

Congress of the United States

Washington, DC 20515

March 5, 2004

The Honorable Joshua B. Bolten
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Bolten,

We are writing regarding the Federal Government's aid package to New York following the attacks of September 11, 2001. In keeping with the President's personal September 2001 commitment to provide at least \$20 billion in aid for New York, Congress quickly passed and the President signed into law PL 107-38. It dedicated no less than half of the \$40 billion for recovery efforts of New York, Pennsylvania, and Northern Virginia. As a trade-off to the fast paced and wide authority with which money was appropriated, Congress required your office to submit quarterly reports on the status of this aid. In the first two years following the attacks, six quarterly reports have been released and posted on your website. The last quarterly report was posted on May 9, 2003 and reflects amounts as of February 28, 2003. To our knowledge, no report on the expenditures and disbursement of the funds have been made available since – despite the requirement to do so and despite the fact that funds have been disbursed since your last quarterly report.

This funding split and reporting requirement is summarized in OMB bulletin 02-01, that was released on October 8, 2001, "The ERF (Emergency Relief Fund) specifies that 'not less than one-half ... shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania.' The report will separately identify the cumulative amounts of funds provided to the three States." A copy of this bulletin, which is enclosed, can still be found on your website.¹

As you know, after Congress passed PL 107-38 in the days after the President's commitment, there was disagreement about how quickly the full \$20 billion in appropriated funds should be made available to expedite the recovery. Your predecessor, Mitchell Daniels, Jr., and others in the Administration felt that there was time for the money to be appropriated

¹ OMB Bulletin 02-01 regarding Emergency Response Fund
<http://www.whitehouse.gov/omb/bulletins/b02-01.html>

over a longer period, while many of us who live in New York thought that making the funds available quickly was critical due to the impact of 9/11 on New York's economy. Although we understood that any aid package of this size would take time to get to those in need, we felt that having the funds in place would speed the recovery that New York needs.

On March 7, 2002, the President, after much prodding by New Yorkers, revised the Administration's policy of delaying the promised aid and announced the delivery of the total aid package for New York of \$21.4 billion, fulfilling his September promise.²

This was gratefully received by New Yorkers; but since the announcement, questions have been raised about the speed of the assistance getting to New Yorkers. Some of the questions include when and whether the entire aid package the President announced on March 7th will actually be provided, and most importantly, given the documented impact to New York of the attacks, whether \$20 billion has become the ceiling, rather than a floor of aid to New York. Additionally a lack of a separately identified cumulative accounting of these funds by OMB have led to many questions about the exact amounts of aid that New York has received from the ERF and whether "not less than one-half" of the ERF is actually available for these three states.

In addition to your requirement to issue quarterly reports on disbursed funds we have concerns that some assistance programs were, at least initially, not managed in such a way as to be fully responsive to the needs of New Yorkers, including application deadlines that passed before sufficient outreach could inform eligible persons of the availability of the assistance.

Lack of an accounting and conflicting information surrounding these funds have prompted fears that the President's commitment to New York is slowly shrinking. For example, when the President originally made his announcement on March 7th, the White House stated that the estimated value of the Liberty Tax package component that the President was proposing was \$5.5 billion. Sometime between the announcement and early September, the estimated value of that package was reduced to only \$5 billion since apparently it was discovered that OMB used the wrong estimate for the value of the tax package, using an earlier version of the legislation that was no longer under consideration.³ After enactment of the President's package, the City of New York commissioned a study on the value of the Tax Credit package by the accounting firm Price Waterhouse Coopers and they found that part of the aid would be worth only \$3.8 billion, not the

² The White House, *Handout President's \$21.4 Billion New York Funding Package*. (Washington, D.C.: March 7, 2002). <http://www.house.gov/maloney/issues/Sept11/TheChart/1.pdf>

³ The Congressional Research Service, *Memo Liberty Zone Tax Benefits*. (Washington, D.C.: October 31, 2002) <http://www.house.gov/maloney/issues/Sept11/110102CRSLibertyZones.pdf>

\$5.5 billion or even the revised \$5 billion promised.⁴

Additionally, in November of 2002 the Internal Revenue Service, in a surprise announcement that they had apparently been secretly contemplating for months, disclosed that they had determined they would subject to Federal Tax certain grants to businesses and individuals that had been provided through a Community Development Block Grant through HUD. The Joint Committee on Taxation estimates that this will cost the victims of 9/11 \$268 million.⁵ In total this is a potential loss of close to \$2 billion of what the President promised on March 7th 2002.⁶

As you can imagine the status of the aid to New York is important to us and our constituents. Representative Maloney's office has prepared two reports using a variety of sources in attempt to have the fullest accounting possible. The first report was completed on December 17, 2002 and was updated last September. Both of these reports can be found at <http://www.house.gov/maloney/issues/Sept11/chart.html>. Following the first report in December we, along with a number of our colleagues, sent a letter and the report to your predecessor, Mitchell Daniels, Jr. Because of the resistance of your predecessor to provide New York with aid, it had given us doubts that we will get the full amount of funds promised. To date, no response has been received and many more questions about the status of the aid have arisen.

Attached, please find the most recent report that Mrs. Maloney's office released and the letter that was sent to the President. If the report is correct, New York will be short several billion dollars from what was pledged and only a fraction of the aid has actually reached New York.

In September, the Comptroller of the City of New York also released a report on the status of Federal Disaster Aid to the City and his report has a number of troubling findings. As part of the Comptroller's report he question whether \$3.7 billion in aid promised to New York City after 9/11 will ever be realized. At the end of the Executive Summary the report includes the following paragraph:

⁴ PriceWaterhouseCoopers , Report *New York Liberty Zone Tax Provisions Job Creation and Workers Assistance Act of 2002:Revenue Estimates and Tax Benefit Analysis*. (New York, NY: October 22, 2004) http://www.house.gov/maloney/issues/Sept11/102202_NYLZ_Report.pdf

⁵ Congress of the United States Joint Committee on Taxation, Revenue estimate on the exclusion of certain 9/11 grants from federal taxation. (Washington, D.C.: June 17, 2003) http://www.house.gov/maloney/issues/Sept11/061703_Tax.pdf

⁶ Congresswoman Carolyn Maloney and Speaker of the New York City Council Gifford Miller, Letter to the President (New York, NY September 3, 2003) <http://www.house.gov/maloney/issues/Sept11/2yearslater/MaloneyMillerLettertoPOTUS.pdf>

“The report is based on data from the City’s financial management system and a variety of publicly available sources. While these sources are the best available, the amount of accessible and timely information is inadequate. Therefore, the Comptroller’s Office also recommends that the Federal government provide a unified and systematic accounting of both the funds pledged and expended, so that any shortfall can be identified and reprogrammed.”

We could not agree with the Comptroller more. We have also found that the amount of accessible and timely information is definitely inadequate. Therefore a unified and systematic accounting by your office of both the funds pledged and expended is needed to insure that the President’s commitment to New York is met. According to your agency’s bulletin this accounting is required.

In regards to the quarterly reports, OMB’s latest quarterly report states that the Federal Emergency Management Agency (FEMA) has distributed \$3.021 billion dollars with some of the assistance going to Salt Lake City for urban search and rescue teams during the Winter Olympics. Additionally, the latest report shows FEMA with a budget authority of \$5.572 billion, far short of its promised \$8.8 billion in assistance. With such a discrepancy between promised aid and obligated aid as well as documented problems with some assistance programs, it is hard not to question how many victims of 9/11 needed aid but did not receive it. What is missing from the accounting of the FEMA account, and from the accounting as a whole, is how much assistance has been authorized and obligated broken down into separate accounts for New York, Pennsylvania and Northern Virginia. Because of this, Mr. Director, we have a series of questions that we would like you to answer:

1. When will your office release a report that “separately identify the cumulative amounts of funds provided to the three States” as required by law?
2. Do you agree with the Price Waterhouse Coopers accounting of the Liberty Tax package of \$3.8 billion?
3. What is your office doing to make up the gap of \$268 million that victims of 9/11 are paying in taxes on the federal aid that they received?
4. When will your office release and updated quarterly report? The report that is on your website was last updated in May using figures from February. If it was to be released

every quarter, it is now almost a year late.

5. Why does the budget authority in the quarterly report not add up to “not less than one-half (shall) be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania”?

6. Why was \$367 million provided for the Department of Agriculture for such things as improvements to the nutritional level and health of nutritionally at-risk, low income pregnant, breastfeeding and postpartum women, infants and children up to their fifth birthday?

7. Why did the Department of the Interior receive over \$92 million dollars in funds for such things as “operational expenses” and reclamation of “water and related resources”?

8. Why did the Department of Transportation spend \$50 million dollars to air carriers in subsidies to provide airline service to small communities?

9. Why was over a billion of dollars transferred directly from FEMA to the Department of Transportation to fund the Transportation Security Administration?

10. Why does FEMA repeatedly announce that they will provide \$8.8 billion dollars in disaster relief to New York yet their budget authority is only \$5.57 billion?

11. Why was funds from the FEMA account used to support urban search and rescue teams at the Winter Olympics in Salt Lake City, Utah? How much of these funds were used?

12. Why did the Kennedy Center for the Performing Arts receive \$4.3 million for “operations and maintenance”?


13. In the FY2004 Omnibus Appropriations Bill there was a \$100 million rescission for each of the Justice and Commerce unobligated balances, with no exemptions. Although each department could use its discretion in picking what programs to cut, Commerce

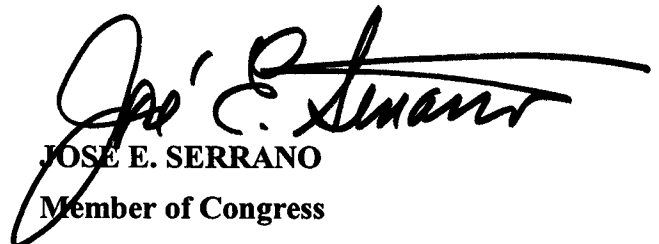
simply chose to do it pro-rata. Unfortunately, as part of Commerce's unobligated funds was the remaining balance of approximately \$2.3 million appropriated for certain public broadcasters after 9/11. With Commerce's decision to process this rescission pro-rata, New York City public broadcasters face a potential reduction of nearly \$1 million in reimbursements for expenses directly related to 9/11. This puts into jeopardy funds that are critical to restoring full broadcast capabilities to New York City's public broadcasters. What will be done to ensure that this does not occur to ensure that the President's commitment to New York will be met?


We want to make clear that we sincerely appreciate the help that the President, the Congress, and the country have given to New York to help us recover. We will continue to work to make sure that New Yorkers do not suffer any more than they already have from this attack. Given the severe budget problems of both our State and City, much of which is a direct result of the loss of revenues due to the attack, we must continue to point out the tremendous problems that New York is still facing.

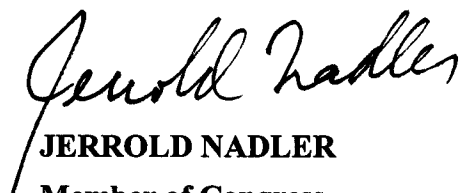
Thank you in advance for your comments and assistance. Should you have any questions, please contact Edward Mills with Representative Maloney's staff at 202-225-7944.

Sincerely,


CAROLYN B. MALONEY
Member of Congress


JOSE E. SERRANO
Member of Congress


MAURICE D. HINCHEY
Member of Congress


JERROLD NADLER
Member of Congress