

W.J. "BILLY" TAUZIN, LOUISIANA  
RALPH M. HALL, TEXAS  
MICHAEL BILIRAKIS, FLORIDA  
FRED UFTON, MICHIGAN  
CLIFF STEARNS, FLORIDA  
PAUL E. GILLMOR, OHIO  
JAMES C. GREENWOOD, PENNSYLVANIA  
CHRISTOPHER COX, CALIFORNIA  
NATHAN DEAL, GEORGIA  
RICHARD BURR, NORTH CAROLINA  
ED WHITFIELD, KENTUCKY  
CHARLIE NORWOOD, GEORGIA  
BARBARA CUBIN, WYOMING  
JOHN SHIMKUS, ILLINOIS  
HEATHER WILSON, NEW MEXICO  
JOHN B. SHADEGG, ARIZONA  
CHARLES W. "CHIP" PICKERING, MISSISSIPPI  
VITO FOSSELLA, NEW YORK  
STEVE BUYER, INDIANA  
GEORGE RADANOVICH, CALIFORNIA  
CHARLES F. BASS, NEW HAMPSHIRE  
JOSEPH R. PITTS, PENNSYLVANIA  
MARY BONO, CALIFORNIA  
GREG WALDEN, OREGON  
LEE TERRY, NEBRASKA  
MIKE FERGUSON, NEW JERSEY  
MIKE ROGERS, MICHIGAN  
DARRELL E. ISSA, CALIFORNIA  
C.L. "BUTCH" OTTER, IDAHO  
JOHN SULLIVAN, OKLAHOMA

ONE HUNDRED EIGHTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

JOE BARTON, TEXAS  
CHAIRMAN

JOHN D. DINGELL, MICHIGAN  
HENRY A. WAXMAN, CALIFORNIA  
EDWARD J. MARKEY, MASSACHUSETTS  
RICK BOUCHER, VIRGINIA  
EDOLPHUS TOWNS, NEW YORK  
FRANK PALLONE, JR., NEW JERSEY  
SHERROD BROWN, OHIO  
BART GORDON, TENNESSEE  
PETER DEUTSCH, FLORIDA  
BOBBY L. RUSH, ILLINOIS  
ANNA G. ESHOO, CALIFORNIA  
BART STUFAC, MICHIGAN  
ELIOT L. ENGEL, NEW YORK  
ALBERT R. WYNN, MARYLAND  
GENE GREEN, TEXAS  
KAREN MCCARTHY, MISSOURI  
TED STRICKLAND, OHIO  
DIANA DEGETTE, COLORADO  
LOIS CAPPS, CALIFORNIA  
MICHAEL F. DOYLE, PENNSYLVANIA  
CHRISTOPHER JOHN, LOUISIANA  
TOM ALLEN, MAINE  
JIM DAVIS, FLORIDA  
JAN SCHAKOWSKY, ILLINOIS  
HILDA L. SOLIS, CALIFORNIA  
CHARLES A. GONZALEZ, TEXAS

BUD ALBRIGHT, STAFF DIRECTOR

November 22, 2004

The Honorable Elias Zerhouni, M.D.  
Director  
National Institutes of Health  
9000 Rockville Pike  
Bethesda, MD 20892

Dear Dr. Zerhouni:

Since March 2003, the Committee on Energy and Commerce has been examining the National Institutes of Health's (NIH) management and oversight of federally funded research. Recently, new information has emerged about the financial collapse of an NIH-funded research institute that raises questions about the Department of Health and Human Services (HHS) and NIH oversight of grant funds. In its October 1, 2004, issue, The Cancer Letter reported that the Institute for Cancer Prevention (IFCP), an organization that received the majority of its budget from the National Cancer Institute (NCI) in 2003, filed for bankruptcy protection on September 21, 2004. The article further states that IFCP had overdrawn \$5.7 million of federal grant funds from the HHS Payment Management System. That this apparent mismanagement of funds occurred is troubling given that IFCP had overdrawn its NCI accounts before in 1999, when it was required to pay back \$4 million. Nevertheless, NCI permitted IFCP to retain its Cancer Center Support Grant.

Despite that apparent financial mismanagement, NCI reportedly provided \$14 million of IFCP's \$18.9 million budget last year. Nevertheless it appears that IFCP continued to engage in questionable financial practices. For example, IFCP spent \$35,000 per month to lease a 14,500-square-foot suite in a building on Fifth Avenue in Manhattan, when the organization reportedly already had sufficient office space on its Valhalla, New York, campus.

In addition, an October 10, 2004, article in the New York Post noted that IFCP's president, Dr. Daniel Nixon, was paid more than \$400,000 annually and had a full-time

chauffeur. We note that IFCP has also admitted that \$350,000 in pension contributions by IFCP employees was diverted for other expenses.

We are troubled that federal taxpayer funds reportedly have been used to subsidize unnecessary and extravagant work environments for IFCP officers and employees such as Dr. Nixon, while other IFCP employees' pension contributions were diverted. We are also concerned that an organization that failed to maintain fiscal responsibility of taxpayer funds in the past was allowed to overdraw federal grant funds from the HHS Payment Management System.

Given these concerns, we are requesting further information about the IFCP matter to review the NIH's handling of this particular situation, and whether the overdrawing of NIH-grant accounts represents a systemic problem in the HHS Payment Management System. Pursuant to Rules X and XI of the U.S. House of Representatives, please provide the following by Monday, December 6, 2004:

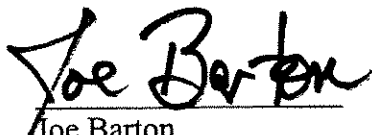
- 1) All records relating to grants provided by NIH to IFCP. Include information relating to the \$4 million that IFCP was required to repay in 1999.
- 2) The article in The Cancer Letter stated that the HHS Inspector General conducted an audit that concluded that IFCP had overdrawn \$5.7 million. What prompted this audit? Once the audit was concluded, how did NIH proceed? Please provide a copy of the audit.
- 3) A description of the process by which research organizations withdraw money from the HHS Payment Management System. Are there safeguards to prevent organizations from overdrawing funds from the system?
- 4) A list of all organizations that have overdrawn funds from the HHS Payment Management System since January 1, 1995. Include dates funds were overdrawn, the amount of funds that were overdrawn, the amount of funds provided to the organizations in any subsequent grants, and a description of steps NIH took in each case to prevent this abuse from reoccurring.
- 5) A description of the processes by which NIH guarantees that grantees spend federal grant funds appropriately. Specifically, what due diligence does NIH perform to guarantee that public funds are being spent for the purposes of the grant and not unreasonable overhead costs, such as extravagant office space? What requirements does NIH impose on grantees as part of the grant application process regarding obligations to use the funds properly?
- 6) What audit processes does NIH have in place to review subsequent adherence to these policies? What percentage of grantees are reviewed on an annual basis? Is compliance by self-certification alone?

- 7) What penalties exist for grantees that fail to spend federal grant funds appropriately? How often has NIH imposed these penalties on grantees since January 1, 1995? Have any grantees ever been debarred from receiving NIH grants as a result of inappropriate or wasteful spending of NIH grants funds? Provide a list of grantees that have been penalized, as well as the dates and reasons for the penalty.

Please note that, for the purpose of responding to these requests, the terms "records" and "relating" should be interpreted in accordance with the attachment to this letter.

Thank you for your assistance. If you have any questions, please contact Casey Hemard, Majority Committee staff, at (202) 226-2424, or David Nelson, Minority Committee staff, at (202) 226-3400.

Sincerely,

  
Joe Barton  
Chairman

  
John D. Dingell  
Ranking Member

cc: The Honorable Peter Deutsch, Ranking Member  
Subcommittee on Oversight and Investigations

Attachment

## ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.