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

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A STAFF REPORT

SUBCOMMITTEE ON MANAGEMENT,  
INTEGRATION, AND OVERSIGHT

OF THE

COMMITTEE ON HOMELAND SECURITY

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*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.<sup>45</sup> 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.<sup>46</sup> 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.

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<sup>45</sup> *Id.*

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



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.<sup>47</sup>

Private integrity monitors had never previously been deployed on such a large scale<sup>48</sup> 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,<sup>49</sup> 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.<sup>50</sup>

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.<sup>51</sup> 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

<sup>47</sup> *Id.*

<sup>48</sup> Gill Hearn Briefing, *supra* note 35.

<sup>49</sup> Subcommittee Staff Briefing with Mr. Neil Getnick et al., *Independent Private Sector Inspectors General*, Mar. 21, 2006, in *New York, New York*.

<sup>50</sup> Gill Hearn Written Testimony, *supra* note 36.

<sup>51</sup> 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.<sup>52</sup> 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.<sup>53</sup>

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."<sup>54</sup>

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,<sup>55</sup> though Mr. Joe Picciano, Deputy Director for the FEMA regional office that includes New York, testified before the Sub-

<sup>52</sup> 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.

<sup>53</sup> 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).

<sup>54</sup> 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).

<sup>55</sup> 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 \_\_\_\_\_ of their work, but also said most photographers dealing with FEMA do not give up \_\_\_\_\_ of their photographs. Subcommittee Staff briefing with Mr. Adrian Sevier, Acting \_\_\_\_\_ Counsel, Federal Emergency Management Agency, Mar. 24, 2006, in Washington,