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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
FACSIMILE (202) 225-4784
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SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION AND PROCUREMENT

January 23, 2008

The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue, N.W.
Washington, DC 20201

Dear Secretary Leavitt:

The Subcommittee on Government Management, Organization and Procurement, Committee on Oversight and Government Reform, is investigating the handling of contracts to manage health care for persons suffering from 9/11-related illnesses.

As you know, the Subcommittee requested that you or your designee testify at a hearing yesterday to review the cancellation in December 2007 of an HHS request for proposals to coordinate medical and pharmacy care for 9/11 responders. HHS was asked to respond to questions about the handling of this contract and HHS' plans for other 9/11 health programs. These questions were first propounded in a December 14, 2007 letter to you from Senators Clinton and Schumer and Representatives Maloney, Nadler, and Fossella, which is attached.

Regrettably, HHS declined the request to testify at yesterday's hearing and has not responded to the December 14, 2007 letter. Moreover, HHS is not in compliance with 31 U.S.C. § 720, which requires that agencies submit a written statement to the Committee describing action taken in response to GAO recommendations within 60 days. The Committee has received no response to GAO recommendations to HHS in the report titled *September 11: HHS Needs to Ensure the Availability of Health Screening and Monitoring of All Responders* (GAO-07-892) published on July 23, 2007. As a result, the Subcommittee has not received the information necessary to conduct effective oversight of contracts related to 9/11 healthcare.

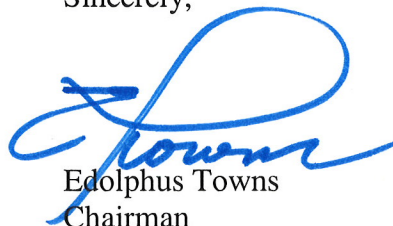
To assist the Subcommittee in its oversight of the management and contracting for health care for 9/11 responders, please provide the Subcommittee with the following documents no later than February 8, 2008:

- 1) All documents related to the decision to cancel Solicitation Number 2007-N-09656, entitled "World Trade Center Business Process Center," including but not limited to:
 - a) documents sufficient to show who made the final decision to cancel the solicitation;
 - b) all documents describing reasons for the cancellation of the solicitation;
 - c) all documents regarding cost estimates for the solicitation;
 - d) all documents indicating that potential bidders were confused by the requirements of the solicitation;
 - e) all documents comprising briefing points, talking points, or similar documents used to respond to inquiries from the public and the press about the cancellation of the solicitation, and all documents related to the development of such documents;
 - f) all documents evidencing communication with persons outside of the Department of Health and Human Services regarding the cancellation of the solicitation
- 2) All documents regarding implementation of the recommendations included in GAO Report 07-892, *September 11: HHS Needs to Ensure the Availability of Health Screening and Monitoring of All Responders*.
- 3) All documents related to termination or cancellation of funding for the World Trade Center Medical Monitoring and Treatment Program.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives, with broad investigative jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information about how to respond to the Subcommittee's request.

If you have any questions, please contact Mike McCarthy of the Subcommittee staff at (202) 225-3741.

Sincerely,



Edolphus Towns
Chairman

Subcommittee on Government Management,
Organization, and Procurement

Enclosures

cc: Rep. Brian Bilbray
Ranking Minority Member

Rep. Carolyn Maloney

Rep. Jerrold Nadler

Rep. Vito Fossella

Senator Hillary Clinton

Senator Charles Schumer

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Responding to Oversight Committee Document Requests

In responding to the document request from the Committee on Oversight and Government Reform, please apply the instructions and definitions set forth below.

Instructions

1. In complying with the request, you should produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. When you produce documents, you should identify the paragraph or clause in the Committee's request to which the documents respond.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.

9. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information.
10. The Committee accepts electronic documents in lieu of paper productions. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page TIF files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates Numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
11. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
12. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject, and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
13. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
14. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
15. All documents should be bates-stamped sequentially and produced sequentially. In the cover letter, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 2157 of the Rayburn House Office Building, and the minority set should be delivered to the minority staff in Room B350A in the Rayburn House Office Building. You should consult with committee staff regarding the method of delivery prior to sending any materials.
17. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term “communication” means each manner of means of disclosure or exchange of information, regardless of means utilized, where oral, electronic by document or otherwise, and whether fact-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
4. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, division, departments, joint ventures,

proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms “referring” or “relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

Congress of the United States

Washington, DC 20515

December 14, 2007

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Leavitt:

We are very concerned that the Department of Health and Human Services has terminated the Request for Contracts to start a World Trade Center (WTC) Business Processing Center which would, among other tasks, administer the WTC Medical Monitoring and Treatment Program for responders who live outside the New York metropolitan area.

Over six years after the attacks of 9/11, the health needs of all those who were exposed to the toxins of Ground Zero are still not being met. A series of grants set up the WTC Medical Monitoring and Treatment program to provide care for WTC rescue, recovery and cleanup workers in the New York metropolitan area. However, there is still no comprehensive federal program to care for the thousands of people currently living outside the metropolitan region who were exposed to the toxins of Ground Zero. These are people who came from every state in the nation and nearly every Congressional District in our country to help with the recovery efforts. In addition, a national program would serve those responders who were residents of the New York metropolitan area on 9/11, but have since moved or retired to other areas.

The purpose of putting forth the Request for Contracts for the Business Process Center was to establish a coordinated, systematic mechanism for the treatment of these responders before existing funding streams for national treatment ends, which is expected to happen at some point next year. Without this Request, the process of establishing federally funded treatment opportunities for responders outside of the New York metropolitan area has been halted, and the process of transitioning from existing treatment to a coordinated program has ended. Canceling the request for contracts essentially puts an end to the hope that they can access the care they need on a long-term basis in their area, without having to travel to New York.

We have all been strong advocates for the treatment and monitoring programs that help those that responded to 9/11 get the essential care and treatment for the lingering health impacts resulting from the exposures they faced in their work. But we also strongly believe that access to this care should not be based upon where you live. Responders and rescue workers came from all over the nation to address the crisis faced in New York, and we should in turn make sure that treatment services are available in locations across the nation. As a result, we are surprised and disheartened that HHS summarily stopped

the contracting process for a WTC Business Processing Center, particularly because of the effort that had been carried out on this issue by the National Institute for Occupational Safety and Health.

In addition to establishing a mechanism for treatment, it is important to note that the Business Processing Center would allow data on injuries and costs to be compiled in a timelier manner. Such center would also help to coordinate data collection among entities receiving federal funding for 9/11 monitoring and treatment.

With this in mind, we respectfully request to know:

- 1) Why did HHS cancel the Request for Contracts for the WTC Business Processing Center?
- 2) Who made the decision and who is ultimately responsible for the decision?
- 3) When will a new request be issued?
- 4) If you do not plan to issue a new request, why not?
- 5) What alternatives do you plan in order to deliver the services these responders need across the country?
- 6) Generally, what are the changes you are contemplating for the WTC Medical Monitoring and Treatment program for WTC responders?
- 7) Specifically, how do you intend to collect and improve the data that lawmakers need in order to move forward with caring for WTC Responders, both in New York and around the country?

Because of the urgency of this matter, we would like a response before Friday, December 21 at 5:00pm.

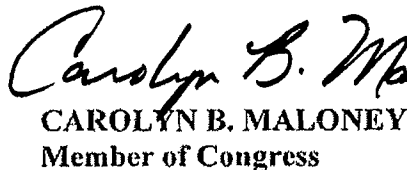
Sincerely,



CHARLES E. SCHUMER
United States Senator



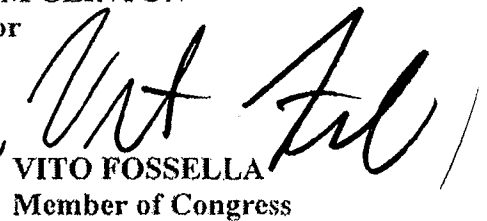
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United States Senator



CAROLYN B. MALONEY
Member of Congress



JERROLD NADLER
Member of Congress



VITO FOSSELLA
Member of Congress