoice detection, and bid rigging schemes. Throughout the grant implementation and distribution process, we continually educated the grantees on how to structure their application forms in a manner that would positively identify the applicant to reduce the potential for fraudulent applications and that would enumerate on the form the penalties for committing fraud.

From an auditing standpoint, we also believe there were important lessons learned. We believe it beneficial to: coordinate with other auditing entities to prevent overlap and duplication; hold meetings with auditees when new programs begin; utilize consultants or experts when necessary; use statistical sampling to better estimate results; discuss results early with auditees and local agency officials to prevent surprises; establish a relationship such that auditees will notify OIGs immediately upon the discovery of fraud; and work closely with investigators to get referrals to them quickly.

Oversight of Hurricane-related Disaster Relief Efforts

The destruction and aftermath of Hurricanes Katrina, Wilma and Rita challenge the HUD OIG with a task even more daunting than the reconstruction of lower Manhattan following the September 11th attack. Once again, an area of our nation has been hit by an unexpected disaster that has taxed emergency services and redirected federal Inspectors General toward assisting local government and overseeing the expenditure of a large amount of federal money. However, it also important to understand that there are differences, as they relate to our oversight efforts, between these two disasters.

From a HUD standpoint, New York City received approximately $3.5 billion. At this juncture, the Gulf Coast States have received almost $17 billion in assistance from HUD. With post-September 11th relief efforts: there were only two major "pass through" entities of CDBG funds; there were far fewer prospective grantees and subgrantees, there was a limited land area to consider; and the oversight activities were, to some extent, more controllable. With the post-hurricane relief efforts: there is a multitude of "pass through" entities of CDBG funds in numerous States; there are thousands of grantees and sub-grantees; there is a huge land area of effected devastation; and, consequently, there is a much more arduous task for oversight.

Though we had some disaster experience with Hurricane Andrew in Florida a number of years back, we were definitely on a learning curve with our September 11th oversight activities. Each of our encounters have taught us some general lessons including probably the most important lesson—that OIG teams on the ground, and at headquarters, must be proactive rather than reactive. This posture extends to collaboration. Joint task forces combine assets, manpower, information technology, budgets and other agency specialties to monitor expenditures and to attack fraudulent and criminal activities. To be truly effective, an OIG must continuously work to prevent waste, fraud and abuse by acting in real time and in a purposeful way to have a deterrent effect. Some of our best practices garnered from September 11th have become invaluable to us in this current effort. These include endeavors such as:

- Criminal investigators and auditors training State and local entities on how to uncover fraud, how to identify fraud indicators, how to retain necessary documentation; and how to make referrals to appropriate law enforcement;
- Participating in joint teams, such as grant fraud task forces and construction integrity teams;
- Setting up of hotlines and information campaigns on how to report fraud; and
- Properly vetting contractors and subcontractors and creating a clearinghouse database, as well as systems to conduct employee background checks.

In particular, we have especially honed our training capabilities over time and are providing in-depth and varied instructional opportunities on topics such as fraud detection in disaster relief settings to a host of entities in the effected Gulf Coast area. The first State to submit their plan was the State of Mississippi through their agency, the Mississippi Development Authority (MDA). The MDA met on several occasions with the HUD OIG to discuss their plan, listen to our concerns, and to be briefed by HUD OIG audit and investigative managers on the potential for scams and how to deal with application fraud, such as false statements, identity theft and

false documents. In addition, as part of our fraud awareness efforts, the HUD OIG educated MDA contract appraisers hired to assess property damage on fraud red flags. Homeowners applying for grant money received a HUD OIG fraud awareness bulletin as part of their application packet.

Though not the focus of this testimony, I would like to inform the Subcommittee that while we are working together to put controls in place we do, however, still have some concerns. From an audit oversight standpoint, the MDA plan, oversight and monitoring of grant funds ceases after the State has issued "compensation" funds to the homeowner "to be used at the discretion of the homeowner." The MDA plan is concerned with the funds to the point when they are given to the homeowner, at which point they are allowed to work through their personal disaster recovery as they see fit. We do not think that monitoring and oversight should end at this phase and we have remaining concerns about how "compensation" plan that basically reimburses will spur the rebuilding of now blighted communities. What is to become of these communities in the future?

In general, our Office of Investigation down in the Gulf Coast region has created a far reaching fraud prevention program designed to: (1) create a training course for other agents/auditors and program officials to teach them to identify fraud specifically in CDBG programs; (2) sponsor fraud prevention meetings between HUD OIG and the major programs of HUD; and (3) sponsor fraud prevention meetings between the HUD OIG and industry groups such as the Mortgage Bankers Association, the Public Housing Authorities Directors Association; and the National Association of Housing and Redevelopment Officials.

As part of this prevention program, the HUD OIG also created a Suspicious Activity Report (SAR) that will be given to HUD grantees, sub-grantees, and others associated with delivering disaster funds. The SAR is a method of informing HUD OIG of suspected irregularities in the delivery of HUD program money.

Conclusion

In closing I would like to thank the Subcommittee for the opportunity to talk about the work that the agents, auditors, attorneys and support people of the HUD OIG have accomplished since the onset of this tragic and trying event. Our people do it because we are committed to the Department's mission of providing safe, decent, sanitary and affordable housing for the Nation, and of providing economic development for our country's communities. I look forward to answering questions that members may have.

PREPARED STATEMENT OF MR. ERIC M. THORSON, INSPECTOR GENERAL, U.S. SMALL BUSINESS ADMINISTRATION

Introduction. Chairman Rogers, Ranking Member Meek, distinguished Members of the Subcommittee, thank you for inviting me here today to discuss the efforts by the Small Business Administration (SBA) Office of Inspector General (OIG) in connection with the SBA's response to the September 11th terrorist attacks. September 11, 2001, was a day in American history that we can never forget. Beyond the tragic loss of life, the terrorist attacks disrupted the economy of the United States. The SBA responded to the economic downturn by providing guaranties on loans made by private lenders through the Section 7(a) Loan Guaranty program, and by making loans directly to affected small businesses under the Disaster Loan program. My testimony today addresses the OIG's efforts to review the efficiency and management of these 9/11 assistance programs and to prosecute wrongdoers who took advantage of this national tragedy by obtaining loans through fraudulent means.

Overview of the OIG's Audit of the STAR Loan Program. In January 2002, Congress authorized SBA to provide financial assistance to small businesses that were affected by the 9/11 attacks and their aftermath through what is known as the Supplemental Terrorist Activity Relief or "STAR" loan program. Newspaper articles in the Fall of 2005 raised questions as to whether borrowers obtained STAR loans even though they had not been affected by the terrorist attacks. As a result, Senator Snowe, who chairs the Senate Small Business and Entrepreneurship Committee, and the SBA Administrator asked the OIG to review this program. The audit objectives were to determine if STAR loan recipients were appropriately qualified to receive STAR loans and if SBA established and implemented proper administrative procedures to verify STAR loan recipient eligibility. However, before getting into the results of our review, let me provide a short background on the STAR loan program, which was administered under the Section 7(a) Loan Guaranty program.

Overview of 7(a) Program. Under the Section 7(a) of the Small Business Act, SBA may guaranty up to 85 percent of a loan made by an authorized lender to a small business. This program is known as the "7(a) program." In 1983, SBA implemented the Preferred Lenders Program (PLP) which allows designated lenders to process,

service, and liquidate SBA-guarantied loans with reduced SBA oversight and, as SBA's budget for salaries and expenses has shrunk over the past decade, the Agency has increasingly delegated this authority to lenders.

Loans made under the 7(a) program that go into default are individually reviewed by SBA to determine whether the lender complied with the Agency's lending requirements. Generally, this review is the primary means that SBA uses to determine lender compliance with Agency regulations and requirements. If it is determined that the lender did not comply materially with SBA's regulations, SBA can negotiate a settlement of the guaranty amount or deny payment of the guaranty entirely.

The STAR Loan Program. Under the STAR loan program, SBA was authorized by Congress to charge lenders reduced fees for guaranties on loans made to small businesses which were deemed "adversely affected" by the September 11th terrorist attacks and their aftermath. Although the term "adversely affected" was not defined, Congressional staff and SBA program managers appear to agree that Congress intended the program to benefit not only those businesses that were directly impacted by the attacks, i.e., firms located near the World Trade Center or the Pentagon, but also businesses across the country that were harmed by the economic consequences of the attacks. Congress appropriated $75 million for the STAR loan program, which provided authority for SBA to guaranty up to $4.5 billion in loans. Funds were available from January 11, 2002, through January 10, 2003.

SBA Guidance on the STAR Loan Program. SBA issued guidance on the STAR loan program that defined an "adversely affected small business" as any business that "suffered economic harm or disruption of its business operations as a direct or indirect result of the terrorist attacks . . . ." Qualifying businesses were not limited to a "particular geographic area or to any specific type of business." SBA procedures required lenders to determine that the loan applicant was adversely affected by the terrorist attacks and to prepare and maintain in its loan file "a write-up summarizing the analysis and its conclusion that the loan is eligible for the STAR program." The guidance made clear that a lender would be deemed not to have met its responsibility for determining that a borrower was adversely affected if the lender did not provide a narrative justification demonstrating the basis for its conclusion. Borrowers were permitted to use STAR loan funds for any purpose authorized for 7(a) loans. Lenders also had authority to reclassify loans made under the regular 7(a) program as STAR loans if the borrower was eligible.

Our review found that lenders were initially reluctant to use the STAR loan program due to concerns that SBA would second guess their justifications and deny payment of the loan guaranty. Congressional staff expressed concern about the lenders' lack of interest in the program and urged SBA to promote the use of the program. SBA reacted by vigorously promoting the program through articles in trade journals, speeches at lender conferences, and by directing its district offices throughout the country to contact local lenders to persuade them to approve STAR loans. SBA advised lenders that a very large percentage of small businesses could qualify for STAR loans and assured lenders that SBA would not second guess their justifications.

OIG Audit of the STAR Loan Program. The OIG conducted an audit of a statistical sample of 59 STAR loans from the universe of 7,058 STAR loans approved between January 11, 2002 and January 10, 2003, to determine whether loan recipients were eligible to receive the loans. There were 27 lenders included in the sample. Using accepted statistical methodology, the audit results could be projected with 95 percent certainty. For 50 of the 59 borrowers (85 percent) in the sample, we were unable to determine from the lenders' loan files and discussion with available borrowers whether the borrowers were adversely affected by the 9/11 attacks and their aftermath, as required for STAR loan eligibility. For these 50 loans, the required justification was either (1) missing—5 loans; (2) merely a conclusion with no support—4 loans; (3) based on the adverse affects suffered by the business being purchased with a STAR loan rather than the "loan applicant" and SBA procedures did not specify whether such loans could qualify—11 loans; (4) contrary to documentation in the lender's loan file or borrower statements—21 loans; or (5) vague and neither contrary to nor supported by documentation in the lender's loan file or borrower statements—9 loans. Although these results do not necessarily show that the 50 borrowers were ineligible for the program, they indicate that lenders failed to prepare adequate justifications and obtain supporting documentation to determine eligibility.

Further, of 42 borrowers that we were able to contact, only two stated they were aware that they had received a STAR loan. Thirty-six borrowers said they were not asked, or could not recall if they were asked, about the impact of the attacks on their businesses. We concluded that, in many cases, funds appropriated for guaran-

ties on loans to small businesses adversely affected by the terrorist attacks may not have been used for that purpose.

Inadequacy of SBA Program Controls. In trying to establish the reasons behind these findings, we determined that SBA did not implement adequate internal controls and oversight to ensure that only eligible borrowers obtained STAR loans. Although SBA established guidance for the program requiring lenders to prepare and file written justifications showing borrower eligibility, senior SBA officials, in order to encourage the use of the STAR loan program, broadened the scope of program eligibility. Public statements made by senior SBA officials conveyed SBA's expansive interpretation of the term "adversely affected" and that SBA believed that virtually every small business had suffered some direct or indirect adverse impact and could likely qualify for a STAR loan. Further, SBA officials reassured lenders that the Agency would not second guess their eligibility justifications. SBA also did not require lenders to provide their justifications to the Agency, either at the time a loan was made or at the time that a lender requested SBA to honor the guaranty on a defaulted loan.

I should note that, although the SBA guaranties may not have been used for appropriated purposes, we did not find that any businesses legitimately affected by the 9/11 attacks were precluded from obtaining a STAR loan. Indeed, when the STAR loan program appropriation expired in January 2003, funds for the program were still available and were transferred to the regular 7(a) loan program. Therefore, it does not appear that eligible businesses were prevented from receiving STAR loans due to a lack of funds. Furthermore, the default rate for STAR loans does not appear excessive in comparison to similar SBA-guarantied loans. As of September 30, 2005, only 8 percent of disbursed STAR loans approved between January 11, 2002, and January 10, 2003, had been transferred to liquidation status, while 10 percent of the 7(a) loans approved during the same time period had been transferred to liquidation status.

Lessons Learned. What were the lessons learned from this review? For future special programs where 7(a) loans are used for nationwide disaster relief, the OIG recommended that SBA: (1) require loan applicants to justify how the business was harmed by the disaster; (2) require lenders to obtain supporting documentation to verify applicant claims of injury and provide detailed justifications showing applicant eligibility; and (3) implement effective internal controls and program oversight to ensure borrower eligibility and lender compliance. Specifically related to the STAR loan program, the OIG recommended that the Agency: (1) implement procedures to require lenders to submit STAR loan justifications when seeking SBA's purchase of a STAR loan guaranty; (2) establish criteria to provide more definitive guidance and examples for purchase reviewers to use in determining what constitutes an inadequate justification for STAR eligibility; (3) for future purchase requests, determine whether STAR loans that contain inadequate justifications can be reclassified as 7(a) loans or whether SBA can deny lender requests for purchase of the guaranties under SBA regulations; and (4) review guaranties the Agency has already paid under the STAR loan program to determine whether lenders were paid despite the absence of adequate borrower eligibility justifications. If there is inadequate justification, we recommended that the Agency determine whether SBA should reclassify the loan as a 7(a) loan or seek recovery of the guaranties from the lenders.

Disaster Loans for Businesses Hurt by 9/11. The Small Business Act also permits SBA to make direct loans to victims of declared disasters. Disaster loans, which are available to businesses and to homeowners, can be used to fund repairs of physical damage to homes and businesses, and to provide working capital to disaster-impacted businesses to allow them to pay their bills or otherwise fund operational needs. These latter loans are known as Economic Injury Disaster Loans (EIDL). These loans are made at a low interest rate, generally less than 4 percent, with generous repayment terms, which can last up to 30 years. In order to make Federal assistance available to more businesses that were impacted by the September 11th terrorist attacks, and not just those located in the declared disaster areas, SBA expanded the EIDL program to assist small businesses located outside the declared disaster areas. SBA disbursed over $1.1 billion in 9/11 disaster loans.

9/11 Disaster Loan Fraud. In 2003, the OIG began a proactive review of defaulted 9/11 EIDLs to assess whether there was fraud involved in obtaining or using loan proceeds. Inevitably, some of these disaster loans involved fraud due to loan transactions being expedited in order to provide quick relief to disaster victims. The OIG's Auditing Division screened a sample of defaulted 9/11 loans to identify indicators of fraud. Where indicators existed, these loans were then examined further by investigators. Based on these referrals, as well as those from other sources such as OIG Hotline, Office of Disaster Assistance, other law enforcement, etc., the OIG's

Investigations Division opened 51 cases on loans valued at approximately $20 million. Thus far, 37 cases have been closed, and 14 cases are in an open status at various stages of investigation. There have been 10 indictments, 10 convictions, and over $1 million in restitution and settlements.

The types of fraud schemes we identified in these cases included individuals and businesses claiming losses even though their companies were not located in the disaster area, false claims related to personal property or equipment damage, misuse of the disaster loan proceeds, and false statements concerning financial status. For example, in one case, the president and the managing partner of a business received an SBA disaster loan by falsely claiming that their company had been located at the World Trade Center. In fact, the business was not located there on September 11, 2001, and the individuals were salaried employees of another company at the time. They were sentenced to incarceration and ordered to pay a combined total of $618,000 in restitution.

OIG Finding Regarding SBA Collection of 9/11 Disaster Loans. While the auditors were screening defaulted loan files, it became apparent that SBA was not always pursuing collection timely. Therefore, the OIG conducted a review to determine if delinquent 9/11 disaster loans were serviced appropriately. As of September 30, 2004, 1,495 of these loans, valued at $208.8 million, were delinquent. The Office of Management and Budget (OMB) requires that agencies promptly act on the collection of delinquent debts, using all available collection tools to maximize collections. Since 1993, SBA has employed the issuance of demand letters as an important part of the loan liquidation process.

The OIG reviewed a sample of delinquent loans and found that SBA sent pre-demand or demand letters to only 4 of the 17 borrowers who should have received them. We found that insufficient staffing of SBA's liquidation center prevented personnel from following proper collection methods. Instead of properly issuing pre-demand and demand letters to collect delinquent loan funds, personnel were used to service bankruptcies, collateral activities, and/or borrower initiated offers of compromise.

OIG Recommendations on Proper Debt Collection. The OIG recommended that the Agency revise its procedures to direct servicing centers to send timely pre-demand and demand letters to delinquent borrowers and to maintain copies of these letters in loan files. Additionally, we recommended that the Agency ensure that sufficient staff resources are devoted to liquidation center activities to fulfill the debt collection responsibilities required by OMB. Attention to the collection of funds when a loan is delinquent must be part of SBA's most basic responsibilities.

Conclusion. Thank you for the opportunity to comment. I look forward to answering any questions that you may have.

PREPARED STATEMENT OF MR. DOUGLAS F. SMALL, DEPUTY ASSISTANT SECRETARY, EMPLOYMENT AND TRAINING, U.S. DEPARTMENT OF LABOR

Good morning. Chairman Rogers, Ranking Member Meek and distinguished members of the Subcommittee, thank you for this opportunity to discuss the Department of Labor's Employment and Training Administration's response to the terrorist attacks of September 11, 2001.

In the aftermath of that terrible tragedy, the Employment and Training Administration (ETA) engaged in a number of activities to ensure that the affected workers received income support, job training, job search assistance, and other employment related services. Today, I will testify about these activities, and the lessons we learned about disaster preparedness and program oversight during that time period. I would also like to take this opportunity to discuss a very different kind of disaster—Hurricane Katrina, and the lessons that we learned from responding to the vast devastation and displacement that it left in its wake. Finally, I will share with the subcommittee how these lessons have helped shape our future disaster response and oversight activities.

ETA is responsible for an array of programs and services to assist workers who have lost or might lose their jobs as a result of disasters. These include the Unemployment Compensation program (UC), Disaster Unemployment Assistance (DUA), National Emergency Grants (NEGs), and the wide variety of employment and training services that are available through One–Stop Career Centers.

Before I go into more detail about our disaster response and oversight activities after the terrorist attacks of September 11, 2001, I would like to give a brief overview of each of the programs I have just mentioned. The UC program provides temporary partial income support (also known as unemployment insurance) to laid-off workers to help ensure that some of the basic necessities of life are met while the individuals look for work. It is also an important economic stabilization tool. Bene-

fits are provided for up to 26 weeks in most states and the benefit amount is based on past work and wages. During periods of high unemployment, up to 13 additional weeks of benefits are available under the Extended Benefits program. In general, UC is available to workers who have significant recent work experience and are unemployed through no fault of their own.

The UC program is a federal-state partnership based upon Federal law, but administered by state employees under state law. Federal law defines certain requirements and each state designs its own UC program within the framework of the Federal requirements. The primary functions of the Federal government include: setting broad overall policy for administration of the UC program; monitoring state performance; and providing technical assistance when necessary. The primary functions of states include: taking claims; determining eligibility; and ensuring timely payment of benefits to unemployed workers.

The DUA program provides financial assistance to individuals who are not eligible for regular UC (such as the self-employed and recent entrants to the labor market) and whose employment has been interrupted as a direct result of a major disaster. DUA benefits are triggered when the President declares a major disaster in specified areas of a state.

NEGs are funded through the Secretary's reserve as authorized under the Workforce Investment Act of 1998 (WIA). In response to a natural disaster, states can apply for NEG funds to provide temporary disaster relief employment for individuals who have lost their jobs as a result of the disaster, are eligible dislocated workers, or are otherwise unemployed. This temporary employment is to work on projects that provide food, clothing, shelter and other humanitarian assistance for disaster victims as well as to conduct demolition, cleaning, repair, renovation and reconstruction of damaged or destroyed public structures, facilities and lands located in the disaster area. The funds may also be used to provide other employment and training activities. Once FEMA has declared a disaster eligible for public assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a state may submit an application for NEG disaster funds. A short application process for disaster relief NEGs is in place for States to request funds to respond to immediate needs.

One-Stop Career Centers are the local access point for employment and training services, such as job search and placement services, job vacancy listings, career planning and guidance, and supportive services. Over a dozen federal programs are partners in the One–Stop Career Center system. Currently, there are almost 3,500 comprehensive and affiliate One–Stop Career Centers around the country.

ETA's Response to 9/11

All of us who served our nation during the time of the September 11 attacks vividly recall the pervasive atmosphere of urgency, "can-do" improvisation, broad generosity, and concern for those who were suffering. All of us in government, including the Department of Labor, were faced with new challenges and problems that demanded immediate results—and generally, those results were delivered.

Following the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, the Secretary of Labor awarded a $25 million National Emergency Grant (NEG) to New York to assist approximately 6,900 dislocated workers from industries directly impacted in New York City by the disaster. Temporary jobs were not created as a result of the nature of the disaster and the health hazards involved. The NEG funds originated in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks in the United States (Public Law 107–38). The state of New York subcontracted with 17 organizations to provide employment and training services.

The Secretary also awarded a National Emergency Grant to Virginia for $3.5 million, which served approximately 5,000 workers, including those from airline and related industries. Several grants were awarded to states that were impacted by layoffs in the airline and related industries dealing with the economic aftershocks of the terrorist attacks of September 11, 2001. They included NEG awards to Minnesota for $8 million (to serve approximately 2,500 workers), Illinois for $5 million (to serve approximately 2,375 workers), Florida for $3.4 million (to serve approximately 2,000 workers), New Jersey for $3.2 million (to serve approximately 2,500 workers), and Massachusetts for $2.4 million (to serve approximately 600 workers).

The Emergency Supplemental Appropriations Act also provided $175 million for New York Workers Compensation Programs, and included an earmark for $32.5 million to the Consortium for Worker Education, a New York City based organization.

New York was also allocated $7.6 million in emergency funding for administrative costs associated with processing unemployment compensation. The allocations were made in two installments of $3.1 million and $4.5 million.

ETA Regional Office staff provided technical support to New York State, which not only experienced more than a 100% increase in unemployment insurance claims, but was also restricted by the peripheral physical damage in New York City. The ETA Regional Office also coordinated activities between affected state agencies and FEMA and provided Federal staff to the city's disaster center to assist with UC claims.

The state agencies in New York and Virginia were able to handle state UC and DUA claims filing. New York handled claims filing primarily by telephone and as a result was able to process UC claims through its upstate call center even though its New York City call center was closed temporarily due to damage from the attacks. Virginia (which took claims in person) set up a temporary claims center at the Ronald Reagan Washington National Airport, which was closed for a period following the attacks. Volunteers from the U.S. Department of Labor and neighboring states helped Virginia staff this temporary claims center which handled UC claims primarily from airport workers.

In response to the unique circumstances related to the terrorist attacks, the Department of Labor issued emergency regulations to permit individuals who were unemployed due to the closure of the airport to be eligible for DUA. In addition, the deadline for applying for DUA was extended in New York. Congress also extended DUA benefits from 26 to 39 weeks for individuals who lost their jobs because of the terrorist attacks on 9/11. Approximately 3,400 people received $14 million in DUA.

Oversight Activities

Grant making in a time of crisis requires an equal emphasis on expediency and efficiency. ETA follows detailed, written procedures for each of its grants, and continuously upgrades these safeguards to strengthen the integrity of the grant-making process.

Following recommendations by the Office of the Inspector General (OIG) to more clearly delineate the roles and responsibilities of personnel in various departmental offices with respect to the grant process, especially in emergency situations, ETA issued a new Employment and Training Order (ETO) in 2003. This ETO clarified the roles and responsibilities within ETA for grant administration, including the Regional Office federal project officer responsibilities. To further strengthen oversight and financial management of NEGs, ETA also issued internal guidance on the roles and responsibilities for the grant awards, covering all aspects of the administrative process, including the assurance that the process is efficient and transparent. This includes monitoring of NEG projects for compliance with the grant fiscal and program requirements to avoid fraud and abuse.

Finally, with respect to UC, the Department requires each state to operate a Benefit Payment Control program that prevents, detects, and recovers improper UC payments. States utilize a wide array of tools to detect potential improper UC payments including in-depth investigations and cross-matches with databases from other government agencies to determine, among other things, if individuals are still receiving UC after they returned to work. The Department recently established a new performance measure for improper UC payments, which was consistent with recommendations of the OIG. The Department also has provided state UC agencies with funds to use the latest technology to detect potential improper payments. Since each state UC agency already had this oversight system in place before 9/11, they did not have to create a new oversight program after the attacks to determine if UC benefits were improperly paid. In addition, the President's fiscal year 2006 and fiscal year 2007 budget proposals have included UC program integrity proposals which, if enacted, would help states reduce improper UC payments and produce significant cost savings while protecting UC for those who are eligible, especially in the event of a massive disaster like September 11.

ETA's Response to Hurricane Katrina

Although Hurricane Katrina was a disaster of a very different nature than the 9/11 tragedy, ETA's activities were informed by our experience handling services after the terrorist attacks on September 11, 2001. In New York and Virginia, the disaster was mainly localized, and the state infrastructure for the state workforce investment system remained largely intact. During Hurricane Katrina, the states that were primarily affected—Alabama, Louisiana and Mississippi—experienced severe loss of infrastructure, and the displacement of workforce system staff. As a result the state workforce systems were not able to readily respond—even, in one case, to be able to electronically submit an application for a NEG.

ETA has had substantial experience with disasters caused by hurricanes, yet this experience did not fully prepare the agency to respond to a disaster of the magnitude of Hurricane Katrina in which state infrastructure was devastated. In addition to the large numbers of persons who lost their employment due to the devasta-

tion, significant numbers of persons evacuated the immediate areas of devastation and relocated to other nearby states, causing new and different challenges for the workforce system.

ETA responded quickly with NEGs and other resources to the affected states and evacuee host states. A total of $236 million was awarded in NEGs to states for the 2005 Gulf Coast Hurricanes.

The UC and the DUA programs provided crucial financial assistance to victims of hurricanes Katrina and Rita. ETA estimates that approximately 293,000 people received $784 million in UC in the areas affected by the hurricanes. Approximately 197,000 people received $395 million in DUA.

After the Hurricanes, ETA was in close contact with state officials in the impacted states and provided a wide array of assistance including:

- Quick distribution of $44 million in UC administrative grants to help Louisiana, Mississippi, and Alabama repair and replace damaged infrastructure for the UC program and to expand their capacity to process a surge in claims;
- Extending the time allowed for individuals to apply for DUA and to provide documentation of wages and employment because of the difficulties many evacuees faced;
- Recruiting states to help Louisiana and Mississippi with claims filing via a toll-free phone number that routed calls from unemployed workers in Louisiana and Mississippi to call centers in other states; and
- Working with the U.S. Department of Health and Human Services (HHS) to expedite Mississippi and Louisiana obtaining authorization to cross-match their UC claims against the National Directory of New Hires (NDNH). (UC beneficiaries who continue to claim benefits after returning to work are the number one cause of UC overpayments and the NDNH includes information on all new hires nationwide.)

In addition, Congress enacted legislation providing $500 million to Alabama, Louisiana, and Mississippi to help pay the costs of regular UC benefits. Congress also enacted the Katrina Emergency Assistance Act of 2005 which extended DUA benefits from 26 up to 39 weeks for victims of Hurricanes Katrina and Rita. (Along with DUA recipients, individuals who received their full entitlement to UC were potentially eligible for 13 additional weeks of benefits.) Congress also enacted the Flexibility for Displaced Workers Act (Public Law 109–72), which provided additional flexibility for serving disaster affected individuals using NEG funds.

The Department and ETA spearheaded several other initiatives to help displaced workers and impacted communities. These included:

- Implementing the Pathways to Construction Employment Initiative to support economic revitalization in Louisiana and Mississippi through a partnership between each state's workforce agency and the community college system to establish and operate construction career pathways. Each state was awarded $5 million to implement the projects.
- Awarding High Growth Job Training Grants to Alabama, Louisiana, Mississippi, and Texas to train workers for jobs and careers in critical industries such as construction, energy, health care, transportation, and safety/security. Each state received $3 million to implement these projects.
- Awarding $63 million in Community–Based Job Training Initiative grants to 35 community colleges in the Gulf Coast and the Southeast whose programs will be critical to rebuilding the regional economy.
- Developing the Reintegration Counselor Program, which deployed highly skilled counselors to increase the capacity of One–Stop Career Centers in serving hundreds of thousands of individuals displaced from their families and jobs. ETA provided $13,500,000 to fund more than 150 counselors in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, Texas and Virginia.
- Deploying Disability Program Navigators to assist individuals with disabilities in the affected region ($5 million was awarded to support this initiative).
- Implementing the Hurricane Recovery Coach, an innovative online tutorial developed for workers, businesses, and reintegration counselors/workforce staff impacted by the Hurricanes Katrina and Rita. The Hurricane Recovery Coach identifies common employment and recovery issues facing evacuees and others who have been affected by the hurricanes and provides step-by-step instructions to help users find resources to related information.
- Forming the Mississippi/Manpower partnership between One–Stop Career Centers and Manpower, Inc. to encourage evacuees to return home to work and to certify an evacuee's work readiness skills. This program created "Coming Home Portfolios" that include job training, support services and employment opportunities.

- Providing waiver flexibility to seven states to help states target services to affected individuals and local areas. A total of 46 WIA waivers and three Workflex Plans were approved for the states of Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Texas.

One-Stop Career Center System

One-Stops Career Centers were uniquely positioned to be an access point for services for Hurricane victims, because they were geographically dispersed and already the focus for individuals seeking unemployment and disaster benefits and searching for temporary or full-time employment. One–Stop Career Center staff are trained and experienced in serving a wide range of customers with multiple needs.

In addition to the almost 3,500 One–Stop Career Centers around the country, many states have developed the capacity to provide mobile One–Stop services, particularly in remote areas. This was a service that was critical during the massive displacement resulting from Hurricane Katrina, when dozens of mobile career centers were deployed to provide service at evacuee shelters. After Hurricane Katrina, evacuees were in every state in shelters and were rapidly moving into new communities. The One–Stop Career Centers and affiliates nationwide served as access points for benefits and services for evacuees while away from home or in their new hometown. One–Stop Career Centers also helped evacuees connect to jobs across state boundaries.

During the disaster and in its aftermath, One–Stop Centers had the capacity to broadcast employment and career opportunities nationwide with an array of Internet-based tools to assist during the disaster. These web tools included the CareerOneStop comprehensive Web site: *www.careeronestop.org* and *www.servicelocator.org.*

One-Stop Career Centers also supported FEMA in identifying the skilled and specialized workforce necessary to help in recovery and disaster relief efforts.

Monitoring and Oversight of Katrina Activities

ETA has developed several tools to ensure that proper monitoring and oversight is taking place in the aftermath of Hurricane Katrina. First, ETA's regional offices produce a weekly stewardship report on all key activities. This report was initially required by the Office of Management and Budget (OMB) in September 2005 to document the agency's analysis and response to the financial risks posed by the huge rapid response required in the aftermath of the Katrina disaster. Required information included:

- Identification of abnormal risks presented by the emergency for fraud, waste and abuse of funds/assets;
- Evaluation of the effectiveness of existing controls to prevent/detect each risk;
- Additional controls to be implemented for the emergency; and
- Normal and/or additional monitoring of programs and transactions to be used to track the effectiveness of implemented controls.

DOL senior management requested the Office of the Chief Financial Officer (OCFO) to recast the OMB report into a weekly report which would specifically identify and track DOL financial control issues relating to Katrina recovery efforts. In response, the Employment and Training Administration developed a reporting process which includes:

a. Reports from the regional offices on Katrina related events:
   i. Significant actions for the week;
   ii. New issues identified as affecting timeliness of response or vulnerability to fraud, waste and abuse;
   iii. Status of progress in addressing issues requiring on-going efforts to ameliorate the risk;
   iv. Any other information pertinent to the Katrina recovery effort financial situation, such as Office of Inspector General investigations, State officials/agencies' communications or investigations, etc.

b. Reports from the program offices on Katrina related issues involving policy or other high-level responses.

c. Status of funding and expenditure for each Katrina related grant or program.

This report is presented weekly to the Deputy Secretary of Labor to keep senior management apprised of the financial status of the recovery effort and to highlight possible or actual vulnerabilities and the efforts of DOL towards abating those vulnerabilities.

For NEG projects, this report looks at overall participant enrollments and financial draw downs for both direct disaster projects and for evacuee projects. This report also looks at all major monitoring activities as well as any issues identified by the states or by regions that need resolution including policy issues, grant actions and similar matters that affect the success of the disaster response.

Regional Monitoring, Oversight and Technical Assistance

Since Hurricane Katrina, ETA has been involved in significant on the ground support to affected states. ETA Regional Office staff has monitored affected states on their DUA programs in accordance with the Secretary's standards, and has provided numerous onsite and remote technical assistance, in addition to actual onsite monitoring and oversight since the onset of Katrina and Rita.

Immediately after the Hurricane hit, the Dallas Regional Office formed an internal Hurricane Team to work directly with Louisiana Department of Labor officials to provide onsite and remote technical assistance, oversight and monitoring, and act as a liaison to obtain assistance from other states and regions for technology and staffing support. To date, the members of this team have made 68 separate and joint onsite technical assistance and monitoring visits to states in the region in response to Hurricanes Katrina and Rita. The team has also assisted the Louisiana Department of Labor in implementing and carrying out the new National Directory of New Hires for cross matching UI and DUA claimants across state lines to help alleviate fraud and abuse of UI and DUA funds.

Lessons Learned in the Aftermath of 9/11 and Hurricane Katrina

As a result of the terrorist attacks of September 11, 2001, and impact on the Gulf Coast in 2005 from Hurricanes Katrina and Rita, we have learned that each large catastrophic event is different and that we must develop a wide array of tools so that we are able to rapidly respond to different circumstances as they arise. Although there are many things we can do to prepare for a disaster, we have also learned that events of this magnitude always entail circumstances that may not be foreseen. For example, after September 11th, there was a need to change DUA regulations in order to serve workers who were unemployed due to the closure of Ronald Reagan Washington National Airport. The mass relocation of victims of Hurricane Katrina required new and different responses, including unprecedented coordination between states to handle claims for UC and DUA.

We learned that in times of disaster, it is critical for the workforce system to collaborate with other government agencies and have access to information about resources that these agencies can provide. For example, in the aftermath of the Hurricanes, dislocated individuals who could be engaged in NEG funded temporary disaster projects required housing since most housing in the affected areas was destroyed. The workforce system can arrange for recruitment and placement, but did not have ready access to information about when individuals would become eligible for housing assistance, making the job placement situation difficult.

Another lesson that we learned from these disasters is that telephone and internet claim filing for UC and DUA benefits provides needed flexibility in the aftermath of a destructive event. Although states have gradually stopped taking claims in person, not all states have adopted telephone and internet claims filing systems. The Department has encouraged states to adopt these systems by providing them with implementation grants. As of March 2001, 22 states had implemented telephone claims filing operations and 8 states had implemented internet claims filing operations. Since 2001, we have given states over $15 million for telephone and internet claims filing systems. Now, 38 states have telephone claims filing operations and 43 states have internet claims filing operations.

Remaining Challenges

Although we have made a tremendous amount of progress in our disaster preparedness, there are still some remaining challenges that we have identified, which include:

Streamlining DUA Funding. Although DUA is funded by FEMA, the Department of Labor is responsible for administering the program through the state agencies that administer state UC programs. The basic concept is simple—FEMA transfers funds to the Department which, in turn, gives funds to the affected states to pay DUA benefits and administrative costs. The process involves multiple levels of review and approval by FEMA and DOL before needed funds are authorized for transfer. As a result, there have been instances when states were forced to delay DUA payments because funding was received late. An important challenge is to streamline the approval and fund issuance process so DUA funds can reach disaster stricken states as soon as they are needed to make payments.

Developing Business and Disaster Recovery Plans. Hurricanes, fires, floods, earthquakes, and tornadoes, as well as physical and cyber terrorism, computer and telecommunications failures, and pandemics could cause mass unemployment that exceed the claims processing capacity of the impacted states. After Hurricane Katrina, we learned that most states do not have plans for providing services after a mass unemployment inducing disaster or when the UC agency headquarters are

destroyed. Thus, a remaining challenge is the development of business continuity and disaster recovery plans that address loss of communication, loss of computer processing capability, and loss of primary workspace, and ways in which essential business functions will continue until normal capability is restored and vital facilities are accessible.

Developing Cooperative Agreements between States. During Katrina, several states provided support to the impacted states, yet there were initial problems associated with how assisting states would be reimbursed for assistance provided such as staffing and mobile one-stop systems. In the future, ETA believes that it is important to encourage states to establish a set of protocols and cooperative arrangements to deliver services when the home state is unable.

Developing and Implementing DUA Internet Claims System. Hurricanes Katrina and Rita highlighted the gap in operating efficiency between UC and DUA claims processing. It is important to automate DUA claims processing and integrate those systems with state UC systems.

Sharing Information between Agencies to Locate Victims and Provide Services. Hurricane Katrina highlighted the barriers to information sharing between federal agencies. This is a challenge because without this information sharing it is more difficult to locate disaster victims and provide needed services.

Next Steps

As a result of disaster planning since 9/11 and Katrina, ETA has developed several new policies and tools which can be utilized in a future emergency. We have also developed the ability to catalyze a wide array of partners working collaboratively in support of disaster response activities.

We have also examined several approaches to providing assistance in the event of disasters to support communities in times of economic shock; we are currently developing STrategic Action for Regional Transformation ("START") Teams of senior ETA officials that can get on site quickly and bring information and resources to assist in the development of a state and local response. ETA is also developing Community Blueprints designed to support communities suffering economic shocks to reassess their economic landscape and develop response and growth strategies. We have also compiled a comprehensive Federal Resource Guide that catalogues resources and services available across the federal government to help individuals and communities.

Conclusion

The September 11, 2001 terrorist attacks and the 2005 Hurricane Season created challenges unlike any we have seen before. In response to these challenges, we have developed new tools to provide technical assistance to affected states; monitor and oversee how funds are being spent; and help displaced workers access income support and other services, and become quickly reemployed. In addition we have developed tools to assist communities dealing with the economic impact of these disasters. We will continue to devote significant time and resources to developing these tools further and preparing for potential disasters.

Mr. Chairman, this concludes my testimony. Again, I appreciate the opportunity to appear before you on behalf of the Employment and Training Administration. I am prepared to respond to any questions that you may have at this time. Thank you.

PREPARED STATEMENT OF MR. LEROY FRAZER, JR., BUREAU CHIEF, SPECIAL PROSECUTIONS BUREAU, NEW YORK, COUNTY DISTRICT ATTORNEY'S OFFICE

Mr. Chairman and members of the Sub-Committee, I am Leroy Frazer, Jr., Bureau Chief of the Special Prosecutions Bureau in the Manhattan District Attorney's Office. I appreciate this opportunity to appear before you today to testify on behalf of Robert M. Morgenthau, the District Attorney of New York County, regarding the fraud cases our office prosecuted in the wake of the September 11th attacks. Permit me to introduce to the members of the subcommittee my Deputy Bureau Chief, Joan Delaney.

The horrific attacks on September 11, 2001 led to an unprecedented out pouring of charitable donations by the American people. These donations and the aid designated by Congress were administered primarily by FEMA, the American Red Cross and Safe Horizons Corporation. At a time when countless acts of heroism were exhibited, others tried to profit from the confusion.

I appear before you to relay our efforts in combating fraud in the aftermath of the 9/11 attacks on our nation. Although the amount of fraud detected represented a small percentage of the funds allocated, we felt and still feel that it is essential

for the public to know that there would be a strong effort to detect and prosecute individuals responsible for taking advantage of a national tragedy to line their own pockets. To that end the Manhattan District Attorney's office prosecuted 539 September 11th related cases, with approximately 98% of them fraud-related with proceeds totaling over $5.8 million dollars. We also learned some valuable lessons on how to detect and combat such fraud and how, in the future, we can seek to prevent it from occurring in the first place.

In the immediate aftermath of the attacks it was clear that most New Yorkers wanted to help in any way possible. Long lines formed throughout the city to give blood only to find out that, unfortunately, there was not going to be a significant need. Some donated supplies to the search and rescue workers at ground zero while still others voluntered to distribute food and supplies, or to help affected people fill out forms to request aid. However as we soon learned, along with those who wanted to help, came others who sought to prey upon tragedy to promote their own self interests.

Initially we met with the Inspector General from FEMA who informed us that it is not uncommon in instances of national disasters that people unaffected by the disaster submit fraudulent applications for aid. To address that we felt it was important to centralize investigative efforts both within and without the office in order to be effective. Towards that end Mr. Morgenthau directed that the frauds committed against the charities be handled principally by one section of the office, the Special Prosecutions Bureau. Next we determined that the principal organizations that were distributing funds were FEMA, American Red Cross, Safe Horizons and the Robin Hood Foundation. We arranged to have contact persons at each for purposes of receiving grand jury subpoenas when needed and coordinating the dissemination of information.

We also coordinated the efforts of law enforcement. A meeting was called with representatives from the following agencies: FEMA, Social Security, Postal Inspectors, FBI, Secret Service, INS, New York State Attorney General, the New York State Insurance Department, NYPD, NYC Department of Investigation, and NYC Department of Law. Once again individuals were designated to ensure the coordinated flow of information. This proved to be essential in our prosecutions because most defendants applied to several different charities and many lived outside of New York City.

The initial wave of arrests came about because a worker from the Port Authority of New York and New Jersey alerted the agency's Inspector General that some of its workers were applying for aid from the Red Cross claiming that they lost days at work due to 9/11. Even though Port Authority offices were located in the World Trade Center, the Port Authority had relocated its workers and no one lost even a single day's pay. We investigated the allegations and on November 8, 2001 arrested twelve workers for lying to the Red Cross and Safe Horizons in order to receive relief funds. Further investigation resulted in a dozen more being charged two months later. The thefts totaled $19,582.

I indicated earlier the citizens of New York City volunteered to help in any way possible. A group of lawyers volunteered to help victim's families fill out the paperwork to expedite death certificates. This valuable program was coordinated by the NYC Law Department, but there were those who took unfair advantage of it. As a result of a coordinated multi-agency investigation on March 21, 2002 we announced charges against 22 people for filing for death certificates falsely claiming that members of their family died in the attacks. Fourteen of the defendants received funds totaling $759,465, while the other eight were caught before they received any funds. These cases included: .

- A Michigan man, Daniel Djoro, who reported that his brother, Daniel Zagbre, had been at the World Trade Center for a business meeting at the time of the attacks. Daniel Zagbre was in fact a fictitious name the defendant himself had used in the past. Djoro obtained $272,800 from the Red Cross and Safe Horizon. Dijoro pled guilty and was sentenced to 4 years in jail.
- A Queens' man, Cyril Kendall, reported that his 13th child had accompanied him to a job interview at the World Trade Center and had perished in the attack. The investigation revealed that the child never existed and in fact the name he had given had been used in the past as an alias by two of his other 12 children. Kendall received a total of $190,000 from Red Cross and Safe Horizon. Upon conviction after trial Kendall was sentenced to 30 years in jail.
- A Utah man, Ricardo Frutos, claimed that a brother, niece and nephew died at the World Trade Center. The investigation revealed that the people reported dead had never existed, a fact which was confirmed by family members. Frutos received $47,257 from Red Cross. He pled guilty and was sentenced to 3 years in jail.

Additional prosecutions demonstrated the extent that individuals would go in order to fraudulently obtain funds. One such person was Carlton McNish who reported that his wife, Jisley McNish, went to work that morning at Cantor Fitzgerald and never returned home. He reported this to the New York City Police Department on October 3, 2001 and then submitted DNA from a hairbrush and a comb to the New York City Office of the Chief Medical Examiner's Office on October 5, 2001. McNish then went to Pier 94 on October 16, 2001 and met with a volunteer attorney who helped him fill out an affidavit to apply for a death certificate. In the affidavit, the defendant claimed that his wife went to work that morning at Cantor Fitzgerald and that she called him at around 9:30 a.m. to tell him that an airplane had hit the building, that the building was filling with smoke and that she and several coworker's were trying to leave. He claimed that she never returned home that day. The affidavit was ultimately filed with the New York City Corporation Counsel. The wife's name was included on the City's official list of missing persons and the name appears on the World Trade Center memorial.

The defendant submitted a copy of this affidavit and a picture of his "deceased wife" to the Medical Examiner's office. He submitted an affidavit to the American Red Cross, Safe Horizon and the Salvation Army, claiming that he was in need of financial assistance because he was dependent on his wife's income and obligated to support their three children. From October 2001 to January 2002, the defendant received $68,000 from the American Red Cross, $30,000 from Safe Horizon, and $1,000 from the Salvation Army. In addition, he received $5,000 from the Robin Hood Foundation because his wife's name was on the Mayor's official list of missing persons. The defendant also called in an application to the Federal Emergency Management Administration, but did not get any money after the certification form that was mailed to him was returned unsigned.

Meanwhile, in November of 2001, the defendant went to a funeral home in the Bronx and arranged a memorial service for his deceased wife which occurred in December of 2002. He gave the funeral home a photo of the woman which was used in the memorial program detailing the life of "Jasclliny McNish." The funeral home helped the defendant apply to the Crime Victim's Assistance Board in Albany to get funds to pay for the memorial service. The defendant also submitted the funeral bill to the American Red Cross and Safe Horizon and received money from both charities for the full amount of the bill which totaled $6,279. The American Red Cross became suspicious when as of March of 2002; the defendant could not provide documentation for his "children" or for his wife's employment at Cantor Fitzgerald. They contacted Cantor Fitzgerald and were informed that no one by the name "Jocelyn McNish" (the name the defendant gave the American Red Cross) or "Jasclliny McNish" (the name on the affidavit) ever worked for Cantor Fitzgerald. At the same time, the NYPD was investigating the defendant's missing person report because he could not confirm the spelling of his wife's name, her employment and various other pertinent details that should have been known to him.

During the course of the investigation, it was discovered that the defendant was not married to anyone by the name of Jasclliny, Jisley or Jocelyn McNish, and that he did not have three minor children as he claimed on his various applications for relief. There is no evidence that, even though her name was read from the list of those killed at the World Trade Center during the 2002 and 2003 memorial services, the woman the defendant claimed to be his deceased wife ever existed. McNish pled guilty and was sentenced to 7 years in jail.

Woodrow Flemming was a 48 year old homeless man who resided in a city shelter. He claimed to have been a vendor in the World Trade Center area and produced a W–2 form purportedly from Woodrow Flemming and Associates and a forged letter on the letterhead of an attorney attesting to the fact that the attorney had purchased books from him. Upon receiving close to $10,000 in aid, Flemming recruited several additional "employees" from the shelter and brought them to the relief center, supplied them with similar forged documents, and paid them between $100 and $1100 in order to turn over their relief checks to him. In total, Flemming stole $108,905. Each defendant eventually pled guilty and Flemming was sentenced to 12 years in jail.

A similar case involved a business called K.C.'s Barbershop which was located approximately four blocks from the World Trade Center. It actually was a very small shop with room for one barber's chair, yet 11 barbers submitted documentation claiming to have worked there and each one was prosecuted.

Beatrice Kaufman had a business and residence in the affected area. She owned a temporary employment agency and had planned to combine and renovate two apartments. During the summer of 2001 she had made arrangements to stay at the Helmsley Carlton Hotel during the construction period and was due to relocate there on September 11, 2001. Construction had begun prior to 9/11 and she was liv-

ing in her home in the Hamptons, where she remained on 9/11. After returning to the city post 9/11, Kaufman submitted identical bills for her hotel fees and living expenses to her personal and business insurance carriers, as well as FEMA, falsely claiming that the World Trade Center attacks had caused her to suddenly and unexpectedly evacuate her apartment and that her agency had lost valuable contracts due to the attacks. She told her insurers and FEMA that she was physically and emotionally unable to return to her apartment until February 2002, a date which happened to coincide with the completion of the renovation. In total she received $108,713 from her insurance companies and $5,940 from FEMA. She pled guilty and received a sentence of 6 months jail and 4½ years probation.

Finally I will tell you about thefts from the city's Municipal Credit Union (MCU). MCU's membership is open to, among others, employees of the city, state and federal governments and employees in the health care industry, and is located at 22 Cortlandt Street, near where the World Trade Center towers stood. As a result of the collapse of the towers, MCU's own ATM machines were disabled and MCU intermittently lost its computer link to the New York Cash Exchange (NYSE) network which administers bank-to-bank transactions and processes ATM transactions, including withdrawals. When the link to the NYCE network was interrupted, NYCE had no ability to access MCU account balances to ensure that there were sufficient funds to cover a withdrawal when a member withdrew cash using his MCU-issued ATM card or used as a Visa credit card. Upon learning this MCU made a determination not to shut down its entire A TM operation because of the hardship it might impose on members, particularly those adversely affected by the tragedy, but rather to allow NYCE to continue to dispense cash to MCU account holders. Although the vast majority of its members abided by this short term "honor system," a number of them withdrew amounts of money far in excess of their normal balances. Initial estimates for unauthorized withdrawals totaled 4000 employees and as much as $15 million. MCU offered those who had overdrawn an opportunity to convert the unauthorized withdrawals to personal loans and many did. Subsequently our office, working with the NYC Department of Investigation and NYPD, arrested 101 individuals who illegally withdrew amounts in excess of $7500. Examples of their cases are:

- Terry Hutchinson-Jones, a nurse at Manhattan Psychiatric Center, never had a positive end of month balance in the eight months prior to 9/11. Despite the fact that she had a negative account balance for all that time, she made 54 ATM cash withdrawals between September 18th and the end of October, leaving her with a balance of −$18,111.01. Twenty-three of those withdrawals were for $500 each; for example, she made two withdrawals of $500 each from the same branch of Banco Popular on October 4th, 5th, 6th, 7th, 8th, and 9th, among other withdrawals.
- James Allen, an employee of the Housing Authority, never had an end of month account balance that exceeded $130 in the eight months prior to 9/11. Nonetheless, he made 53 ATM withdrawals ranging from $20 to $300 each, and charged 101 Visa purchases using his Municipal Credit Union ATM card between September 19th and October 22nd. The Visa purchases were at stores including Foot Locker, Jimmy Jazz, Joy Joy Jewelry, Bronx BBQ, Hot Booz Liquor and the 216th Street Motel. As a result of this activity, this individual's account balance was −$10,378.70 as of the end of October, 2001.
- An employee of Mt. Sinai Hospital never had an end of month account balance that exceeded $95 in the six months prior to 9/11. Despite that, he made 91 ATM withdrawals from September 16th to October 30th, when his account balance reached −$10,757.37. Sixty-one of those withdrawals were for $100. For example, on September 16th, he made one cash withdrawal of $20, followed by four more for $40 each, and followed by three for $100 each, all from the same ATM location. The next day, September 17th, he made three cash withdrawals of $100 each from the same Chase branch in the Bronx; two more $100 withdrawals were made from the same Chase branch on September 18th. On September 19th, he made two $100 cash withdrawals and used his ATM card to make six debit purchases, including the purchase of two Metro cards. By October 2nd, and in the days that followed, many of his cash withdrawals were for $200 each.
- Another Municipal Credit Union member never had an end of month account balance that exceeded $566 in the eight months prior to 9/11. Nevertheless, he made 50 ATM withdrawals totaling $8,700 between September 16th and November 8th. He also used his MCU card to make 89 Visa purchases at stores including Gap, Cookies Department Store, Leather World, Barefoot Shoes, Jeans Plus, Dynasty Restaurant, and BX Sports. As a result of this activity, his account balance was −$12,570.75 at the end of November, 2001.

Subsequent to first round of arrests, a substantial number of members contacted the Municipal Credit Union to convert their unauthorized withdrawals to personal loans and begin repayments. Ten months later we conducted a second round of arrests targeting those individuals who had taken amounts in excess of $5000. We found these group arrests were an effective tool in getting people to take responsibility for their actions.

There were some obvious problems that arose in the investigation and prosecution of the 9/11 fraud cases. Many of the charity's volunteers were from different parts of the country which made it more difficult to contact witnesses to investigate cases and sufficiently prepare them for Grand Jury proceedings. Additionally, due to the high volume of applications processed, volunteers were not always able to recall the details of every interview conducted. It would be helpful in the future if there was a training program for relief workers, including an orientation program regarding tools to employ to detect fraud in screening applications for aid. While it is difficult to detect a fraudulent claim at the outset, the more supporting documentation obtained from a claimant the better equipped we would be to investigate and prosecute a fraudulent claim. Moreover, there should be prominent and conspicuous language on all applications for aid warning that the statements made are done so under a penalty of perjury and, if false statements are made, the claimant will be prosecuted. In addition, it would be prudent to require that declarations of loss contain a notary's signature. Nevertheless, despite numerous instances of fraud, it was evident from interviewing employees and volunteers of the relief agencies, that each of them was committed to assisting victims of the 9/11 disaster in an expeditious manner.

The New York County District Attorney's Office has been successful in prosecuting those who unlawfully attempted to enrich themselves by taking advantage of the tragedy that affected our nation. Those who made a calculated decision to take money and profit from the confusion during a time of a national crisis were apprehended and punished. As a result of the District Attorney's prosecutions, an important message was conveyed to the public that those who thought they could profit from the World Trade Center aftermath were mistaken.

I would be pleased to answer any questions.

PREPARED STATEMENT OF MS. EILEEN MILDENBERGER, CHIEF OPERATING OFFICER, EMPIRE STATE DEVELOPMENT CORPORATION

Thank you for the opportunity to provide testimony on Empire State Development's economic recovery initiatives following the terrorist attacks on the World Trade Center. I am pleased to report that lower Manhattan is once again a vibrant center of commerce.

Let me review how far we've come and what we've done.

On September 10, 2001, the district of south of 14th Street had 20,000 small businesses and 103 large businesses with more than 500 employees each. Large firms amounted to only half of 1% of all the businesses in the area, but employed 42 percent of all workers.

Following September 11th, virtually all of these companies—and a half million employees—were affected.

While the physical impact of the 9/11 attacks was geographically limited to the blocks near the World Trade Center, the attacks had a far more substantial economic impact. An independent source estimated 64,000 jobs could be permanently lost.

Governor Pataki's initiative to establish a unified Federal/state/city command, and to designate Empire State Development as the lead agency for economic recovery, made it possible for New York State to implement a quick and effective response to the attacks, the goals of which were to keep businesses in lower Manhattan and to preserve New York's position as the global center for finance.

Within 48 hours of the attacks, ESD had set up a walk-in center in New York City and 1–800 number to field inquiries about assistance for businesses. These were in operation before the fires at the Trade Center were out.

Using State funds, we guaranteed $33 million in bridge loans from banks to nearly 1,000 qualified small businesses. We instituted a grant program for retail businesses, approving more than 3,000 applications and $13 million in grants.

It soon was clear that Federal help would be needed. The Department of Housing and Urban Development's Community Development Block Grant was identified as the most appropriate vehicle to fund New York's economic recovery efforts. Thanks to quick action by Congress, substantial federal resources were made available.

Our effort had two primary objectives: To help small businesses make up the loss of working capital, and to provide incentives for businesses to return to, or remain in, lower Manhattan.

With $1.2 billion in HUD funds, we created our three largest programs.

The Job Creation and Retention Program (JCRP) was intended to retain and attract large "anchor" firms. Seventy-seven companies accepted grants totaling $292 million. They have committed to retain and create more than 70,000 jobs in lower Manhattan and a total of 91,000 jobs citywide. Four and one-half months after the attacks, we began providing $563 million in business recovery grants to compensate small business loss. Business Recovery Grants were available to eligible businesses south of 14th Street with fewer than 500 employees and with unreimbursed economic losses. In addition, $13 million was allocated to large businesses that employ 200 workers or less at their downtown locations.

BRG provided assistance to more than 14,000 businesses. The average grant was nearly $39,000 and compensated only 16.8% of the average firm's loss.

Six months after the attacks, we began the Small Firm Attraction and Retention Grant (SFARG) program. Through SFARG, we have disbursed nearly $115 million to 2,200 small businesses that made a 5 year lease commitment to stay in lower Manhattan. These firms employ over 37,000, nearly 1/3 of whom are low-wage earners. Second grant disbursements, totaling $42 million, to eligible companies that stay downtown, will take the program into mid-2007. In other programs, we provided $42 million in business recovery loans and nearly $5 million for technical services for small businesses.

We carefully followed Federal rules, including development of an action plan that was reviewed and approved by New York City and the Department of Housing and Urban Development, and widely circulated for public comment.

Our economic development staff reviewed every request for assistance. Each BRG grant received at least five different reviews. JCRP grants underwent a thorough economic analysis and approval from our Board of Directors. HUD's Inspector General concluded, "ESDC generally disbursed the CDBG disaster assistance funds to eligible applicants in accordance with the HUD approved action plan."

Great care was taken to ensure a fair and efficient process, balanced with careful documentation and accountability. We often pursued third-party verification prior to awarding funds. This included: reviewing the Port Authority's master list of World Trade Center tenants; requested tax information from the IRS; site visits; speaking with landlords; and confirming employee numbers with the State Department of Labor.

Where fraud has been detected, ESD has worked closely with law enforcement. As of this time, only two cases have gone to trial.

Our initiatives to help rebuild the lower Manhattan economy taught some important lessons. Among them:

- Building relatively simple-to-administer and simple-to-apply-for assistance programs with objective, transparent rules understandable to potential grant recipients.
- Scaling programs to match organizational capacity.
- Establishing procedures to catch errors and potential fraud.
- Recognizing that some federal and state loan programs are not well-suited to the purpose of disaster recovery.

Today, less than five years after September 11th, businesses have returned, and a residential influx has taken place in lower Manhattan.

Specifically, the lower Manhattan office market is showing signs of sustained recovery. The vacancy rate downtown dropped from nearly 14% at the beginning of 2005 to 10.6% at year end, its lowest level since September 11th. In the past year, the number of downtown businesses increased by 6%.

With the recovery of the area's business economy, lower Manhattan has become home to a burgeoning residential community. Today, there are more than 20,000 residential units south of Chambers Street, a 10% increase over 2004. 29 developments are under construction, adding almost 4,000 new units in the next few years.

And tourism in New York City is at a record high, with 41 million visitors in 2005, and visitor spending at $21 billion in 2004.

ESD's assistance has contributed to this new vitality.

We have more to do, of course, but are proud of what has been accomplished thus far. Through the leadership and vision of Governor Pataki, Mayors Giuliani and Bloomberg and our Congressional Delegation and their colleagues, we have not only helped renew lower Manhattan, but we have rebuilt the confidence of the business and residential community in one of the most important parts of our city, State, and country.

Thank you.

PREPARED STATEMENT OF MR. STEFAN PRYOR, PRESIDENT, LOWER MANHATTAN DEVELOPMENT CORPORATION

Thank you for this opportunity to testify on the redevelopment and resurgence of Lower Manhattan.

LMDC was created following September 11th to help plan and coordinate the rebuilding of Lower Manhattan. We are a subsidiary of the Empire State Development Corporation, and our Board of Directors is appointed by the New York State Governor, George Pataki, and the New York City Mayor, Michael Bloomberg. Congress allocated $2.783 billion of the $21 billion total aid package to the LMDC for our efforts.

The scene in Lower Manhattan has changed so significantly in less than five years that people often forget what we faced in 2001. We suffered the unconscionable, tragic loss of 2,749 people at the World Trade Center on September 11th. On the days immediately following, I remember well how my own residential street, about a block from Ground Zero, was cordoned off; we had to enter our homes through military checkpoints. I witnessed moving vans lining the streets as residential vacancy rates soared as high as 50% in some buildings. And businesses were moving away, fearing Lower Manhattan would never again be a thriving commercial district. Sixty to 80,000 jobs disappeared, along with 10 million square feet of office space at the World Trade Center site, and Lower Manhattan slipped from the third to the fourth largest central business district in the country. These are the negative images, tough conditions, and dire predictions that, for those of us who live and work downtown, were part of our daily experience. And these are the images, conditions and predictions that, in the aftermath of 9/11, were broadcast across the world.

As a result, there were some who questioned whether it would ever be possible to truly recover. Yet in less than five years since September 11th we have already seen significant progress. We've witnessed the construction and opening of 7 World Trade Center—the last building to fall on September 11th and the first to rise again. A block away, Goldman Sachs is building its world headquarters right next to American Express and Verizon, who remained downtown, determined that it would be rebuilt. Inside the World Trade Center site, the construction of the World Trade Center Transportation Hub is under way, as is the site preparation for the Memorial and the construction of the Freedom Tower. Surrounding the World Trade Center site, the West Street Southern Promenade (a remade portion of the highway that abuts the site) opened to the public last week, and the new Fulton Transit Center is under construction—along with other revitalization projects beyond the World Trade Center site. The value of construction now underway or soon to begin totals $10 billion, with over $20 billion to be invested over the next five years.

My testimony today will focus on the climate of accountability and control we have established at LMDC. In talking to you about our oversight and controls, I would like to outline our public process briefly, how it led to the establishment of our priorities, and how our controls have ensured integrity in the implementation of those priorities—and in the development of a revitalized 21st century central business district.

We take great pride that LMDC has led one of the most extensive public processes ever undertaken by a government agency. We believe our public process has been essential to ensuring our Federal funding is spent properly and on the most meritorious projects. We have held over 200 public meetings over the past five years. Some of those meetings have been broadcast live over the Internet, allowing people from around the world to view our planning activities and provide their comments and suggestions. All of our draft plans are subject to public comment and then revised to take that comment into account.

We have also held hundreds of meetings with community groups and advisory councils which represent the various communities impacted by September 11th and the rebuilding—including victims' families, survivors, residential and business community leaders, elected officials, planners, architects, and other stakeholders. This remarkable level of public participation has been highly effective. It is impossible to create an agenda that pleases all constituencies all of the time—but what we have demonstrated is a public agency's plans benefit from more rather than less public input and that a comprehensive outreach and feedback process lead to results that have credibility and, as a result, durability.

To begin, LMDC responded immediately to the public's concerns about retaining and attracting residents and businesses. The program played a central role in restoring occupancy rates to more than 95%, as well as in spurring new investment. A survey of residents conducted by the Alliance for Downtown NY found that nearly 32% of all current residents living below Chambers Street had moved to the area

between September 2001 and May 2003. Among those new residents, a majority—51%—said LMDC's grant had been a factor in their decision to move to Lower Manhattan. The program infused $226 million in grants to more than 65,000 households. Battery Park City today boasts its highest occupancy rate in its history, and Lower Manhattan is the fastest growing residential market in the city.

To attract and retain businesses downtown, the LMDC also provided funding to ESDC, which administered a variety of grant programs and employee training assistance programs that played a major role in the promising commercial reports we see today. You will hear more about these programs from our ESDC colleagues, but I want to point out briefly that according to Cushman and Wakefield, more than 850,000 square feet of new leases were signed in Lower Manhattan during the fourth quarter of 2005—and this figure does not include Goldman Sachs' new 1.9 million square foot headquarters. Following our immediate residential and business recovery efforts, LMDC made a conscious decision based on public input to use the remainder of our funds on investments that would drive long-term economic growth. We knew we would have to create conditions that would not only result in the restoration of the 60 to 80,000 jobs lost, but would also provide for a durable and vital environment that would ensure those jobs would be secured over the long term. Our plans emerged from public input and trends of cities around the world that indicated that successful central business districts are increasingly also vibrant, active live and work communities.

When we embarked on the selection of a Master Plan for the World Trade Center site, we began by holding public forums with live webcasts throughout the New York City regions. One of these forums—"Listening to the City"—brought more than 5,000 people together in one location to consider what should be built on the World Trade Center site. That process resulted in LMDC's selection of Daniel Libeskind's Master Plan in 2002—a plan that continues to guide the rebuilding today. We believe the public input that drove this process was crucial to the Master Plan's long-term viability. While the LMDC is not directly responsible for the construction of these buildings, we are proud that Libeskind's Master Plan for the site has endured, and that it is well on its way to implementation.

The selection of the centerpiece of the site, the Memorial, was also the result of extensive public input. LMDC's Families Advisory Council helped shape the principles upon which the design was selected, and we held an open international competition in 2003. In a true testament to the extraordinary level of interest in the Memorial's creation, we received 5,201 submissions. A prestigious Memorial Jury selected the winner in January 2004—a design called "Reflecting Absence." We recently made modifications to the Memorial design and its companion museum to ensure that these important centerpieces of downtown will be delivered on budget and on schedule for opening on September 11, 2009, while remaining true to the vision selected in 2004. The Memorial must and will be a magnificent and fitting tribute to those we lost.

We are proud that all of our stakeholders played an important role in the creation of this moving tribute. A recent NY State Supreme Court decision found that the LMDC's public outreach on the Memorial has been "exhaustive and beyond anything required by law," noting also that we have acted in a "commendable and sensitive manner."

It was clear from the beginning of our planning and public outreach that making Lower Manhattan viable and attractive in the long term would require more than financial incentives and the rebuilding of the World Trade Center site itself. We realized we had to transform Lower Manhattan's neighborhoods to make them viable and attractive to residents and visitors—as well as competitive in the attraction of businesses in order to create the 21st century downtown I've referenced. For example, with our funding, over 20 park and open spaces have been either created or renovated. We have also provided funding for major projects like the downtown segment of Hudson River Park and the East River Waterfront which, together with Battery Park, will surround Lower Manhattan's shore lines on all three sides with over 10 consecutive miles of green spaces, boardwalks, esplanades, cultural activities, urban beaches, and active piers.

As another example of our off-site funding recipients, one of the hardest hit areas of Lower Manhattan after September 11th was Chinatown. Because of Chinatown's unique needs in the aftermath of September 11th, we hired a community liaison dedicated exclusively to this neighborhood, and created a Chinatown working group consisting of representatives of the neighborhood to determine what the community itself saw as its priorities. The LMDC acted quickly to kick off an award-winning tourism promotion campaign that has brought millions of new visitors to the neighborhood to shop, eat, and visit Chinatown's cultural institutions. We funded and launched several important initiatives in the Chinatown community, including:

- The community's first ever Local Development Corporation, a coordinating vehicle for the neighborhood's recovery
- a comprehensive Clean Streets Program—addressing the number one concern cited by Chinatown residents and businesses
- construction of the Chinatown visitor kiosk to guide newcomers to the neighborhood
- Major traffic and transportation plans to improve conditions created in part by post–9/11 security
- The rehabilitation of parks including Columbus Park and its historic pavilion
- Plans for a Chinatown arts center
- $40 million in Residential Grant disbursements
- $60 million in Business Recovery grants.

These are only a few of the LMDC's Chinatown initiatives, which taken together total more than $170 million in funding commitments.

In Chinatown, the Lower East Side, and other areas of Lower Manhattan, we made a pledge that we would commit $50 million of our funds to affordable housing—one of the largest allocations to affordable housing by a government entity in recent years. We are proud to say we are living up to that commitment with five diverse projects that will generate and preserve nearly 3,000 units of affordable housing.

These particular projects offer just a glimpse of how our funding has addressed the needs voiced by the public. I'd now like to say a few words about how our funding is distributed, and the controls that guide our process. All of our activities are framed according to HUD rules, and as a result, the public and Congress have reviewed our plans through the Partial Action Plan process.

Once funding is allocated, we place enormous emphasis on ensuring that the money is spent properly. We have instituted seven layers of controls on our projects. An effective internal control environment starts with the tone set at the highest organizational level:

- At the LMDC, our Board of Directors provides oversight and clear direction to LMDC management. The Board itself consists of distinguished citizens—corporate executives, government officials, and community leaders. Following approval by the Board's Audit and Finance Committee, the full Board must approve every funding allocation. Our Audit and Finance Committee is Co-Chaired by Tom Johnson—the retied Chairman and CEO of GreenPoint Bank and GreenPoint Financial Corporation, and father of Scott Johnson, who was lost on September 11th—and Larry Babbio, the Vice Chairman and President of Verizon. Our Board has instituted private-sector style accountability by drawing upon their expertise in these matters and applying them to the operation of our agency.
- In addition to Board oversight, we have multiple layers of protections, beginning with day-to-day project managers and attorneys assigned to each project who not only craft the agreements but also monitor the projects throughout their implementation, ensuring recipients comply with all HUD and LMDC requirements and adhere to the program activities, budgets, and other requirements of the agreements.
- In addition to our Board and the project management structure, the third layer of oversight is provided by our compliance/monitoring department, which performs risk-based reviews on LMDC subrecipient relationships focusing on both HUD and LMDC compliance.
- A fourth level is provided by the LMDC's internal audit department, whose primary mission is to objectively evaluate and report on risks and control weaknesses. This department reports directly to the Board's Audit and Finance Committee, ensuring independence and promoting comprehensive audit coverage.
- In addition to our extensive internal controls, we also implement a variety of external measures. As a fifth level of oversight, LMDC retains external auditors to review LMDC's general purpose financial statements.
- A sixth level of oversight is provided by HUD's Office of Block Grant Assistance, which conducts semi-annual monitoring reviews of LMDC management's performance, concentrating on program compliance. To date HUD Monitoring has issued six reports. The last three reports identified no "Findings" or "Concerns" and noted that findings identified in the earlier reports were all resolved. In the last two reports, Mr. Richard J. Kennedy, Director, Office of Block Grant Assistance, commended LMDC on its "exemplary administration of its grant programs."
- The HUD Office of Inspector General provides the seventh oversight role, performing continuous audit procedures of LMDC and its major grants. These audit results are reported every six months to LMDC, the HUD Director of

CDBG Grants, and Congress. HUD IG has dedicated four to eight auditors to review LMDC. To date they have issued six Audit Reports the most recent of which identified one finding that has already been resolved with no monetary exposure to the LMDC.

In addition to these seven layers of oversight, review, and audit controls, LMDC established a department to conduct investigations and assist in the performance of background checks, and formulate policies to prevent or detect fraud or other criminal activity. This department was created by our former Chief Investigator, who is a former Assistant US Attorney; our General Counsel, herself a former Assistant US Attorney; and a former NYPD Detective of more than 20 years' experience, who continues to run the department today. The investigations staff also manages an external integrity monitor, a firm of professionals who review existing procedures and processes for fraud, corruption, cost abuse, safety, and environmental risks.

Although these are our standard, comprehensive procedures, we have customized procedures for particular programs when necessary. For example, in the Residential Grant Program, the LMDC proactively brought eight cases forward that were subsequently prosecuted by the U.S. Attorney's Office for the Southern District of New York. All defendants were charged in complaints with violations of federal law: (1) 18 U.S.C. Section 641 (fraudulent acceptance of federal funds) and 18 U.S.C. Section 1341 (mail fraud). The control mechanism in many of these cases was returned mail. As a further control, grant recipients were required to re-certify every six months.

We are proud that our controls have created an environment of integrity and have ensured that we operate a tightly-run organization. The HUD Office of Block Grant Assistance commends us in their reports "for successfully carrying out [our] commitment to high quality management of [our] grant programs." We believe that the LMDC can and will serve as a model to other agencies in other parts of the country. Two weeks ago, HUD Inspector General Kenneth Donohue testified before the U.S. Senate Homeland Security and Government Affairs Subcommittee on Federal Financial Management, Government Information, and International Security, stating, "I have seen the success of active monitoring efforts with 'monitors' used by the Lower Manhattan Development Corporation in preventing waste and fraud in post–9/11 rebuilding activities and I have testified previously to this effective concept for use in disaster relief efforts in the Gulf States."

In closing, I would like to thank the members of this Subcommittee and the United States Congress as a whole for your support for the post–9/11 rebuilding. We are confident that the public processes we implemented—in combination with our multi-layered approach to oversight, review, and audit—are ensuring that the public's funds are being managed with the utmost integrity—and with favorable results. During the next few years, the benefits of LMDC's investments are likely to be compounded, as the impact of major investments in developments underway at the World Trade Center site and transportation infrastructure build on the impacts of investments made before. Economic analysts have estimated that by 2025, the major development projects undertaken by the LMDC, drawing upon your $2.8 billion in resources, will increase economic output in New York City by $19.4 to $21.4 billion annually, and increase employment by 98,700 jobs. If we take into account total program spending, including investments made in Lower Manhattan by our partner agencies and organizations, the ongoing impact in 2025 rises to $23.2 to $25.2 billion in annual economic impact, and 116,000 to 131,000 jobs. These investments will position Lower Manhattan as a thriving 21st century downtown, ensure that it serves as a key economic engine for the nation, and—indeed—secures its position as the financial capital of the world.

We thank you for your partnership in the mission of rebuilding and revitalizing Lower Manhattan.

PREPARED STATEMENT OF MR. JOHN WANG, FOUNDER AND PRESIDENT, ASIAN AMERICAN BUSINESS DEVELOPMENT CENTER

Ladies and Gentlemen, I appreciate the opportunity to be invited to testify before this committee on how one community, namely Chinatown, fared in the aftermath of the September 11th terrorist attacks on the World Trade Center in New York City. Tens of billions of dollars appropriated by the Congress were directed into the city, to help rebuild its economy, but Chinatown received a negligible amount.

My name is John Wang. I am President of the Asian American Business Development Center, a 501(c)(3) not-for-profit organization that was established in 1994 in New York City with a grant from the Small Business Administration. I set up AABDC in Chinatown to assist Asian-owned businesses to build capacity and im-

prove skills in order for them to be able to compete in the mainstream marketplace. For 10 years, we have worked hand-in-hand with the businesses in the area.

Chinatown in New York City is the largest and oldest in the United States. It is a community of immigrants since the 1870s, and from 1965 to 1970 the population of Chinatown nearly doubled, rising from around 20,000 to almost 35,000. Since then it's population has increased by 500% to around 180,000 today. By 2001, Chinatown had already been a major tourist attraction for decades, and yet it was also a community at risk because of increasing isolation from the mainstream economy, outdated business practices and the effects of a deepening economic recession that the city was experiencing.

While you will see (please refer to map) that Chinatown is about a dozen city blocks away from the World Trade Center, the impact was immediate—New Yorkers stayed at home, tourists stayed away from New York City. No one was going to Chinatown. That affected 400 restaurants, 500 retail outlets of various kinds, 200 street vendors, 300 manufacturers, 250 jewelry stores, just to name some of the types of businesses. Chinatown virtually started to close down.

Yet the government failed to recognize the devastation suffered by Chinatown and did not include the community in the 'major disaster zone'.

Just to cite a few examples, six months after September 11:

• the garment industry, a backbone of the Chinatown economy, hit the lowest point in its long history with 12% of factories closing (30 in number); over 1,000 garment workers lost their jobs and another 5,000 workers were working only 2 to 3 days per week. It has since further declined.

• Restaurants, the other lifeblood of Chinatown's economy, were reeling from a shortage of customers—lack of tourists combined with the loss of spending by garment workers. Despite some promotional activities during the Lunar New Year in February 2002, businesses were continuing to decline, showing losses of 20% to 40%.

• One of Chinatown's attractions was its abundance of small shops selling items at low prices. Walk-in activity and sales had dropped by as much as 50%.

• Over 250 jewelry stores that lined Canal Street and the Bowery, which competed with the city's Diamond District on 47th Street in terms of variety and prices, saw business drop, despite offering from 20% to 40% discounts to attract customers.

The SARs crisis took place in early 2003, and it was a double whammy to Chinatown. In April 2003, 18 months after September 11th, AABDC surveyed over 200 businesses throughout Chinatown including restaurants, jewelry stores, beauty salons, retail establishments, professional offices, and garment manufacturers. Here are some findings:

• 97% of the businesses surveyed said that business was down from pre-September 11th levels.

• When asked specifically about the impact of SARS, 84% said that their business had dropped because of the SARS crisis.

• Travel agencies in Chinatown were especially hit hard by the perceived threat of SARS, some reported that they were about to go out of business.

• As a whole, owners were reporting that business was down by over 30%, with many down by 50-60%.

• The drop in the number of tourists coming to New York City was one of the major reasons for the steep decrease in business

• 64% said there were fewer tourists.

• 80% said the tourists were spending less.

• But most damning of all was that business owners in Chinatown felt they have been completely overlooked and ignored since September 11th and more recently with the impact of SARS.

Looking to survive, many businesses applied for government assistance. Yet, according to the 2003 survey:

• only some had received loans and/or grants and many did not qualify for assistance.

• For those who did qualify, most received very little in the amount of grant money and even fewer have received loans.

• For example, only 20% of businesses surveyed had received any disaster-related loans.

• These loans came mostly from the Small Business Administration and the median loan amount was $23,000.

• 62% had received the WTC Business Recovery Grant (BRG). However, the median grant amount was much lower at $1,896.

• Another grant program, the WTC Small Firm Attraction and Retention Grant (SFARG), was not widely available. Only 11% of businesses received the SFARG with a median grant amount of $7,000.

• 99% of those surveyed felt that government was not doing enough to help Chinatown.

It should not be a surprise to any observer of the Lower Manhattan disaster relief program to understand how the Chinatown community felt the way it did. Chinatown is a vibrant part of New York City, yet the Chinatown community was not invited to participate nor was it given an opportunity to provide input on how the programs should be designed to address the needs and provide meaningful assistance to community residents and businesses. Even longstanding problems such as garbage, parking and traffic around Chinatown were not addressed.

With the formation of the Lower Manhattan Development Corporation, no community representative was considered, let alone selected, to sit on the board of LMDC and to this very day there is still no representation on the board of LMDC for the Chinatown community.

The result was a community poorly served by programs that were not designed with it in mind. Let me give you couple of examples of programs developed by the Empire State Development Corporation (New York State's economic development agency and parent agency of LMDC):

• The main shopping street in Chinatown is Canal Street. Yet, it is baffling that a program supposedly to help small businesses, would use Canal Street as a boundary to define that those on the south side of the street were eligible for financial assistance and those on the north were not!

• In a community of immigrants, where there is much transition, landlords were notoriously reluctant to give long term leases to tenants, so why is there a program which demanded a five-year lease in order to qualify to apply for assistance?

A short while ago I mentioned two grant programs - the World Trade Center Business Recovery Grant ("BRG") and the Small Firm Attraction and Retention Grant ("SFARG"). In June 2003, AABDC undertook a study of these two federal grant programs, based on 731 businesses that had sought assistance from AABDC. The report, "AABDC Financial Assistance Center: Findings from the Application Process for the World Trade Center Business Recovery Grant and Small Firm Attraction and Retention Grant Programs," found that:

• less than half of the 731 businesses that sought assistance received a grant—46.4% received BRG and 23.1% received SFARG.

• and more than half of those who received a grant, received only $3,000 in BRG and/or SFARG.

• Because so many businesses that sought assistance were small businesses (85.2%) with less than $300,000 in annual gross revenues and less than ten employees (87%), the overwhelming majority (205 out of 339 businesses) received less than $3,000 in BRG and less than $9,000 in SFARG (25 out of 39 businesses).

• In total, over $3.1 million in grant monies have been awarded to 347 businesses—$2.7 million in BRG and $463,000 in SFARG.

• 56.2% of businesses received less than $3,000 in total grant money.

• The BRG awards ranged from $100 to $150,000 with the average grant award of $2,195 for businesses with less than $300K in annual gross revenue.

• Certain types of businesses were more likely than others to receive a grant. For example, laundromats (66.7%) were much more likely than car services (3.6%) to receive a BRG. Car service, street vendors and laundromats were not granted a SFARG.

To put this into perspective, when compared to the Empire State Development Corporation's preliminary numbers from March 2003:

• the average BRG award to Lower Manhattan businesses was $33,680 as compared to only $7,829 for Chinatown businesses

• and one Lower Manhattan corporation, American Express, alone received $22 million in grant money.

The report analyzed problems with the two grant programs and offered some recommendations that many business owners believe would help them in receiving the financial assistance these programs had intended. I will not go into detail here, as I have submitted a copy of the report along with my testimony for the Committee to review.

In conclusion, I wish to reiterate points I have repeatedly raised with anyone who is willing to listen, that to revitalize, maintain and expand Chinatown is money well spent. Not only is it one of the most important economic, social and political centers of Chinese Americans, but it is also a major tourist attraction in New York City. But it will require some bold thinking and innovative planning. To revitalize Chinatown, short term and temporary promotional activities will not be enough. What is needed are forward-looking strategies and a long-range plan that can bring Chinatown into the 21st century.

While there is a general consensus that Chinatown will require targeted government and private sector interventions to stimulate its economy and ensure its future prospects, there is no commitment from state or city government to undertake a comprehensive action.

As Federal, State and City agencies turn to rebuilding Lower Manhattan, a primary concern should be on finding ways to stop the marginalizing of Chinatown's businesses and reverse its decline. It needs access to the funding, tools and networks needed to be part of New York City and State's economic recovery and to participate in the 21st century economy.

Here, as I have done elsewhere, I would propose:

(1) an economic development strategy for Chinatown needs to be formulated, based on a number of comprehensive studies conducted post-9/11 by several community organizations;

(2) the New York City Department of City Planning, in consultation with the community, should conduct a land use and zoning study to understand how the community's past development has shaped current land use and analyze the best and most appropriate use to promote future economic development;

(3) a commercial development and investment strategy is needed to maximize Chinatown's strategic location and its links to the worldwide Chinese and Asian community where Chinatown, part of a global marketplace, is ideally situated to be an international business and trade center.

This clearly and unmistakably aligns Chinatown's economic with that of New York City and State and failure to take Chinatown into consideration in rebuilding Lower Manhattan is at city and state's own peril.

I thank the committee for giving me this opportunity to testify today.FOLIO

Background on Asian American Business Development Center

AABDC is a 501(c)(3) not-for-profit organization that was established in 1994 with a grant from the Small Business Administration. AABDC's mission is to advance the capacity of Asian-owned businesses in areas needed to enable such businesses to compete in the mainstream marketplace.

AABDC acts upon its mission by:

- Providing information and technical assistance through consulting services, workshops, seminars, and conferences;
- Improving access to procurement opportunities;
- Increasing international trade opportunities;
- Increasing access to current technology and technology training;
- Providing a valuable networking structure that promotes visibility and access; and
- Facilitating and promoting strategic ventures between Asian and non-Asian businesses.

Major programmatic areas undertaken by AABDC to serve the small business community include:

ASIAN BUSINESS PARTNERSHIPS

In its efforts to assist Asian American businesses to compete in the mainstream marketplace, AABDC actively develops alliances and partnerships with public agencies(such as U.S. Small Business Administration and Port Authority of NY & NJ), Empire State Development Corporation, NYC Department of Small Business Services and private sectors organizations to provide better access to information, resources and markets.

US-CHINA TRADE RELATIONS

A key part of AABDC's strategy is facilitating business opportunities between Asian American business owners and firms in Asia and connects firms in Asia with corporate decision-makers here in the U.S. To meet that objective, AABDC organizes trade delegations to and from Asia and maintains close relationships with Asian officials and business representatives stationed in the United States.

NEW MAJORITY ALLIANCE

In partnership with the Harlem Business Alliance (HBA) and the Institute for Multicultural Business, Inc., AABDC launched a New Majority Initiative providing means for Asian American, African American and Hispanic American business owners to build economic alliances with Fortune 500 companies.

PREPARED STATEMENT OF MS. BETTINA DAMIANI, PROJECT DIRECTOR, GOOD JOBS NEW YORK

Good morning and thank you for inviting me to testify about the allocation of Federal funds after the September 11, 2001 attacks on New York City.

My name is Bettina Damiani, and I direct Good Jobs New York, a project of Good Jobs First (GJF) and the Fiscal Policy Institute (FPI). FPI focuses on tax, budget, economic and related public policy issues in New York State and Good Jobs First is a national resource center on accountable development and smart growth for working families based here in Washington, DC.

Shortly after the September 11, 2001 attacks on Lower Manhattan, GJNY launched "Reconstruction Watch" to track the resources earmarked for economic development, corporate retention and job creation. GJNY had been created two years earlier to monitor economic development incentives in New York City, so we were uniquely qualified to help bring transparency to these new resources.

Reconstruction Watch assists New Yorkers with research and policy analysis on the redevelopment of Lower Manhattan. Through our research, website (www.reconstructionwatch.net) and publications we provide timely information to grassroots groups, small business and civic associations, housing groups, labor unions, and environmentalists to help them more effectively participate in this massive process reshaping the rebuilding of our city.

Who Was Impacted by the Attacks

It was assumed by most Americans and public officials that the economic brunt of the harm from the attacks would fall on the Finance, Insurance and Real Estate (FIRE) sector due to the location of the attacks at the World Trade Center. Though workers across the spectrum faced hardships after 9/11, many of the resulting layoffs were concentrated in low- and moderate-wage industries such as restaurants, air transport, hotel, retail, building services and garment manufacturing.[1]

The economic devastation affected thousands of small businesses in New York City, especially those located in Lower Manhattan—below 14th Street—that were physically isolated when parts of the area was closed off to traffic for weeks after the after the attacks. Within Lower Manhattan, the low-income, immigrant neighborhoods of Chinatown and the Lower East Side suffered severe economic consequences due to their proximity to Ground Zero. Additionally the attacks created disruptions that affected the larger city economy and businesses and workers in all five boroughs. The garment industry—largely based in Chinatown—was the industry hardest hit by reduced work volume and hundreds of small manufacturers and contractors were placed in peril.[2]

Low-wage workers throughout New York City were also impacted. According to an analysis by the Fiscal Policy Institute, 60% of the workers who were likely to have been laid off had an average wage of only $11.00 and hour, and over 60% of unemployment claims filed in the weeks following September 11, 2001 that were related to the attacks came from residents of the Bronx, Brooklyn, and Queens. Queens, home to our city's two airports saw a staggering decline of jobs and work hours.[3]

Inequitable Resource Distribution

Despite the harms to low- and moderate-income workers and neighborhoods after 9/11, a disproportionate amount of rebuilding funds have been allocated to build luxury rental housing and to retain large, profitable corporations, including some that admitted they never intended to leave New York or that they planned to return. For example:

- While Americans praised courageous firefighters, police, and emergency personnel for their rescue efforts, Federal resources that could have provided housing for them and other moderate-income working New Yorkers within Lower Manhattan have instead created thousands of luxury rental units.
- While the Chinatown garment industry was withering, officials doled out cash grants to large firms such as $25 million to American Express and $40 million to Bank of New York. Adding salt to the wounds, after receiving the money American Express publicly stated that it planned to return to Manhattan even without the funds.

Without a doubt, large firms play a vital role in our city and nation's economy and deserve serious consideration in the rebuilding effort. Any productive planning effort would be responsive to the whole spectrum of businesses and community

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[1] Fiscal Policy Institute, The Employment Impact of the September 11 World Trade Center Attacks: Updated Estimates based on the Benchmarked Employment Data, March 8, 2002.

[2] Ibid.

[3] According to a study by researchers at the Fiscal Policy Institute, the higher incidence of 9/11-induced unemployment and underemployment among workers in low-wage occupations meant that household wage earnings fell by double digits in New York City in the six months after the attacks. James A. Parrott and Oliver D. Cooke, "The Economic Impact of 9/11 on New York City's Low-Wage Workers and Households," in Howard Chernick, ed., *Resilient City, The Economic Impact of 9/11,* New York: Russell Sage Foundation, 2005.

needs. Yet after 9/11, Federal rebuilding incentives have grossly favored high-end jobs and housing.

This inequitable distribution of resources was enabled by broad waivers approved by Congress that loosened longstanding regulations on how federal development funds could be spent. These waivers created a process by which enormous subsidies were granted with minimal input from New York taxpayers in an alarmingly unaccountable fashion and gave public officials, notably Governor Pataki, carte blanche to provide subsidies to large companies and luxury housing developers.

Simply stated, economic development programs designed with 9/11 resources failed to help those who needed it most because the interests of low- and moderate-income New Yorkers were officially excluded as a required consideration in the programs' outcome.

The majority of GJNY's research and our testimony today focuses on two post-9/11 funding sources—Community Development Block Grants and Liberty Bonds. Together, these programs accounted for nearly $10.7 billion in rebuilding resources. A more extensive list of programs that made up the $20 billion Federal economic development package is located on our website—www.goodjobsny.org.

We focused on these programs because they were mostly discretionary programs (excluding some of the business recovery grants). That is, they provided local officials with choice regarding the recipient and size of the subsidies and required public comment, either written or public testimony, prior the disbursement of funds.

In my testimony today, I intend to bring to your attention specific policy decisions made by Congress regarding the use of CDBG and Liberty Bonds, and to examine the consequences of these programs when they were implemented on the local and state level with minimal guidelines and oversight.

Congress and the CDBG Program: What Went Wrong?

While Good Jobs New York acknowledges that Congress intended to provide New York with flexible and streamlined rebuilding programs, it should not have been at the expense of public input and the equitable distribution of resources.

For instance, GJNY has repeatedly and publicly questioned why Congress waived the following requirements pertaining to Community Development Block Grants:[4]

- The majority of Community Development Block Grant (CDBG) funds must be for activities that benefit low—and moderate-income communities;
- Public hearings must be held prior to the allocation of funds in an effort to "empower" members of the community.

The elimination of these particular provisions amounts to an abandonment of legislative responsibility and oversight that suggests indifference to the principles inscribed in the programs' goals.[5]

They're in the Money—The Lower Manhattan Development Corporation

Indeed, Congress' decision to remove regulations on the allocation of CDBG funds created an environment where funds administered by the Lower Manhattan Development Corporation (LMDC) need not consider public input or equity.The LMDC was specifically created by the Empire State Development Corporation (the economic development authority directed by Governor Pataki) to implement the programs and allocate the cash grants after the attacks and therefore should have been respectful of inclusiveness and transparency. Instead, state officials took full advantage of the federal waivers by implementing restricted public comment opportunities and allocating a disproportionate amount of funds to prominent firms.

For most of its existence, the 16-member board of the LMDC—half appointed by the mayor and the half by the governor—was composed mostly of large-company executives and real estate interests. The LMDC clearly should be a board that equally represents all communities and businesses impacted by the attacks. However, with no representatives from Chinatown and the Lower East Side, and no advocates or experts from the fields of housing or workforce development, the LMDC proceeded to implement the redevelopment plans of the city's politically-connected elite, particularly in the interest of real estate.

In fact, LMDC Board members' companies, organizations, and affiliates benefited from the programs so routinely that board members had to recuse themselves from voting on projects at least twenty-seven times. Including:

- Nearly $5 million went to the Downtown Alliance, a businesses organization that board member Carl Weisbrod was President of until last July. An additional $9 million went to organizations Mr. Weisbrod had ties with.[6]

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[4] Available at http://www.goodjobsny.org/rec_links.htm

[5] Available at http://www.hud.gov/offices/cpd/communitydevelopment/programs/

[6] Good Jobs New York, The LMDC—They're in the Money; We're in the Dark: A Review of The Lower Manhattan Development Corporation's Use of 9/11 Funds, August 2004.

• $3.5 million has gone to the Tribeca Film Festival. Board member Madelyn Wils at the time was president and CEO of the Tribeca Film Institute. Approximately another $9 million went to organization Ms. Wils had ties to.[7]

As we point out in our 2004 study, *"They're in the Money We're in the Dark: A Review of The Lower Manhattan Development Corporation's Use of 9/11 Funds"* board members have not done anything illegal. Board members were careful to recuse themselves when proposals submitted by their organizations or by organizations on whose boards they serve were presented. Nevertheless, these recusals gave the appearance of favoritism.

But, the significance of those recusals is diminished when one takes into account the context in which they occurred. There was little chance that the recusals would have made a difference in the outcome of the votes, given that aside from recusals, LMDC board members have unanimously voted to approve all allocation proposals that made it to a vote. This raises questions regarding whether proposals were publicly being evaluated on their merits.

While the composition of the board seemed to help organizations that had ties to LMDC board members, those groups representing low-income and unemployed people were left baffled by a lack of clear guidelines and timeframes.[8]

Even service workers from the World Trade Center were denied an opportunity to apply for funds when a collaborative group of employees from Windows on the World—the famed restaurant that was located on the top of the World Trade Center Tower—submitted an application for $1 million to open a restaurant in Lower Manhattan.

After getting the runaround for years and delaying the opening of the restaurant—called Colors—the group wound up smaller than they would have been and the restaurant is not in Lower Manhattan, where they would have liked to locate. Instead it opened in Greenwich Village, where they may do fine but there's not the synergy of them helping the rebuilding effort and the rebuilding effort helping them.

Unfortunately, even a program established to help small businesses—Small Business Recovery Grants—was exploited by savvy firms. A program geared towards small businesses conjures up images of the local pizzeria, the cobbler or restaurant. Yet, a New York Times report showed that a majority of these grants were allocated to wealthy law firms and brokerage houses.[9]

Ultimately, there were startling consequences to the federal decision to waive the requirement that a minimal percentage of CDBG funds be directed toward activities that benefit low-income residents. Hundreds of millions of dollars in Community Development Block Grants were handed to some of the biggest names in business, including Bank of New York, Deloitte & Touche, and Goldman Sachs, even while high profile recipients such as American Express and HIP Healthcare publicly stated that these subsidies had no impact on the decision to move back downtown. Historically, incentives rarely influence site-location decisions for such large firms, but these funds could have made an enormous impact for struggling businesses such as those in Chinatown.

Waiving Public Participation

The Congressional waiver allowing CDBG grants to be allocated without a public hearing left those wanting to support or protest a proposal with no outlet and denied New Yorkers a key empowerment tool at a historic moment.The LMDC decision to opt for a two-week write-in comment period instead of public hearings prevented a more accountable, face-to-face dialog between the public and board members and was ultimately a deterrent to broad public participation.

It's not as if people weren't interested. Leading citywide organizations like the Regional Plan Association, Pratt Institute Center for Community and Environmental Development and New York University along with LMDC helped sponsor the historic "Listening to the City" public event held in the summer of 2002. This was an opportunity for the LMDC to creatively explore rebuilding options based on the input of over 5,000 New Yorkers, who overwhelmingly indicated that affordable housing and quality jobs were top priorities. While the LMDC cites its financial support for the event in almost every HUD report, it fails to describe how, or if, it plans to integrate the comments into its programming. The programs established and re-

[7] Ibid.

[8] Errol Louis, The 9–11 Black Hole, *New York Daily News,* July 6, 2004.

[9] Edward Wyatt and Joseph P. Fried, Two Years Later, the Money; Downtown Grants Found To Favor Investment Field, *The New York Times,* September 8, 2003.

cipients of LMDC grants demonstrate that the agency has been largely unresponsive to these demands.[10]

This is a similar problem with the invitation only workshops the LMDC held throughout Lower Manhattan in the summer of 2003. Outcomes of these workshop were presented a year after the meetings. And, consistent with the "Listening to the City" experience, the LMDC has been largely unresponsive to the housing and employment concerns of lower-income neighborhoods.

A particular point of contention is the unfilled promise of CDBG grants for affordable housing. Affordable housing has repeatedly ranked high on the list of demands for rebuilding. In July of 2003, then HUD Secretary Mel Martinez joined Mayor Bloomberg and Governor Pataki to announce $50 million in CDBG funds for affordable housing in Lower Manhattan.

Then last year, officials "renewed" LMDC's commitment for affordable housing pledging $50 million for the preservation of nearly 3,000 units and the creation of at most 232 units.[11] A housing study commissioned in September 2002, initially to be performed by the Weitzman Group for $700,000 was later transferred to the NYC Housing Development Corporation for a reduced cost of $490,000. However, the study has never been made public.

Several other key documents have not been made public, such as other planning, budget and financial reports. Without the public having access to completed studies, there is no ability to monitor the findings of the reports or to determine how they are being used to guide the ongoing distribution of resources.

While far from being equitable, the LMDC has made steps towards better transparency and fairer allocation of resources.

- Two years ago, the public comment period was extended from two weeks to one month;
- LMDC has funded improvements to parks in Chinatown and the Lower East Side;
- A public hearing was held in the spring of 2005;;
- Last year the LMDC released a framework and deadlines for the allocation of the remaining $800,000 in funds available at the time to assist cultural institutions and to promote open space, including a major project along the East River. Currently, there is an estimated $225,000 remaining;
- From its inception the LMDC has posted copies of board minutes and the board meeting schedule on its site as well as copies of reports to the US Department of Housing and Urban Renewal.

Congress and Liberty Bonds: What Went Wrong?

Tax-exempt bonds are often an invaluable resource for a wide range of businesses that require government assistance to finance capital projects, such as mass transit. However, it would not be an understatement to say that the allocation of $8 billion in Private Activity Bonds—aka Liberty Bonds—has greatly benefited the real estate industry at the expense of low and moderate-income New Yorkers.

Split between residential and commercial, the Congressional design of the Liberty Bond program all but ensured that the bonds would exclusively subsidize large real estate projects while neglecting the affordable housing crisis in New York City and the capital needs of industrial businesses and small commercial developments outside Lower Manhattan.

As explained below, the vast majority of Liberty Bonds were used to finance high-end office space and luxury housing.

Liberty Bonds: Commercial Use

- Congress restricted the use of Liberty Bonds to commercial real estate projects mostly located in the Liberty Zone;
- For the $2 billion in bonds that could be used outside the Liberty Zone, projects must include at least 100,000 square feet commercial space.

While this tax-exempt financing tool could have served to diversify the New York City economy by supporting smaller, growing businesses, all of the commercial Liberty Bonds were used to finance high-end office space and to a lesser extent, hotels. It is understandable that after the attacks, efforts to promote building—in a brick and mortar sense—would be pushed. Construction jobs in New York City, especially in Lower Manhattan are good paying union jobs. However, this alone does not justify the unnecessary use of the bonds to finance Class-A office developments in the most desirable office markets in the world.

For example, why did officials approve $650 million in Liberty Bonds for Bank of America in midtown Manhattan over Chinatown? If bonds were allocated based

[10] link to outcome report

[11] LMDC press release, June 16, 2005.

on need, and more businesses were eligible, a broader group of firms might have benefited.

To date the largest allocation of Liberty Bonds was for $1.65 billion issued for Goldman Sachs to remain downtown, where the company has been located for 136 years.[12] A Goldman spokesperson had said that the company would only look to build its new headquarters in Manhattan[13]—leaving open the possibility of a move to midtown—after the firm expressed legitimate security concerns related to a proposed tunnel under the potential site of its building.

Clearly, Goldman with profits of $10.10 billion last quarter wasn't hinging its headquarters bets on cheap financing. What it lacked—and needed to make a sound location decision—was a clear understanding of the rebuilding process from public officials. Not until Goldman considered a move to midtown did the Governor address the firms' valid security concerns of a proposed tunnel near where the firm wanted to build. After announcing a tunnel would not be built, Goldman received a consolation prize—an increase of $650 million from the originally proposed $1 billion in Liberty Bonds for a total of $1.65 billion, $25 million in CDBG funds and up to $150 million in tax breaks.[14]

GJNY did approve of $114 million in Liberty Bonds for the developer Forest City Ratner to develop a commercial office tower in Brooklyn that now houses Bank of New York. We felt that the percentage of Liberty Bonds that could be allocated outside of Lower Manhattan fit purposes like these—helping to create environments for businesses in other areas of New York City to help limit firms from leave the city immediately after 9/11.[15]

Liberty Bonds-Residential Use

- Normally, Federal government requires housing projects financed with federally tax-exempt bonds to set aside 20 percent of the units for affordable housing—this was waived for Liberty Bonds.

The vast majority of housing units built with Liberty Bonds are market rate and unaffordable to New Yorkers. Nearly all of the units rent at market rates ranging from studios for $2,062 per month to three-bedrooms for $6,267 per month. Many of the projects will set aside only 5% of the units in each building for non-market rates. While non-market, these units are targeted to households that earn approximately $94,200 per year for a family of four with rents ranging from $1,649/month for a studio to $2,449/month for a three-bedroom.[16]

These apartments are out of reach to the vast majority of New Yorkers whose median household income is $38,293.[17] This includes New York City police officers, firefighters and teachers.

The small non-market rent set-aside and the high income requirement make these proposals a major departure from the long-standing "80/20" affordable housing program of the New York State Housing Finance Agency (NYSHFA), the agency that allocated Gov. Pataki's portion of the Liberty Bonds. The 80/20 program, which meets the Federal Tax Code requirements for housing financed with federally tax-exempt bonds, sets 20% of the units aside for households making at most, half the NYC Area Median Income. In contrast, the Liberty Bond Program sets aside units for households earning 50% more than the New York City Area Median Income.[18]

With skyrocketing rents, Lower Manhattan has become the most desirable place to live in New York City, though unaffordable.[19] In fact, the approximately 350 units set aside for moderate income are mostly studios and one-bedrooms.

The New York City Housing Development Corporation (HDC) didn't set aside the 5% non-market rate units the state did in its allocation. Instead, HDC charged a 3% developers fee on the bond application that would then be used for developing affordable housing in other areas of the city.

While Mayor Bloomberg certainly deserves credit for thinking outside the box and generating new revenues for affordable housing, it is unfair to relegate low and moderate-income New Yorkers to the periphery of our city.[20] Catering to developers

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[12] Over $3 billion of Liberty Bonds has been reserved for the World Trade Center site.

[13] Matthew Schuerman and Tom McGeveran, The View From 7: As Tower Tops, Goldman Sacks, New York Observer, April 11, 2005.

[14] Additional details at http://www.goodjobsny.org/GS__news.htm

[15] Details of the Bank of New York subsidy are available on GJNY database of deals, http://www.goodjobsny.org/deals.htm

[16] Liberty Bond Housing Coalition statement: http://www.goodjobsny.org/rec__sign__on.htm.

[17] According to the 2000 U.S. Census.

[18] Liberty Bond Housing Coalition statement: http://www.goodjobsny.org/rec__sign__on.htm.

[19] David Dunlap, Liberty Bonds' Yield: a New Downtown, *The New York Times,* May 30, 2004.

[20] New York City Housing Development Corporation press release, July 17, 2003.

and landlords by creating only luxury housing with Liberty Bonds has exacerbated the gentrification pressures on Chinatown and the Lower East Side.

The Byzantine Process of Liberty Bond Allocation

The complexity of allocating Liberty Bonds via four different authorities (described in the chart) diluted the public's ability to participate. Fortunately, the 1986 Tax Equity and Fiscal Responsibility Act (TEFRA) requires a hearing prior to the allocation of private activity bonds. Therefore, the IDA, LDC, HDC, and HFA did hold hearings. However, each differed in its public hearing announcement procedure, access to materials prior to hearings, and final voting by board members.

Tracking these disparate hearings and procedures was a Kafkaesque. Public hearing notices were posted in different publications; places, dates and times of hearings and board meetings varied.

To its credit, the LMDC does have regular board meetings and provides details of proposed expenditures but it does not have a public hearing process. Instead, the agency held invitation-only workshops and just one public hearing last spring.

Even those authorities with intact public hearing processes don't equal a democratic decision making process:

- On March, 2003, the New York State Housing Finance Agency refused to provide GJNY copies of materials prior to a hearing on the allocation Liberty Bonds. The result was our research analyst hand-copying the materials while being closely watched by an HFA staff member.
- In May, 2003, public testimony was given by several groups at the New York City Housing Development Corporation regarding the allocation of Liberty Bonds to build a luxury apartment. Board members approved the project having never witnessed the testimony—since they don't attend the hearings—and having never even been given copies of the testimony.

Disaster Relief Funds and UI Funds

Though not under the appropriation of CDBG or Liberty Bonds, it would be remiss to exclude the very serious problems with which funds were allocated to displaced workers. Mimicking the irrational "Liberty Zone" for businesses recovery funds, only workers living in Manhattan had access to mortgage and rental assistance programs. Again, the workers in the remaining four boroughs, where left to fend for themselves. The baggage handler in Kew Gardens had no recourse since his or her place of employment was in Queens.

For an economy the size of New York City, many workers make a living in the cash economy—waiting tables, working part-time or as consultants. All these workers fell through the safety net that is unemployment insurance.

Lessons Learned: There's Still Hope

In New York, there were very positive lessons—such as the extraordinary rescue, recovery, and cleanup effort after the collapse of the buildings. In the years following the attacks, community members came together eager to participate in the rebuilding with their neighbors. Yet, there were negative lessons, such as the vast waste of resources in tax breaks and corporate retention deals.

There are also very big decisions that years later are still far from settled. The early design of relief and recovery programs had a lasting impact on the fairness of the rebuilding effort. Structures and systems were "cast in stone" that should have promoted broad civic participation in the rebuilding process, but instead made the process very undemocratic. In the future, it is critical for Congress to consult a broad coalition of local groups in the early stages of program design, so that groups representing an array of business and individual needs can be an active part of the process.

Despite the skewed allocation of cash grants, there is still an opportunity to use 9/11 to create a dynamic and inclusive Lower Manhattan. There are approximately $2 billion of unused tax credits available to New York. New York City was promised these funds and they should be allocated as soon as possible.[21]

Governor George Pataki and other public officials continue to push for a $6 billion rail link that would improve job access for Long Island residents while the City's unemployment rate remains high. This costly rail link proposal, possibly funded with 9/11 rebuilding resources, has ranked behind local transportation needs when Lower Manhattan residents have been asked for their rebuilding priorities, even at LMDC- sponsored events.

This would not be a bad idea in the future, but not yet. Chinatown residents still struggle with infrastructure needs, not to mention the clogged artery of Canal Street, a major thoroughfare for Lower Manhattan.

[21] Governor Pataki press release, July 29, 2004.

THURSDAY, JULY 13, 2006

2:00 P.M. IN 311 CANNON HOUSE OFFICE BUILDING

SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT

HEARING

"AN EXAMINATION OF FEDERAL 9/11 ASSISTANCE TO NEW YORK: LESSONS LEARNED IN PREVENTING WASTE, FRAUD, ABUSE, AND MISMANAGEMENT, PART III-RESPONSE"

WITNESSES

PREPARED STATEMENT OF MR. TODD J. ZINSER, ACTING INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. Chairman, Ranking Member, and Members of the Subcommittee:

We appreciate this opportunity to testify today on the importance of vigorous oversight of major transportation projects like those underway in the reconstruction of Lower Manhattan. The terrorist attacks of September 11, 2001 caused unprecedented damage to New York City's transportation infrastructure, including the Port Authority Trans–Hudson (PATH) terminal and the Route 9A (West Street) highway near the World Trade Center site. The destruction caused by these attacks is a tragic reminder of the importance of transportation systems in our everyday lives and why these systems remain prime targets to terrorists.

Our testimony today will address important lessons learned from our work on federally funded transportation projects across the country that should be applied, and in some cases are already being applied, to the reconstruction of Lower Manhattan. Primarily, our audit work at the Office of Inspector General (OIG) has focused on mega-projects, that is, those infrastructure projects costing more than $1 billion, while our criminal and civil fraud investigations have focused on highway, transit, and airport projects where there are indications of fraud regardless of the size of the project.

Based on this body of work, we believe that certain sound investigative, management, and oversight practices should be considered wherever major transportation construction may be undertaken. This seems especially important in the reconstruction of Lower Manhattan. With the loss of life and with such significant parts of the transportation system destroyed at the hands of terrorists, we should do all we can to ensure that the residents of New York and the American tax payers get the most from the Federal funding being invested and that these projects are free of fraud.

Accordingly, we have informed the Department and would like you, Mr. Chairman, and the Subcommittee to know that we have established an *OIG Lower Manhattan Transportation Oversight Team* to support oversight of Lower Manhattan projects. Although we are a relatively small OIG with limited resources, compared to the approximately $55 billion that the U.S. Department of Transportation (DOT) spends annually, we are now able to redeploy resources and expertise from our work on Boston's $14.6 billion Central Artery/Tunnel Project, which is nearly complete.

In response to the extensive devastation caused by the September 11 attacks, the Federal Government dedicated $4.55 billion for projects to reconstruct and enhance Lower Manhattan's transportation infrastructure. These high-priority projects will require vigilant oversight by DOT, state and local governments, and transit agencies. The projects are massive in scale and will require oversight of numerous contractors and subcontractors, tracking costs and schedules, and preventing fraud, among other things.

Over the last few years, our management challenges reports to the Secretary and Congress have pointed to the need for the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) to strengthen stewardship over investments in highway and transit projects.[1] As we reported to the Secretary in November 2005, a 1-percent improvement in the efficiency with which states managed the $700 billion investment in highway projects over the last 6 years would have yielded an additional $7 billion for other infrastructure improvements. Thus, improving efficiency in even a small percentage of the funds invested in the recon-

[1] Report PT–2006–007, *DOT's 2006 Top Management Challenges, November, 18 2005. The report can be accessed on our website at http://www.oig.dot.gov/item.jsp?id=1701.*

struction of Lower Manhattan could result in millions of dollars in savings. FHWA and FTA have been working to strengthen their oversight practices.

Other infrastructure projects in the New York Metropolitan area will add to the challenges DOT faces. Significant amounts of Federal funding are also being dedicated to other ongoing transportation projects in the area, most notably the large-scale East Side Access and the Second Avenue Subway projects. Although these projects are not being funded with the $4.55 billion, they are still large and complex and will need proactive DOT oversight. Adding to the challenge, these transportation projects will have to compete with many other projects in New York City for contractors, workers, and materials—making it even more important to focus on sound project and financial management. Overall, within the next 5 years, more than $20 billion in construction work will likely be underway in all of Lower Manhattan.

OIG's role in Lower Manhattan will be to provide an independent perspective on these projects and the oversight activities of the agencies involved. When our audit work identifies issues, we will alert Federal, state, and local officials—as we have done on many other large transportation projects. When we receive allegations of fraud, we will investigate them and refer cases to the U.S. Attorney. In this regard, our testimony today will focus on the following oversight issues to consider as the reconstruction of Lower Manhattan continues, and key lessons learned that could be applied to other major transportation projects.

• **DOT must ensure active oversight of Lower Manhattan projects until they are completed.** Effective day-to-day oversight of the large, complex transportation projects in Lower Manhattan and across the country is critical to ensuring that projects are completed on time, within budget, safely, and free from waste, fraud, or abuse. FTA has the lead on Lower Manhattan reconstruction and will be challenged by providing sufficient oversight of the projects involved. Accordingly, as part of the Federal commitment, FTA has received nearly $90 million of dedicated funding to do so.

To carry out its oversight responsibilities in Lower Manhattan, FTA has created a special oversight office, the Lower Manhattan Recovery Office. The Lower Manhattan Recovery Office is separate from FTA's New York field office and its sole purpose is to oversee these high priority projects in Lower Manhattan. The Lower Manhattan Recovery Office should employ all of the oversight mechanisms and expertise at its disposal to closely monitor these projects and, most importantly, quickly mitigate problems as they arise. Doing so will help ensure that the projects are delivered in a timely manner and within the federally funded amount.

In overview, it is critical in any future disaster that the Federal agency or agencies in charge of reconstruction receive, as part of the emergency funding, a *sufficient and dedicated amount of funding* to provide oversight.

• **Key lessons learned by our investigators are that Federal, state, and local law enforcement agencies must build coalitions to combat fraud in large transportation projects and take aggressive action against those who defraud the government.** History has shown that substantial infusions of funding into an area for relief and/or reconstruction efforts, such as those related to the September 11, 2001 attacks, increase the risk of fraud. Our special agents have investigated criminal schemes nationwide on large transportation projects like those in New York City, including false claims for materials and labor, product substitution, collusive bidding, money laundering, tax fraud, bribes, schemes involving disadvantaged business enterprises, and, in some instances, payoffs to organized crime.

Since 1999, our New York Office has conducted approximately 31 investigations related to highway and transit construction/infrastructure projects in the New York City Metropolitan area. Since 1999, these cases have produced 42 indictments, 26 convictions, and actual or pending financial recoveries of over $33 million. Our work has also resulted in Federal debarments or suspensions of numerous companies. For example, the owners of three family-owned construction firms in the New York Metropolitan area were debarred in 2002 for 3 years by FHWA. Also, following their 2001 guilty pleas they were ordered to forfeit $5 million for their part in a large scam involving payoffs to organized crime.

Our investigative work in New York and across the country offers important lessons learned to help combat schemes like these.

First, build coalitions with other Federal, state, and local law enforcement agencies—as well as program officials—to prevent and detect fraud. Building these coalitions allows law enforcement and investigative agencies, as well as program officials, to leverage resources, share information and expertise, and undertake joint initiatives. This is already underway in Lower Manhattan with the Lower Manhattan Construction Integrity Team (LMCIT), which was an idea suggested by the Lower Manhattan Development Corporation. We were a founding member of this

group, which was formally started in 2004 to prevent fraud in Lower Manhattan publicly-funded projects. Members now include a comprehensive range of Federal, state, and local agencies. This group has developed an array of measures for the prevention of fraud, including recommended practices for the process of vetting potential contractors, information sharing, fraud awareness training for contractors? supervisors and managers, employee screening and access control to the World Trade Center site, and use of integrity monitors.

Second, take aggressive action to combat fraudulent activity and have strong policies in place to send a message that defrauding the U.S. Government will not be tolerated. There are many ways to take aggressive action to prevent fraud and protect tax payer dollars. For one, Federal, state, and local program staff should always be alert to possible instances of fraud and use existing mechanisms, such as fraud hotlines, to report suspected fraud early on. Timely reporting of possible fraud is critical so allegations may be promptly investigated. For example, we maintain a hotline that can be accessed at *http://www.oig.dot.gov/Hotline.* Tips specifically related to Lower Manhattan projects can be submitted at *www.LowerManhattan.info.*

It is important that when investigators identify fraud and collect sufficient evidence related to criminal schemes or civil fraud that the U.S. Attorney's Office act upon it. In some instances, they should accept cases for prosecution that may not otherwise meet their prosecutorial threshold (e.g., the dollar amount of the fraudulent activity) as a deterrent to others who might attempt to defraud the government.

Finally, in 2005, Secretary Mineta signed a DOT-wide order strengthening the Department's suspension and debarment policies. Such policies prevent individuals or contractors who have been indicted or convicted of fraud from receiving Federal contracts for a period of time. We believe that such policies are critical to protecting tax payer dollars from irresponsible contractors.

• **A key lesson learned from our auditors is that a set of sound management and oversight tools should be used by Federal, state, and local agencies to ensure that large transportation projects are completed effectively and efficiently.** These tools are fundamental and universally applicable to all federally funded transportation projects. It will be important to rigorously employ them in the reconstruction of Lower Manhattan.

They include ensuring that sound project and financial management practices are in place, preparing reliable cost estimates, carefully managing project schedules to minimize costly delays, implementing more cost-effective engineering alternatives, and recovering overpayments from contractors and promptly resolving construction claims. For example, because the total Federal funding allocated to the various Lower Manhattan projects is currently fixed, it will be even more critical for Federal, state, and local officials to have reliable cost estimates and track them closely.

The Lower Manhattan Recovery Office has adopted a risk management approach to keep costs within estimates. This risk analysis process was applied early in project development to focus on identifying and mitigating project risks and keeping costs within the Federal funding allocated for each project. If higher costs are estimated along the way, FTA requires the grantee to develop a recovery plan to find ways to keep costs within the funding allocations. This is a smart move. Such a cost containment action already occurred on the Fulton Street project, requiring a project-wide cost recovery plan to address such budget issues as remaining real estate acquisition and tenant relocations, a possible re-design of the Transit Center, and environmental requirements for building deconstruction. Unless costs are aggressively controlled, the costs could easily exceed the $4.55 billion currently allocated by the Federal Government, and it is not clear what funding sources would cover those increased costs.

DOT Must Ensure Active Oversight of Lower Manhattan Projects Until They Are Completed

The Federal Government dedicated $4.55 billion to fund large-scale projects to reconstruct and enhance Lower Manhattan's transportation infrastructure. Of this amount, $2.75 billion came from the Federal Emergency Management Agency (FEMA) and $1.8 billion came from FTA. Through an agreement with FEMA, FTA was given lead responsibility for distributing and overseeing the use of the $4.55 billion.

The ongoing projects are the Permanent World Trade Center PATH Terminal, Fulton Street Transit Center, South Ferry Terminal Station, the World Trade Center Vehicle Security Center, and the Route 9A/West Street/Promenade highway project (FHWA also dedicated some funding to this highway project in addition to the portion being funded out of the $4.55 billion and FHWA has oversight responsibilities as well). More information on these projects is provided in the exhibit at the end of my statement.

Of the $4.55 billion, nearly $90 million has been dedicated to FTA's oversight activities. We support this move and believe a dedicated funding stream for Federal agency oversight should be replicated in any funding decisions for future disasters and emergencies.

DOT agencies—whether it is FTA or FHWA—should serve as a key line of defense in protecting tax payer dollars. In 2002, FTA created the Lower Manhattan Recovery Office separate from its New York regional office, which is unique within FTA. The Lower Manhattan Recovery Office is responsible for coordinating DOT resources and working with state and local partners to provide project oversight and technical assistance. We supported the creation of this office at the time and it may be a model to consider should future disasters necessitate massive transportation-related reconstruction.

FTA's Lower Manhattan Recovery Office has hired several contractors to assist in its oversight responsibilities. For example, it hired a financial management oversight contractor (FMOC), which was used at the beginning of the projects to review the financial statements, accounting systems, and internal financial management of grantees. Currently, the FMOC is used on an as-needed basis. It also hired project management oversight contractors (PMOC) who are charged with regularly monitoring major transportation projects and providing feedback to Federal officials should any problems arise. This is an institutionalized approach at FTA. The Lower Manhattan Recovery Office's strategy has been to provide one PMOC to each grantee. For example, there is a PMOC for the New York State Metropolitan Transportation Authority's (MTA) Fulton Street Transit Center and South Ferry Station projects. The PMOC for each project is charged with conducting risk assessments for projects, reviewing cost and schedules, and assessing each grantee's plans for the project. Lower Manhattan Recovery Office staff told us the PMOCs attend grantee meetings and report back to them, conduct on-site reviews several times a week to look at construction materials, and review quality assurance on the project. A key point is that the Office must ensure that it fully analyzes the results of the contractors? reports, take action where appropriate, and exercise its own oversight role in addition to the contractors' work.

A PMOC may also contract with other experts, as needed, to assist in performing certain important duties. For example, the Lower Manhattan Recovery Office determined that its PMOC on the Fulton Street Transit Center did not have expertise to ensure that MTA met the requirements of the Federal Relocation Assistance Act. Accordingly, the Lower Manhattan Recovery Office directed the PMOC to hire an outside consultant to evaluate MTA's relocation program for businesses and residents who are being displaced by construction of the Fulton Street Transit Center.

Key Lessons Learned by Our Investigators are That Federal, State, and Local Law Enforcement Agencies Must Build Coalitions to Combat Fraud in Large Transportation Projects and Take Aggressive Action Against Those Who Defraud the Government

History has shown that substantial infusions of funding into an area for relief and/or reconstruction efforts, such as those related to the September 11, 2001 attacks, increase the risk of fraud. Our special agents have investigated criminal schemes associated with transportation projects across the country, including false claims for materials and labor, product substitution, collusive bidding, money laundering, tax fraud, bribes, schemes involving disadvantaged business enterprises, and, in some instances, payoffs to organized crime.

Since October 2002, our nationwide investigations related to surface transportation projects have resulted in 150 indictments, 91 convictions, $57.64 million in fines, restitutions, and recoveries, and 94 suspensions or debarments. It is important to consider that investigating and collecting sufficient evidence to support prosecution of white collar crimes like these is a labor intensive process that, in some cases, can take years.

The following examples illustrate the types of schemes we have detected on major transportation projects across the country, which investigators, program officials, and even the public should watch for in future projects.

- **Payoffs.** The owners of three family-owned construction firms in the New York Metropolitan area were debarred in 2002 for 3 years by FHWA. Also, following their 2001 guilty pleas they were ordered to forfeit $5 million for their part in a large scam involving payoffs to organized crime. They issued corporate checks to subcontractors as payment for fraudulent invoices. These payments were then returned to them as cash.
- **Product substitution.** Our investigators worked with the Federal Bureau of Investigation (FBI), as well as state and FHWA officials, on a case involving a Connecticut concrete manufacturer that was fined and forced to pay restitution for falsely certifying that concrete catch basins used on a major highway project met con-

tract specifications. The manufacturer pled guilty in 2005 and was fined and forced to pay restitution totaling half a million dollars.

• **Bid-rigging.** Four executives of two Wisconsin contractors, both of their companies, and an employee of a third company were sentenced in 2005 to a combined total of over $3 million in fines and restitution and imprisoned, for a bid-rigging scheme. Competitors unlawfully decided who was to receive which roadway or airport job. They submitted complementary bids to create the false appearance of competition on approximately $100 million in publicly-funded projects.

• **Bribery.** In one of our joint cases in New York City, the co-owner of a prime contractor pled guilty in 2006 to conspiring to bribe an inspector to facilitate approximately $1 million of over-billing on a roadway milling contract. As part of the plea agreement, the defendant and his company agreed not to bid on any Federal, state or city-funded project for a period of 5 years.

• **False Statements.** Several Ohio transportation inspectors were convicted during 2003–2005 for making false statements regarding the quantity and/or quality of bridge-painting work performed by contractors on Federal-aid projects. The inspectors received illegal payments to overlook improprieties, such as the use of inferior paint and failure to properly sandblast or contain lead and hazardous paint waste.

• **Prevailing Wage Fraud.** The largest highway landscaping company in Minnesota, which was the prime contractor on over $4 million in federally funded highway construction projects as well as a subcontractor on numerous others, and its president, were sentenced in 2006 for conspiring to defraud the government by creating and certifying false records that concealed its failure to pay workers at the prevailing wage rate.

• **Disadvantaged Business Enterprise (DBE) Fraud.** A certified DBE firm in New York was found to have been used as a "false front" on about 3 dozen subcontracts valued at approximately $21 million and submitted false certified payrolls. In 2001, the principal of the company pled guilty to conspiracy charges in the case.

Our investigative work in New York and across the country offers important lessons learned to help combat schemes like these.

First, build coalitions with other Federal, state, and local law enforcement agencies—as well as program officials—to prevent and detect fraud. Building broad, interagency coalitions allows law enforcement and investigative agencies, as well as program officials, to share information, leverage expertise and resources, and undertake important joint initiatives. States and localities are the first line of defense against fraud and the Federal law enforcement community should work closely with them. Also, law enforcement should work closely with program officials at all levels of government, who can be the first to detect early indications of fraudulent activity. We are involved in a number of collaborative partnerships across the country and two in the New York City Metropolitan area are worth mentioning as key success stories that could be replicated elsewhere. Accordingly, we have tried to spread the word about these initiatives to other parts of the country.

• For example, we are founding partners in an interagency working group, the Lower Manhattan Construction Integrity Team (LMCIT). It was established in 2004 at the suggestion of the Lower Manhattan Development Corporation to prevent fraud in Lower Manhattan publicly-funded projects. The group has grown and now includes a comprehensive range of oversight agencies. In addition to us, it includes the Lower Manhattan Construction Command Center, the Lower Manhattan Development Corporation, the New York City Department of Investigation, the New York City Business Integrity Commission, the New York State OIG, the New York State Metropolitan Transportation Authority's OIG and Chief Compliance Officer, the OIG of the Port Authority of New York and New Jersey, and the OIGs of the U.S. Departments of Labor and Housing and Urban Development (HUD). LMCIT has developed a range of measures for the prevention of fraud, including best practices for the process of vetting potential contractors, information sharing, fraud awareness training for contractors? supervisors and managers, employee screening and access control to the World Trade Center site, and the use of integrity monitors (also referred to as IPSIGs, or Independent Private Sector Inspectors General) to supplement existing oversight resources. LMCIT members also share a joint fraud complaint hotline, which can be accessed at *www.LowerManhattan.info.*

• Further, since 1999, we have been a founding member of the Long Island Federal Construction Fraud Task Force, established by the Office of the U.S. Attorney for the Eastern District of New York. This Task Force was organized to coordinate investigations into fraud and public corruption in the construction industry on Long Island. The Task Force presently consists of prosecutors and agents from our Office of Investigations, the Internal Revenue Service Criminal Investigation Division, Department of Labor OIG, FBI, the Postal Inspection Service, the New York City De-

partment of Investigation, and the OIG of the Port Authority of New York and New Jersey. Of the approximately 22 pending New York City Metropolitan-area construction investigations in our New York Office, more than half are being conducted under the auspices of this Task Force. The impact of the work of the Long Island task force extends beyond the New York City Metropolitan area. The unprecedented success of the Task Force has led to repeated requests that its members participate in speaking engagements, presenting insights, investigative strategies, and techniques to other law enforcement and oversight organizations. To date, members of the Task Force have participated in 14 conferences in 10 states.

• The importance of building coalitions among Federal, state, and local law enforcement agencies can also be seen in the areas affected by Hurricane Katrina. For example, we and other Federal OIGs are fully integrated into the Hurricane Katrina Fraud Task Force, which was created by the Attorney General of the United States to detect and deter fraud against the U.S. Government in efforts to rebuild the Gulf Coast and provide emergency relief for the residents there. The Task Force has mobilized to bring prosecutions as quickly as possible to send a strong message of deterrence. We are also an active member of a special task force headed by the U.S. Department of Homeland Security OIG that coordinates the Hurricane Katrina-related auditing and investigative activities of the other Federal OIGs.

We believe it is important that our investigative activities in the areas devastated by Hurricane Katrina are coordinated, information is shared, and that we maximize our limited resources. Our agents have conducted approximately 50 fraud awareness briefings for various oversight providers, FHWA, state transportation department staff, and trade association officials as part of our hurricane-related fraud prevention activities.

Second, take aggressive action to combat fraudulent activity and have strong policies in place to send a message that defrauding the U.S. Government will not be tolerated. Recognizing the fraud risks inherent in large-scale construction projects, it is critical that investigative agencies at all levels of government take aggressive action to combat fraud and abuse of government funds.

• In 2005, Secretary Mineta signed a DOT-wide order strengthening the Department's suspension and debarment policies. Such policies prevent individuals or contractors who have been indicted or convicted of fraud from receiving Federal contracts for a period of time. We believe that such policies are critical to protecting tax payer dollars from irresponsible contractors. Secretary Mineta deserves great credit for pushing for these improvements and for focusing on reducing fraud, waste, and abuse in DOT programs. It is important for all Federal agencies to evaluate their suspension and debarment policies and assess what steps can be taken to strengthen them.

• There are other ways to take aggressive action to prevent fraud and protect tax payer dollars. For one, Federal, state, and local program staff should always be alert to possible instances of fraud and utilize existing mechanisms to report suspected fraud early on. Timely reporting of possible fraud is critical so allegations may be investigated by law enforcement officials and, if warranted, they may take prompt action. Such fraud reporting mechanisms include internal agency procedures or fraud hotlines. We believe that program staff and investigators should always maintain an open flow of information. For example, we maintain a waste, fraud, and abuse hotline that can be accessed at *http://www.oig.dot.gov/Hotline.*

• Finally, it is important that when investigators identify fraud and collect sufficient evidence related to criminal schemes or civil fraud that the U.S. Attorney's Office act upon it. For example, in 2003, the United States Attorney in Manhattan announced the arrests of two individuals for devising schemes to fraudulently obtain HUD September 11-related grant funds of $5,316 and $3,750. Even though the amount of money involved in the fraud was relatively small, actions like these send a message to those considering similar schemes.

In another example, at the direction of the Attorney General, Offices of the U.S. Attorneys have been aggressively prosecuting individuals who engage in Hurricane Katrina-related fraud, for example, through debit cards issued to hurricane victims to pay for recovery costs, even though the individual dollar amounts involved are relatively low. In some cases, it is important for the U.S. Attorney's Office to accept cases for prosecution that may not otherwise meet their prosecutorial threshold (e.g., the dollar amount of the fraudulent activity) as a deterrent to those who might attempt to defraud the government.

A Key Lesson Learned from Our Auditors is That a Set of Sound Management and Oversight Tools Should Be Used by Federal, State, and Local Agencies to Ensure That Large Transportation Projects are Completed Effectively and Efficiently

Based on our years of work auditing major transportation projects across the country, we believe a set of sound management and oversight tools should be considered wherever major construction occurs. These tools are fundamental and universally applicable to all federally funded transportation projects. It will be important to rigorously employ them in the reconstruction of Lower Manhattan.

Prepare reliable cost estimates. In some cases, project approvals may be secured on the strength of cost estimates prepared before the design package is substantially complete and which contain figures that are far too preliminary. In the past, we have found that cost estimates for major projects did not include such routine items as construction management, design, allowances for inflation, or contingency reserves. Great care must be taken to assure that these preliminary cost estimates are understood for what they are, and that they do not serve as the predicate for project approval unless they are thoroughly examined and found to be reliable and complete.

Over the years, we have reported on dramatic increases in the costs of highway and transit projects—in some cases after construction had begun and they had already received significant Federal funding. A recent example of unreliable cost estimating on the highway side is the San Francisco–Oakland Bay Bridge (East Span) project, where costs nearly doubled from $2.6 billion to $5.1 billion. Also, the finance plans for the Project had not been thoroughly reviewed as envisioned by FHWA guidance. On the transit side, we reported in 2001 that the cost estimates for the Seattle Central Light Rail Link Project went from $2.5 billion to $4.1 billion in just 7 months.

Because the Federal funding allocated to the various Lower Manhattan projects is currently fixed, it will be even more critical for Federal, state, and local officials to have reliable cost estimates and track them closely. In addition, these high-priority projects are on a very fast track and in some cases designs have been altered along the way. Thus, it is important to maintain reliable cost estimates and update them as events change. FTA officials told us they are aggressively using a risk management approach to keep costs within estimates and that risk analysis was applied early in project development. If higher costs are estimated along the way, FTA requires the grantee to develop a recovery plan to find ways to keep costs within the funding allocations. Such a cost containment action already occurred on the Fulton Street project, requiring a project-wide cost recovery plan to address such budget issues as remaining real estate acquisition and tenant relocations, a possible re-design of the Transit Center, and environmental requirements for building deconstruction. Unless costs are aggressively controlled, the costs could easily exceed the $4.55 billion currently allocated by the Federal Government, and it is not clear what funding sources would cover those increased costs.

Focus on Project Management and Financial Oversight of Transportation Projects. Early and continuous oversight by Federal agencies of states' project and financial management practices are key to controlling project costs, preventing delays, and reducing the potential for safety and environmental problems. FTA and FHWA have different approaches to overseeing large transportation projects.

Transit Projects. FTA has institutionalized the use of project management oversight contractors (PMOCs) and financial management oversight contractors (FMOCs) to oversee large transit projects and to report to its in-house staff on findings and needed corrective actions. They are third-party contractors who look at FTA-funded projects in accordance with FTA guidance. FMOCs are used to evaluate a grantee's financial condition and its financial capability to construct, operate, and maintain a project. A PMOC is retained by FTA to evaluate a grantee's technical capacity to build, operate, and maintain a project, and to monitor the grantee's implementation of a project. This is essentially a sound approach that can provide early warnings of cost, schedule, and quality problems.

In addition, FTA requires that grantees submit a project management plan. The plan, submitted in support of an application for a full funding grant agreement, demonstrates a grantee's technical capacity to build, operate, and maintain the project, together with the grantee's existing transit system. A project management plan is an evolving document, first prepared during preliminary engineering, which follows a project through final design, construction, and revenue operations.

We have seen both the strengths and the weaknesses of the PMOC program in our work on Puerto Rico's Tren Urbano project in 2000 and 2002. Our May 2000 review of Tren Urbano found that the PMOC had discovered and raised important schedule and construction quality issues. However, during our March 2002 audit we found that Tren Urbano officials consistently reported that the estimated cost of the project was $1.9 billion. We discovered that the estimated costs had actually increased by 10 percent, but the PMOC had accepted Tren Urbano's prior representations without checking them. All of the Lower Manhattan transit projects have a

PMOC assigned to them and an FMOC is retained on as-needed basis, which is critically important. FTA should ensure that the PMOCs are aggressively monitoring the projects and that recommendations made by the PMOCs are fully analyzed by the Lower Manhattan Recovery Office and expeditiously addressed.

• **Highway Projects.** Historically, FHWA focused on detailed engineering activities and not on project management and financial oversight. FHWA performed contract-level administration and engineering activities, such as approving contract change orders and deciding on the location and wording of highway signs. Over the past several years, FHWA has taken important steps to change its focus.

As we noted in our DOT 2006 Top Management Challenges report (issued in November 2005), we have seen positive signs that FHWA is committed to improving its oversight of transportation dollars and is implementing new oversight programs. For example, FHWA has established a new Financial Integrity Review and Evaluation program. This program calls for FHWA division offices to perform oversight of state management practices, including assessing management risks, reviewing financial management processes, and spot checking a sample of payments on highway projects to ensure that Federal funds are properly managed. Sustained and effective implementation of this should be a priority for FHWA.

Moreover, Congress also made several important changes in the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) that are intended to strengthen FHWA oversight. For example, finance plans are required for projects exceeding $100 million in total cost. Another change is that the $1 billion threshold defining major projects was lowered to $500 million. Such major projects are now required to have project management plans in *addition* to the previously required finance plans. We strongly support these actions.

The purpose of the new project management plan program is to serve as a "roadmap" to help the project delivery team maintain a constant focus toward delivering the major project in an efficient and effective manner by clearly defining the roles, responsibilities, processes, and activities. The project management plan is supposed to be a living document in which revisions will be issued as the project progresses in order to add, modify, or delete provisions that will result in the most effectively managed project. These revisions and updates to the project management plan will occur prior to issuing the environmental decision, prior to authorization of Federal-aid funds for right of way acquisition, and prior to authorization of Federal-aid funds for construction.

Prepare Finance Plans to Identify Cost, Schedule, Funding and Risks to a Project. A finance plan is a management tool that is vital in providing project managers and the public with information on how much a project is expected to cost, when it will be completed, whether adequate funding is committed to the project, and whether there are risks to completing the project on time and within budget. Regularly updated finance plans provide current information about project costs, financing, schedule, and technical issues to enable Congress, the Department, states, project managers, and the public to continually evaluate the progress of a project. Recognizing how significant and critical this basic oversight tool is, in SAFETEA–LU Congress changed FHWA's policy regarding finance plans. Previously, only Major Projects (those over $1 billion at the time) were required to have finance plans. Now, all projects over $100 million will be required to have finance plans. This was a positive move.

While the transit projects under the Lower Manhattan Recovery Office's supervision are not required to have finance plans, the office has implemented construction agreements. According to FTA, these agreements were implemented to help expedite these projects and are analogous to a finance plan. Construction agreements delineate key terms of the projects, including development and recovery plans. The construction agreement for each project is reviewed frequently and must have: (1) a recovery plan, (2) risk assessment process and, (3) a project reserve.

One of the five projects in Lower Manhattan (Route 9A) is mostly a highway project that is being managed by FHWA—even though it is being partially funded with FTA dollars. FTA and FHWA have entered into two memoranda of agreement laying out the types of oversight that FHWA will be expected to provide, which are different from FHWA's regular oversight mechanisms and more similar to the forms of oversight that would typically be found on an FTA project, including a PMOC on the Route 9A Project, which it normally would not do. FTA's agreement with FHWA stipulates that this project must have a finance plan.

Implement More Cost–Effective Engineering Alternatives. Since 1970, many industries and Government agencies have successfully employed value engineering programs to control costs on major projects. The purpose of these programs is to objectively review all reasonable alternatives during the design phase to find more cost-effective alternatives. For example, FHWA's value engineering program,

established in 1997, requires that a study be performed on all Federal-aid National Highway System projects with an estimated cost of $25 million or more and on other projects where using value engineering has a high potential for cost savings.

Some states have been using value engineering effectively. However, our ongoing work on value engineering indicates states could be saving tens of millions of dollars if they would use value engineering studies on more projects and more frequently adopt the recommendations made during studies that are conducted.

FTA also requires value engineering. To its credit, some of the Lower Manhattan Recovery Office-supervised projects have already had such studies performed and the staff told us that recommendations have been implemented. For example, according to Lower Manhattan Recovery Office officials, savings based on accepted value engineering recommendations related to the Fulton Street Transit Center are estimated to be nearly $67 million.

Manage Project Schedules to Minimize Costly Delays. Transportation projects have become larger and more technically complex in the last decade and require coordination of the activities of multiple contractors working in a confined construction area. Accordingly, managing project schedules is a critical function in efforts to minimize cost growth. The key is to maintain a master schedule that ties together the work of all the contractors and identifies and tracks the costs of labor, material, and equipment resources required to complete each task. Master schedules are referred to as integrated, resource-loaded schedules. These schedules can identify and prevent schedule conflicts before they occur and can track progress on individual tasks, allowing early action to prevent or mitigate delays, thereby reducing or preventing cost increases.

Failure to maintain integrated resource-loaded schedules has led to unanticipated project delays and increased costs. For example, in the past we reported that the failure to maintain integrated, resource-loaded schedules led to unanticipated delays and increased costs on the Springfield Interchange Project in Virginia, including $49 million that were added to project costs.

Effectively managing project schedules will be especially important in Lower Manhattan due to the pressing need to get these high-priority projects up and running as quickly as possible and ensure that costs stay within existing Federal allocations. The significance of managing schedules in the case of Lower Manhattan cannot be overstated, as each of these projects is large, complex, has expedited time frames, and will likely require the coordination of numerous contractors and subcontractors all at once. For example, we were informed by FTA that the Permanent World Trade Center PATH Terminal involves four contracts—three relatively small ones and the major construction management/general contractor (CMGC) contract. The CMGC currently has 4 prime contractor firms and at least 10 subcontractors. FTA staff told us they expect the number of subcontractors to grow over time.

Recover Overpayments from Contractors and Promptly Resolve Construction Claims to Control Project Costs. Change orders to contracts are initiated by the project or contractors in response to changes in the project's scope or differing site conditions. However, some change orders are a result of design errors or omissions caused by consultant engineers. Recovery of funds paid on these change orders offers an opportunity to reduce project costs. Maintaining tight control over change orders and promptly resolving outstanding construction claims are key to controlling project costs. Past projects, such as Boston's Central Artery/Tunnel Project, might have been able to significantly reduce costs by aggressively pursuing opportunities to recover costs of design errors or omissions caused by engineering consultants. For example, in 2004 we reported that the Project had 4,805 outstanding claims with a total value of approximately $194 million, of which 11 percent were over 4 years old.

Timely resolution of change orders is important because the longer the issues remain unresolved, the more difficult it becomes for project managers to determine whether the change orders were caused by design errors or omissions. Maintaining supporting documentation is also critical. In the case of Lower Manhattan, project managers should make sure they have a process in place for aggressively pursuing opportunities for cost recovery in a timely fashion to maximize savings. We were informed that the Lower Manhattan Recovery Office has already performed a change order review on the Fulton Street project and plans to pursue cost recovery in the future, where appropriate.

In conclusion, DOT has a critical role in the reconstruction of Lower Manhattan. Over the past several years, the Department has significantly strengthened its oversight of major transportation projects. Now it is critical that all of us at DOT vigorously employ the oversight tools and resources we have at our disposal and apply the lessons we have learned from past projects to get the most for the tax payer dollars that have been invested in the reconstruction of Lower Manhattan.

This concludes our prepared remarks. We would be happy to answer any questions you may have.

Exhibit: High Priority Projects Funded with the $4.55 Billion the Federal Government Dedicated to Lower Manhattan Reconstruction

Project and Description	Project Sponsor & Federal Oversight Responsibility	Baseline Cost Estimate & Funding Sources	Baseline Schedule for Completion
Permanent World Trade Center PATH Terminal. This project will serve the PATH subway system, and includes pedestrian connections to the Fulton Street Transit Center to the east and to the World Financial Center and the World Financial Center Ferry Terminal under Route 9A (West Street) to the west. Additional scope of this project includes the retaining walls at the World Trade Center site, and the security hardening of the transportation facilities..	Port Authority of New York & New Jersey. FTA oversees it through the Lower Manhattan Recovery Office.	Cost: $2.2 billion ($1.92 billion in Federal funding and $300 million in PANYNJ insurance money).	2011
Fulton Street Transit Center. This project is a multi-level complex of stations to serve 12 different subway lines and over 275,000 daily commuter trips. The existing maze of narrow ramps, stairs and platforms will be transformed, allowing for easier transfers, better access from street level, and will have a direct link to the new PATH Terminal and the World Trade Center site..	New York State Metropolitan Transportation Authority.. FTA oversees it through the Lower Manhattan Recovery Office.	$847 million (All Federal funding).	2010
South Ferry Terminal Station. This project will replace the functionally obsolete station under Battery Park that serves Staten Island Ferry riders. The project will convert the single track, 5-car loop station into a 2-track, 10-car, stub end two-platform terminal with new access for disabled riders and better connections to the renovated Staten Island ferry terminal and the R and W subway lines..	New York State Metropolitan Transportation Authority.. FTA oversees it through the Lower Manhattan Recovery Office.	$420 million (All Federal Funding).	2008
Route 9A Promenade South/ West Side. This project will rebuild the major north-south arterial roadway in Lower Manhattan between Chambers Street and Battery Place, with the southern end of the project known as Promenade South. The eastern sidewalk will be widened where feasible to improve accessibility, provide street trees, and add aesthetic enhancements. On the west side, along the new Promenade and adjacent to Battery Park City, a series of unique urban spaces are envisioned and are being developed for varied uses..	New York State Department of Transportation.. FTA's Lower Manhattan Recovery Office and FHWA share oversight responsibilities through memoranda of agreement.	$352 million (All Federal Funding).	2009 [Note: a small section of this project has been substantially completed.]

Exhibit: High Priority Projects Funded with the $4.55 Billion the Federal Government Dedicated to Lower Manhattan Reconstruction—Continued

Project and Description	Project Sponsor & Federal Oversight Responsibility	Baseline Cost Estimate & Funding Sources	Baseline Schedule for Completion
World Trade Center Vehicle Security Center. This project is a vehicle security-screening center for the World Trade Center site. The security center will screen all vehicles for security threats and will be a vital component to the World Trade Center Master Plan..	New York State Metropolitan Transportation Authority.. FTA oversees it through the Lower Manhattan Recovery Office.	$478 million (All Federal funding).	2010

PREPARED STATEMENT OF MR. BERNARD COHEN, DIRECTOR, LOWER MANHATTAN RECOVERY OFFICE, FEDERAL TRANSIT ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Thank you, Mr. Chairman and members of the committee. I am pleased to join this panel, and to have an opportunity to testify on the progress we are making in the Lower Manhattan transportation recovery effort. My name is Bernard Cohen, Director of the Federal Transit Administration's (FTA) Lower Manhattan Recovery Office (LMRO).

The terrorist attacks of September 11, 2001, crippled Lower Manhattan's transportation infrastructure. The worst of this devastation was not visible above ground. Lower Manhattan lost the PATH line from New Jersey to the World Trade Center—operated by the Port Authority of New York and New Jersey (Port Authority) that had carried an average of 67,000 passengers daily. Debris from the Twin Towers crushed the PATH World Trade Center station—the gateway to New York City for so many. Two New York City subway lines were heavily damaged, along with a major arterial highway. Remarkably, despite the scale of this destruction, not a single life was lost on transit due to the terrorist attacks on that day.

Shortly after 9/11, President Bush declared New York a national disaster area. Congress appropriated $20 billion for many aspects of Lower Manhattan's recovery, out of which they budgeted $4.55 billion for transportation needs. An additional $200 million for ferry facilities and rail infrastructure was appropriated by Congress and made part of the overall transportation recovery effort.

That recovery effort still benefits today from sound decisions that public agencies made immediately after the President's declaration. The most elemental of these decisions was a proactive commitment to coordination. Nine months after the attacks, FTA established a beachhead in Lower Manhattan—a dedicated office that strengthened lines of communication and collaboration in Lower Manhattan. FTA worked to establish "one-stop shopping" for Federal transportation funds, to ease administrative burdens on project sponsors. Through a Memorandum of Agreement with the Federal Emergency Management Agency (FEMA), FTA became the lead agency to move transportation money and projects forward.

When we became the lead agency in this effort, we formulated a straightforward but challenging mission: to streamline transit recovery while maintaining responsible stewardship of taxpayer dollars, and exceptional oversight. Unlike other FTA-funded projects, the Lower Manhattan projects are almost entirely Federally funded, so we felt the stewardship obligation just as keenly as the imperative that we revive Lower Manhattan's transit lifelines as quickly as possible.

We also recognized that we would have to operate simultaneously in two "time zones"—the immediate and the long term—to meet the transit needs of Lower Manhattan.

The LMRO has now obligated most of the money entrusted to Lower Manhattan transportation. A total of $4 billion of the $4.55 billion budget has been committed to projects. This figure includes a reserve for each project as a prudent measure of stewardship to ensure that we have the resources in place to complete our program.

I am very pleased to report that all of the three major, fully-funded transit projects for which initial grants were made are under construction today. These projects promise not only to improve service, but also to enhance dramatically the passenger convenience and visibility of transit in Lower Manhattan. Indeed, the

United States, determined to come back from the 9/11 attacks stronger than ever, resolved not just to reconstruct Lower Manhattan's infrastructure as it existed before, but to improve upon it. The recovery presented Lower Manhattan with an opportunity to modernize and rationalize its infamous "spaghetti bowl" tangle of transit lines. The Federal Government and Lower Manhattan have seized that opportunity. We are creating a vastly more visible, navigable, seamless, and customer-friendly system for Lower Manhattan.

Construction began in March of this year on the permanent World Trade Center PATH terminal. Since 2003, FTA has awarded the Port Authority up to $2.2 billion for the PATH terminal, and project sponsors completed their environmental review in June 2005. In addition to restoring commuter service, the project includes pedestrian connections to the Fulton Street Transit Center and the World Financial Center. The Port Authority has engaged the renowned architect Santiago Calatrava to design the PATH terminal, which many have come to regard as the Grand Central Station of Lower Manhattan, a transit focal point. The majestic glass and steel terminal is scheduled for completion in June 2011.

FTA has also provided a $478 million grant to develop a state of the art World Trade Center Site Security Center that will screen all vehicles for security threats and provide parking for tour buses. This facility will ensure that vehicles servicing the buildings or parking in the Center will not be used as weapons.

In July 2005, the Metropolitan Transportation Authority (MTA) began construction of the Fulton Street Transit Center, used by 275,000 people a day. The construction agreement between FTA and MTA provides for up to $847 million in Federal funds. This grant will fully fund a multi-level complex of stations that will serve 12 different subway lines. The existing maze of narrow ramps, stairs, and platforms will be transformed into a more spacious and rational configuration. A prominent transit center will replace street entrances previously hidden inside buildings. MTA was awarded this grant in December 2003. The environmental review for Fulton was completed in November 2004, and completion of construction is scheduled for June 2009.

Also in December 2003, FTA awarded MTA a grant up to $420 million for the South Ferry Terminal Station, the last station at the southern end of the IRT 1 subway line. This project will eliminate the tight-curve platforms that prevent operators from opening the doors on the rear five cars of their trains. It will increase the number of entrances from one to three, and make the station accessible to disabled passengers. Construction on the terminal began in March 2005, and should be completed by April 2008.

I should add that LMRO is also providing $287 million toward the cost of rebuilding Route 9A/West Street, the major north-south state arterial highway that runs down the West Side of Lower Manhattan. FTA and the Federal Highway Administration have executed two Memoranda of Agreement in the last two years to provide for the transfer of funds and outline the oversight responsibilities of each agency. This roadway project is already under construction and is scheduled to be completed by June 2009.

Community leaders envision these transit projects as anchors of the overall recovery effort that is unfolding today, and will continue into the next decade.

Over the last four years, many of our office's priorities have also been Lower Manhattan's priorities. The economic renaissance in many respects begins with the vanguard of transit systems that can carry riders, visitors, and workers into and out of the area. We have been the beneficiaries of a broad understanding that transportation is a first chapter in the Lower Manhattan success story.

The LMRO has also made a priority of working collaboratively with other major players in transportation reconstruction, which was crucial in the project selection process. FTA worked closely with a committee formed by Governor Pataki and including key city and state transportation agencies, as well as the Lower Manhattan Development Corporation. This committee generated the initial list of transportation recovery projects from which our three projects were selected. Because of this collaboration, we have been able to advance well-designed, well-received transit projects. In turn, the business community has responded with a burst of optimism to renovate and build in Lower Manhattan.

As construction progresses on the three major transit projects, Lower Manhattan has become an incubator for innovations and lessons learned that can benefit other transit systems and projects.

Certainly, the Lower Manhattan context rewards innovation, and creative ways of doing business. FTA adopted a novel, risk-based oversight approach to management. We undertook formal risk assessments early in the development of each project, and tailored our oversight accordingly. We focused on the preemption of risks rather than the mitigation of problems after the fact. We established reserves

for our projects based on our risk assessments in order to ensure that sufficient resources will be in place to complete the recovery projects.

Throughout this entire process, the LMRO has endeavored to exercise a truly exceptional level of proactive oversight. Specifically, this means that we have paid close attention to costs and schedules at every step. We have given project sponsors approval to move through various phases of design and development. We have entered into construction agreements when sponsors have been ready to begin work. And, we have carefully scrutinized and reviewed procurement procedures and financial systems.

We have applied the same extraordinary degree of oversight to transit security in Lower Manhattan. FTA has been centrally involved in, and well aware of, key security design features for all of the projects, from the earliest phases of work. Security features are being integrated into the very design of these projects. FTA retained a consultant to review security documents that we required our project sponsors to prepare, including threat and vulnerability assessments, construction site security plans, security management plans, and design guidelines.

To meet environmental standards while advancing these important projects as quickly as possible, we worked closely with project sponsors to create an active environmental oversight approach. We adapted a Cumulative Effects Analysis approach to assess the overall environmental impact of all of the transit projects in Lower Manhattan. Our project sponsors, in turn, have made a landmark agreement to implement aggressive mitigations for those effects. Collaborating with project sponsors, we established one single, consistent set of methodologies, data, sources, and assumptions for all of the projects. These shared assumptions allowed for comparability across projects, and vastly shortened the time traditionally needed to prepare and review environmental documents.

None of these was a "cookie cutter" approach. In our environmental streamlining, risk assessment, and project oversight, we have drawn on our collective experience and our creativity to customize solutions that fit specific projects.

The Lower Manhattan transit recovery is as much a story of building relationships as it is of building track, road, and rail. From the start, we have focused on coordination and regular communication with state and local officials, public and private project sponsors, other Federal agencies, the business community, organizations representing the families of the victims of 9/11, and other major players in this complex undertaking. That legacy of coordination endures today in the Lower Manhattan Construction Command Center (LMCCC), which is funded largely through an FTA grant. The LMCCC began as a voluntary collaboration among project sponsors dedicated to minimizing the negative impact of overlapping construction projects on an already-fragile community. The LMCCC emerged from that undertaking as a formal organization that, today, coordinates construction logistics. The LMCCC formalizes the kind of coordination that has characterized the transit recovery effort from its earliest days.

FTA's dual focus on streamlining and stewardship has paid off. Four years after we first established a beachhead in Lower Manhattan, we have committed the bulk of the Federal transit money to three major, popularly-acclaimed transit projects, for which construction is already well underway. When complete, these projects will transform—even revolutionize—the transit landscape in Lower Manhattan. They will make the transit system dramatically more iconic, secure, accessible, and customer-friendly than it was in pre–9/11 days.

On behalf of the entire LMRO and FTA, thank you for this opportunity to update you on our progress. Now I'd be happy to answer any questions.

PREPARED STATEMENT OF MR. RONALD P. CALVOSA, DIRECTOR OF FRAUD PREVENTION, LOWER MANHATTAN CONSTRUCTION COMMAND CENTER

Chairman Rogers, Ranking Member Meek, and Members of the Subcommittee:

I. INTRODUCTION

Thank you for the opportunity to testify today on behalf of the Lower Manhattan Construction Command Center and its Executive Director Charles J. Maikish. (Biographies of Charles J. Maikish and Ronald P. Calvosa are attached as Exhibit 1). I am here to discuss the Fraud Prevention measures being instituted around the construction activities involved in the rebuilding of Lower Manhattan. There are many projects ongoing or planned for Lower Manhattan, some involving grants of federal funds. It is essential that the work proceed with the utmost integrity.

II. SUMMARY

The Lower Manhattan Construction Command Center has been given responsibility for overall fraud prevention regarding construction projects under its jurisdic-

tion. It has already formulated a plan and is implementing that plan in an effort to eliminate the opportunity for wrongdoing.

There are six measures comprising the current fraud prevention program. These are:

(1)Lower Manhattan Construction Integrity Team
(2)Fraud Prevention Hotline
(3)Fraud Awareness Training
(4)Vetting of contractors
(5)Contractor Employee Screening and Access Control
(6)Integrity Monitors

The fraud prevention program will be discussed in detail including the steps that have been taken thus far and will conclude with future steps that are planned. First I would like to provide this subcommittee with a description of the Lower Manhattan Construction Command Center.

III. LOWER MANHATTAN CONSTRUCTION COMMAND CENTER

On November 22, 2004, concerned about the potential impacts of the large amount of construction projects underway or planned for the constricted area of Lower Manhattan during the reconstruction after the September 11 attack, New York Governor George Pataki and New York City Mayor Michael Bloomberg issued Executive Orders No. 133 and 53, respectively. They established a central point of control for all large construction projects—the Lower Manhattan Construction Command Center ("LMCCC"). The purpose of the LMCCC, as stated in the Executive Orders, is to ". . .coordinate between all construction located in Lower Manhattan [including] all construction projects beginning from 2004 to 2010 valued at over $25 million . . . work requiring governmental action or permit, and construction requiring work directly in City or State streets or highways." (The Executive Orders are attached as Exhibit 2).

As mandated by the Governor and the Mayor, the LMCCC is charged with the coordination and oversight of construction projects in Lower Manhattan south of Canal Street from the Hudson to the East River. It will bring together private developers, public agencies and authorities, utilities, businesses and resident representatives in one physical location. The LMCCC and its Executive Director will provide a forum for expeditious and consistent decision-making on disputes among agencies, a key element to ensure a successful rebuilding. Simply put, the mission of the LMCCC is to facilitate, mitigate and communicate.

Significantly, the Executive Orders directed the LMCCC to perform a fraud prevention function and to employ a Fraud Prevention Director.

IV. SCOPE OF PROJECTS

There is $9.99 billion in construction work in progress or ready to commence within a three block radius of the World Trade Center site. Within the next five years, more than $20 billion in construction work will be underway in all of Lower Manhattan, south of Canal Street.

This translates into a need for in excess of two million cubic yards of concrete; more than 200,000 concrete trucks; and a projected daily construction workforce of 6,500 for the next three to five years.

Projects south of Canal Street in Lower Manhattan include the rebuilding of the World Trade Center Site with the erection of the Freedom Tower and three other towers. In addition, a new Port Authority of New York & New Jersey PATH Transportation Hub will be built on that site, as well as, the Memorial and Museum. A Performing Arts Center will also be constructed on the site.

Other projects in the area include the deconstruction of 130 Liberty Street, (the former Deutsche Bank building), and the construction of a fifth tower and vehicle security center in its place. In addition, work being done with Federal Transit Administration ("FTA") funds includes the creation of a new Fulton Street Transit Center and a new South Ferry Subway Station. Federal Highway Administration funding is being used to develop Route 9A. Moreover, various street reconstruction projects are either underway or scheduled to commence. These projects are the responsibility of a number of agencies including the Port Authority of New York & New Jersey; the Lower Manhattan Development Corporation; the Metropolitan Transportation Authority; the New York State Department of Transportation; and the New York City Departments of Transportation and Design & Construction.

In addition to public projects, there are numerous private development projects in the area, as well. (A map of planned and ongoing Lower Manhattan projects is attached as Exhibit 3).

V. THE FRAUD PREVENTION PROGRAM

1. ***Lower Manhattan Construction Integrity Team***

In order to fulfill the responsibility of fraud prevention, the Executive Orders mandate that the LMCCC work with the various Inspectors General that comprise the Lower Manhattan Construction Integrity Team ("LMCIT").

In early 2004, a group of Inspectors General with oversight responsibility for agencies performing work in Lower Manhattan, or whose agencies issue funds for projects in Lower Manhattan gathered together at the invitation of the Vice President of Investigations for the Lower Manhattan Development Corporation ("LMDC"), to form LMCIT. The group was formed in mutual recognition of the inherent risks and heightened opportunities for fraud against the projects of all the affected agencies. There was also mutual recognition to jointly explore what could be done cooperatively for the benefit of all the programs. In addition, the group assisted LMDC in developing fraud prevention measures for LMDC's programs.

With the advent of construction, LMCIT has become more focused in its mission to work collaboratively toward its goal of preventing fraud across the various agencies and projects. In my capacity as LMCCC's Fraud Prevention Director, I chair the LMCIT meetings and coordinate its fraud prevention efforts.

LMCIT is comprised of the Office of Inspector General for the State of New York; the New York City Department of Investigation; the Offices of Inspectors General for the Port Authority of New York & New Jersey; the Metropolitan Transportation Authority; the United States Department of Transportation; and the United States Department of Housing and Urban Development. Additionally, the Lower Manhattan Development Corporation's Investigations Unit is also a represented on LMCIT, as well as the New York City Business Integrity Commission, the Office of Inspector General for the United States Department of Labor and the Chief Compliance Officer for the Metropolitan Transportation Authority.

LMCIT serves as the backbone for the Fraud Prevention Program. This unique group of federal, state and local investigative offices is relied upon to ensure that measures are taken to prevent, detect and eliminate fraud.

2. *Fraud Prevention Hotline*

The Executive Orders directed LMCCC to receive allegations of corruption or criminal activity by or on behalf of any agency employee, public official, contractor employee, agent, subcontractor, vendor, or labor official through the establishment of a Lower Manhattan Fraud Prevention Hotline.

A contract, funded by the FTA, was awarded to an Integrity Hotline service provider, to work with LMCCC in establishing a complaint hotline for the receipt of telephone complaints from a variety of sources, including construction workers and members of the public.

The Hotline service provider receives calls, records and transmits complaints to LMCCC. In addition, a database of complaints is accessible to LMCCC through the Internet. Incoming complaints are reviewed and referred to the appropriate Inspector General's office having jurisdiction over the matter.

The Hotline serves as a cornerstone for the Fraud Prevention Program, providing a ready outlet for complainants to provide information about potential wrongdoing.

Once the Hotline was created, LMCCC began a campaign to publicize the existence of the Hotline. Posters were created and placed at various jobsites in Lower Manhattan. (A copy of the Hotline Poster is attached as Exhibit 4). In addition, a full page advertisement (back cover) for the Hotline was recently placed in neighborhood newspaper's annual community handbook.

In addition, the Hotline number has been placed on the back of identification/access cards for workers on one of the Lower Manhattan projects.

To further enhance the opportunity to report alleged fraudulent activity, an online complaint form was launched on LMCCC's website, www.LowerManhattan.info. This form provides the opportunity to make a report via the web. The complaint form can also be printed and mailed to LMCCC.

Whether the complaint is made via the Hotline, the Internet, or by mail, a complainant may choose to be anonymous, or to supply their contact information. In all instances, maintaining confidentiality is paramount.

In the near future, additional steps will be taken to publicize the Hotline and web-based complaint form.

3. *Fraud Awareness Training*

LMCCC along with members of LMCIT, including the Offices of Inspectors General for the United States Department of Transportation; the Port Authority of New York & New Jersey; and State of New York, developed a fraud prevention training module for presentation to contractors and their employees.

The training was modeled after training typically given in the New York area to government employees in agencies involved in the contracting process. While common in the public sector, this sort of training heretofore had rarely been provided

to contractor staff. Similar to the training given to public agency employees, this training is to provide information about prohibited conduct. For example, contractor employees are told what penalties they face if they offer or give bribes or gratuities to public employees. In addition, they are told that submitting false documents, failure to pay the correct wages, or engaging in other fraudulent activity can result in criminal charges, civil action, and administrative sanctions. The administrative sanctions (e.g., being placed on an ineligible or suspended bidders list) can have serious detrimental effects on a business entity's ability to receive future publicly funded contracts.

The target audience for this training is contractor employees in managerial or supervisory positions. The training has been rolled out and additional training sessions are being scheduled. A record is kept of all those receiving the training.

4. *Vetting of Contractors*

The various agencies awarding Lower Manhattan construction contracts have primary responsibility for ensuring that business entities and their principals have the necessary integrity to receive public works contracts. In an attempt to attain a uniform standard for conducting an integrity review, LMCCC surveyed each contracting agency to determine what steps were being taken as part of their integrity review of contractors. The survey results indicated that most agencies were performing similar checks. LMCCC reviewed the results and developed a list of best practices for conducting a rigorous integrity review. LMCCC recommended that the contracting agencies perform these checks uniformly.

Moreover, LMCCC also recommended an enhanced level of review for Lower Manhattan projects, far exceeding the requirements and practices of the contracting agencies as to the threshold trigger for conducting an integrity review. These recommendations included performing checks on multiple-tiered subcontractors, as well as general contractors and first-tier subcontractors.

In addition, LMCCC recommended that information sharing done among LMCIT members become part of the overall standard vetting process. LMCCC recommended that the vetting process include a search by LMCIT members of their internal databases for any derogatory information on proposed contractors/subcontractors. This part of the check is very valuable as each member is able to provide non-confidential information about ongoing or closed investigations to other LMCIT members in order to assist contracting agencies in their decision making process.

LMCCC serves as the facilitator for vetting amongst LMCIT members. Requests for name checks are received, logged, disseminated and tracked to completion. LMCCC communicates the results of the name checks to the requestor. To date, LMCCC has facilitated name check requests on a total of nearly 350 business entities and individuals.

5. *Contractor Employee Screening and Access Control*

With an acute awareness for the need for security at Lower Manhattan construction sites, especially the World Trade Center site; a concern about the possible infiltration of organized crime onto construction projects; and an overall concern regarding the backgrounds of construction workers, LMCCC has worked with the Inspector General's Office for the Port Authority of New York & New Jersey, and organized labor, to determine the feasibility of conducting background checks on contractor employees. A plan was developed and with comments and suggestions of LMCIT members a protocol was developed.

In order to be granted access to the construction sites, employees will have to submit to background screening that will include a cross check against the terrorist watch-list. In addition, criminal record searches will be conducted to determine if a prospective worker has a criminal conviction or outstanding criminal charge in the key areas such as organized crime, theft, and violence. Workers who clear these checks will be issued an access card.

Initially the program will be implemented at the World Trade Center site, but we are hopeful that we will be able to extend the program to other construction projects in Lower Manhattan.

6. *Integrity Monitors*

Integrity Monitors, also known as Independent Private Sector Inspectors General or "IPSIGs", have proven to be a valuable tool for preventing fraud. They serve as a supplement to contracting agencies' existing safeguards, such as, auditing provided by both internal and external auditors. They also supplement existing investigative resources of an Inspector General's office. Integrity Monitors provide a multi-disciplined approach to the oversight of construction projects. They typically bring together legal, audit/accounting, investigative, engineering and environmental

expertise. Integrity Monitors will be an important component of the overall Fraud Prevention Program for Lower Manhattan.

Integrity Monitors are generally used for two specific purposes. They can be utilized to address an integrity issue pertaining to a specific business entity. They can also be utilized to ensure the integrity of a particular project. We will see the use of Integrity Monitors in both of these ways with regard to Lower Manhattan construction projects.

LMCCC is uniquely positioned to coordinate the activities of Integrity Monitors in Lower Manhattan. Working with the Inspectors General, or other officials overseeing the work of the Integrity Monitors, the LMCCC's Fraud Prevention Director will be made aware of particular problems or areas of concern that may be develop, or be uncovered, regarding a particular individual, business entity or project. Working with LMCIT, LMCCC will be able to communicate the issues to other members in the group that may have similar issues. The goal, of course, is to prevent problems or address them should they be detected.

Integrity Monitors are already being utilized on some Lower Manhattan construction projects and there are plans to expand their use on other projects. At present, there is an Integrity Monitor overseeing the deconstruction work on the Lower Manhattan Development Corporation's 130 Liberty Street project. The Metropolitan Transportation Authority has a compliance monitor in place regarding its contracts for the construction of the Fulton Street Transit Center and South Ferry Subway Station. In addition, the Port Authority of New York & New Jersey is in the process of hiring an Integrity Monitor to oversee the construction of the new PATH Transportation Hub and other Port Authority projects.

IV. CONCLUSION

The steps indicated above are an outline and a beginning for the Lower Manhattan Fraud Prevention Program. The Program will be elastic, adapting itself to address specific areas and needs. Future initiatives are under development. These include the development of a master database of all contractors, subcontractors, consultants and subconsultants working on construction projects in Lower Manhattan, and the development of standardized contract language to address fraud prevention concerns.

The ultimate goal is not only to have Lower Manhattan rebuilt, but to have it rebuilt with integrity.

This concludes my testimony. I would be glad to answer any questions that you have.

PREPARED STATEMENT OF MR. MICHAEL NESTOR, DIRECTOR, OFFICE OF INVESTIGATIONS, PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Chairman Rogers, Ranking Member Meek, and Members of the Subcommittee:

I. INTRODUCTION

Thank you for the opportunity to testify today before the Subcommittee on behalf of The Port Authority of New York & New Jersey ("Port Authority") and its Inspector General Robert E. Van Etten. I am here to discuss my office's role in fraud prevention and detection related to the funds expended by the Port Authority following the 9/11 disaster, as well as during the rebuilding that will take place, and has already commenced, at the World Trade Center Site.

II. SUMMARY

As you know, the Port Authority owns the World Trade Center Site and had occupied approximately twenty floors in the North Tower of the Trade Center, with my office situated on the 77th floor. When the first plane hit the North Tower on 9/11, I was with some of my staff in our office, just a few floors below impact. Having been able to evacuate minutes prior to the building collapse, the Office of Inspector General ("OIG") was extremely fortunate not to have lost any staff; however, as you know, the Port Authority lost thirty-seven (37) police officers and thirty-eight (38) civilian employees.

The OIG quickly found itself a new home and continued to fulfill our mission in detecting and preventing fraud, as we have been doing for the Port Authority since its establishment in 1992. With more vigor, purpose, and conviction we turned our attention to ensure that no one, and in particular any Port Authority employee or anyone doing business with the Port Authority, would take advantage of such a tragedy to enrich themselves.

I will describe for you a few investigations that the OIG conducted in which we found, unfortunately, individuals, including Port Authority employees, who took advantage of the disaster to enrich themselves. I will also explain the steps we are

taking to prevent fraud during the multi-billion dollar rebuilding of the World Trade Center Site over the next number of years.

III. POST 9/11 FRAUD INVESTIGATIONS

A. Financial Assistance Claims Fraud by Port Authority Employees

Acting on information we received from a Port Authority employee just a few weeks following the terrorist attack, the OIG commenced an investigation into allegations that a number of Port Authority employees filed claims of unemployment as the result of the 9/11 terrorist attacks with the American Red Cross. In fact, all Port Authority employees received their uninterrupted full salaries after 9/11, and were clearly not eligible to receive unemployment benefits due to the disaster.

Our investigation determined that twenty-three (23) employees fraudulently applied for benefits to both the American Red Cross and Safe Horizons by misrepresenting that they lost their jobs due to the disaster. As a result, they fraudulently received monetary aid from the American Red Cross and Safe Horizons for a total fraud of $32,980.

All twenty-three (23) employees were arrested and plead guilty to criminal larceny charges and either resigned or were terminated from their employment with the Port Authority.

B. Fraud Against the Port Authority and FEMA by New York Waterway

In August 2002, the OIG commenced a joint investigation with the United States Attorney for the Southern District of New York and the Inspector General for the Department of Homeland Security, into an allegation that NY Waterway, a New Jersey based ferry service provider, fraudulently billed the Port Authority and FEMA for ferry service provided following 9/11 as the result of damage to the Port Authority Trans–Hudson ("PATH") system.

As this is an ongoing investigation, I cannot comment any further on it. However, Mr. Chairman, upon completion of the investigation, which should be shortly, I will report back to the Subcommittee as I believe the results will be of interest to you.

C. Over-Billing Fraud by Contractor Responsible for the Maintenance and Cleaning of the World Trade Center Artifacts After the Attacks

In December 2004, Inspector General Robert E. Van Etten and Manhattan District Attorney Robert Morgenthau announced the indictment of seventeen (17) men and three companies on racketeering charges for defrauding the Port Authority and other public agencies involving asbestos abatement contract work. One aspect of the indictment involved a contract award covering the maintenance and cleaning of World Trade Center artifacts after the attacks. These artifacts, which consisted of, among other things, pieces of structural steel, crushed police and fire vehicles, and the antenna from One World Trade Center, were stored at JFK's Hangar 17.

The indictment charged a company for stealing money from the Port Authority on that contract through the inclusion of ghost employees on the payrolls. Normally, there were two to three ghost employees a day for the duration of the job, which lasted from February 2002 until February 2004. The amount stolen through the ghost employee scheme was more than $104,000. This scheme was carried out with the assistance of a corrupt Port Authority contract employee assigned to oversee this project on behalf of the Port Authority.

This contract employee was also charged in this indictment for removing samples of known asbestos contaminated materials from a different jobsite that the subject company was working on and substituting those samples for negative samples he had taken from the World Trade Center artifacts at Hangar 17, so that the company's Port Authority contract and his ability to receive further bribe payments from the company, would be extended.

This contract employee plead guilty to both schemes. The first in which he received $100 per day for allowing the ghost employees to be placed on the payroll; and the second where he switched contaminated asbestos samples. The case is still pending against the company.

This is another example of individuals taking advantage of disasters to enrich themselves, and why the Inspector General community must be vigilant in our pursuit of frauds following disasters.

We need to be proactive and creative when devising investigative ideas following disasters. This must be accomplished prior to a disaster so that investigative plans are already in place and ready to be implemented immediately after a disaster. Whether they are computer-matching programs to monitor the issuance of financial benefits, specialized programs to monitor contracts that are being awarded, or the review of payment requisitions for services, materials and goods—planning is critical to successfully detecting fraud and could be most helpful in deterring it as well.

IV. FRAUD PREVENTION PROGRAM FOR THE REBUILDING OF THE WORLD TRADE CENTER SITE

Equally important are our efforts to prevent and deter fraud following a disaster and during the rebuilding and recovery from a disaster. We are taking a proactive approach with the new World Trade Center Transportation HUB project, and that is to get involved early on. We believe strongly in our preventive role and that we should be at the table with the agency in such an important and costly project in developing fraud prevention programs and controls. We have found that the agency welcomes our "real time" input and advice when developing policies, procedures, and strategies as opposed to waiting until those developed fail and we come in afterwards and play the "I got you" game. Not here. Although we have formed a strong working relationship with the agency on this project, we feel that we have not compromised our independent role as the IG. We have found them to be most supportive of the recommendations and suggestions we make.

There will be a number of levels of oversight, and of a different variety, provided to the project by: the United States Department of Transportation's Federal Transit Administration; the Port Authority's Project Management staff; the Port Authority's hired Construction Manager; as well as the Port Authority's Internal Audit Department. The Audit Department, which is a component of the Inspector General's Office, will be auditing certain components of the project. Nevertheless, the Port Authority desired a comprehensive fraud prevention program for a project of this size and cost.

Our current fraud prevention program, which is fluid so that we can continue to enhance it, includes: an Integrity Awareness Program; a partnership with other Inspectors General and the Fraud Prevention Director at the Lower Manhattan Construction Command Center; vetting of contractors; background screening of contract employees and access control; and the use of Integrity Monitors. I will discuss each of these in more detail.

A. The Integrity Awareness Program

As the result of prior corruption investigations and prosecutions that the OIG conducted, and placing a high value on the preventive side of our mission, we have doubled our efforts in educating Port Authority employees on what their ethical obligations are as public employees and officials. Therefore, approximately two years ago, we rolled out a new Integrity Awareness Program that all Port Authority employees must attend. The Program includes a presentation that reviews for employees their responsibility to abide by the Port Authority's Ethical Standards and the consequences of their failure to do so. The Program explains the three primary reasons why people make bad decisions: financial pressure, rationalization and opportunity; emphasizes implications of these decisions: financial loss, embarrassment, incarceration and their responsibilities to the Port, co-workers and themselves. The Program explains, in laymen's terms, Internal Controls and why they are important. The objective is early prevention, diagnoses and resolution, thereby avoiding a potential loss of the Port's most valuable asset—its employees.

This Program has been modified so that it is geared to construction contractors as well. In May, we began to present this program to the Construction Manager and General Contractor for the Port Authority's New World Trade Center Transportation HUB. The presentation is being given to all supervisory staff from the field superintendent to the highest level individual on the project from each company. All contractors, including all lower-tiered subcontractors working on all Port Authority World Trade Center projects, will have to attend this presentation. The Port Authority contractors are the first to receive any such training at the Site.

B. Lower Manhattan Construction Integrity Team

The OIG has been a member of a group of Inspectors General that have oversight responsibility for agencies performing work in Lower Manhattan or who are funding projects in Lower Manhattan. This group, referred to as the Lower Manhattan Construction Integrity Team, formed in early 2004 in recognition of the risks posed by the huge amount of money that was going to be spent on the rebuilding program in Lower Manhattan, and the Inspectors General desire to get ahead of the curve in attempting to prevent fraud. The Fraud Prevention Director of the Lower Manhattan Construction Command Center, who is here today also to testify before the Subcommittee, chairs the Lower Manhattan Construction Integrity Team. We have worked extremely close with the Director in each of the areas of the Fraud Prevention Program that both he and I will describe today.

The Lower Manhattan Construction Command Center coordinates a Fraud Prevention Hotline for Lower Manhattan Construction Projects on behalf of the Lower Manhattan Construction Integrity Team; therefore, the Port Authority takes advantage of that hotline. Any fraud complaint that the Hotline receives pertaining to any

Port Authority project at the World Trade Center Site is forwarded to my office for investigation. While the OIG has its own Fraud Hotline, we support Lower Manhattan Construction Command Center's efforts in having one Fraud Hotline for all Lower Manhattan construction projects to make it easier for the public to know where to call with complaints.

C. Vetting of Contractors

In order to ensure that the Port Authority is contracting to do business at the World Trade Center Site only with responsible entities, or persons possessing the requisite honesty and integrity, the Port Authority and OIG are conducting integrity reviews of all contractors and subcontractors, including lower-tiered subcontractors receiving awards over a particular dollar threshold. To assist in the vetting, the IG community is consulted, coordinating these checks through the Lower Manhattan Construction Integrity Team to determine if there is any derogatory information that can be shared with the agency.

D. Contractor Employee Screening and Access Control

In an effort to tighten security at the World Trade Center Site, both to restrict access to those individuals that have criminal and/or terrorist related backgrounds unfavorable to the interests of the Port Authority, we have commenced performing screening on contractor employees seeking access to the Site. After passing the background screening process, personnel will go through a one-hour prerequisite training class on World Trade Center Site Rules and Regulations. The training class will be held on Site and will emphasize Site security and safety. After passing a test, personnel will be issued a new World Trace Center ID card providing them access to the Site.

I would just like to comment, without going into details for security reasons, that security at the Site during the construction phase will be extremely tight. The Port Authority has been working with the Senior Advisor to the Governor for Counter–Terrorism, James Kallstrom, and security consultants to ensure that all the necessary and appropriate precautions are taken.

E. Use of Integrity Monitors

Due to the enormous amount of money being spent in the rebuilding of the World Trade Center Site, the Port Authority has determined that additional measures are required to assist the OIG in its fraud prevention efforts.

Integrity Monitors are independent organizations that bring together various disciplines of expertise such as legal; auditing/accounting; investigative; engineering; environmental; and others. They have been used in New York City for the last ten plus years for contractors with integrity issues that were awarded contracts but required additional oversight.

Integrity Monitors were successfully used at Ground Zero during the cleanup to oversee the four Construction Managers. They were instrumental in minimizing and deterring fraud during that effort.

The Port Authority has also begun to use them successfully over the last year. We have used them a number of times where contractors with pending integrity matters (for example: pending investigations, indictments, etc.) were required to accept the services of an Integrity Monitor to be awarded the contract. The Monitor would be selected by the Port Authority, report to the OIG, but be paid for by the contractor.

Based upon our positive experience with the Monitors, and the positive results at Ground Zero during the cleanup, the Port Authority has decided to utilize them to assist the OIG in its efforts to prevent and detect fraud during the rebuilding at the World Trade Center Site.

The Integrity Monitor will:

- Conduct a review of all existing procedures and processes for fraud, corruption, cost abuse, safety, and environmental risks;
- Recommend and assist in implementing procedures designed to mitigate all risks identified in its initial review;
- Conduct forensic reviews of payment requisitions and supporting documentation, payments, change-orders; and
- Provide investigative services, as necessary and directed by my office, including: conduct in-field investigations and on-site monitoring of construction work; investigate and evaluate construction contractor use of the labor, compliance with collective bargaining agreements, and compliance with state and federal labor laws; review and monitor worker safety and environmental plans and procedures; compliance with M/WBE requirements and goals; and conduct investigations into illegal conduct by Port Authority contractor staff, and others.

We are in the final stages of selecting an Integrity Monitor for the new $2.2 billion World Trade Center Transportation HUB Project. There might be additional projects at the Site that we will require a Monitor as well.

V. CONCLUSION

The above investigations and fraud prevention measures exhibit the Port Authority's commitment to accomplishing its goals in rebuilding the World Trade Center Site with the utmost of integrity. We owe it to the citizens of New York City, the Metropolitan Region, the United States, and those that lost their lives on 9/11.

Thank you for the opportunity to present my testimony before your Subcommittee. This ends my testimony.

I would be happy to answer any questions.

APPENDIX E

ACRONYMS

BRG Business Recovery Grants
CDBG Community Development Block Grant
CDC Centers for Disease Control and Prevention
DDC New York City Department of Design and Construction
DHS U.S. Department of Homeland Security
DLW Disproportionate Loss of Workforce
DOD U.S. Department of Defense
DOE U.S.. Department of Energy
DOI New York City Department of Investigation
DOJ U.S. Department of Justice
DOL U.S. Department of Labor
DOT U.S. Department of Transportation
DUA Disaster Unemployment Assistance
EPA Environmental Protection Agency
ESDC Empire State Development Corporation
FBI Federal Bureau of Investigation
FEMA Federal Emergency Management Agency
FHWA Federal Highway Administration
FTA Federal Transit Administration
GAO Government Accountability Office
HHS U.S. Department of Health and Human Services
HUD U.S. Department of Housing and Urban Development
IFG Individual and Family Grants
IPSIG Independent Private Sector Inspector General
JCRP Job Creation and Retention Program
LMDC Lower Manhattan Development Corporation
LMRO Lower Manhattan Recovery Office
LMCCC Lower Manhattan Construction Command Center
MRA Mortgage and Rental Assistance
OIG Office of Inspector General
OSHA Occupational Safety and Health Administration
PATH Port Authority Trans-Hudson
Port Authority Port Authority of New York and New Jersey
RGP Residential Grant Program
SBA U.S. Small Business Administration
STAR Supplemental Terrorist Activity Relief
VENDEX New York City Vendor Information Exchange System
WTC WorId Trade Center