

Transcript: “Podcast: Department of Justice’s Administration of the September 11th Victim Compensation Fund,” August 2017

Stephanie Logan (SL): Welcome to the latest podcast from the Department of Justice Office of the Inspector General. My name is Stephanie Logan and I am a Public Affairs Specialist in our office.

I’m here today with Emily, a Program Manager and Louis, an Assistant Regional Audit Manager both from our Audit Division. We’ll be discussing the findings of a new report on the Department of Justice’s Administration of the September 11th Victim Compensation Fund. Thanks to you both, Emily and Louis for joining me today.

Emily (E): Thank you for having us.

SL: Let me start by asking, what is the September 11th Victim Compensation Fund? How was it established, and what does it do?

E: Sure. So, the Fund was established shortly after the September 11th attacks back in 2001. It provided compensation for victims and for their families. Under the original legislation, the Fund ended in 2004. Then, in 2010, Congress reopened the Fund and extended the eligibility. So now, people who removed debris or were present at the sites of the September 11th attacks can file a claim and receive compensation. The Fund was reauthorized in 2015 and victims can file claims through 2020. The total amount available for compensation is over \$7 billion.

SL: And who administers the Fund?

Louis (L): Well, the Fund is within the Department of Justice. It’s overseen by a Special Master, who is designated by the Attorney General. The Special Master has final authority to make all eligibility decisions and compensate the victims.

When the Fund was reopened, there was no money set aside for operating the Fund, like assessing claims and handling payments. So the Civil Division and Justice Management Division stepped in to help support operations as well.

SL: So, what does your report evaluate?

L: We evaluated how the Special Master administered the Fund and also how the Civil Division and Justice Management Division supported the Fund’s operations from when it was reopened in 2011 through February 2016.

SL: Okay, so the findings of your report fall into two broad categories – first, the Fund’s claims management process, which is the process for assessing claims and awarding compensation to victims. And second, awarding and oversight of contracts to help support the operations of the Fund. So let’s talk about each of these in turn. Can you start by describing what you found relating to the claims management process?

Transcript: “Podcast: Department of Justice’s Administration of the September 11th Victim Compensation Fund,” August 2017

L: Sure. We found that the Fund did not consistently maintain support of eligibility and compensation decisions in its database.

For eligibility decisions, the Fund must verify that claimants meet the criteria for compensation. These are things like the claimants registered by the statutory deadlines, were present at the time or immediately after the attacks, have a verified condition resulting from the terror attacks, and have dismissed or settled all September 11th related lawsuits. Even though the Fund should make eligibility decisions based on these criteria, we found that some claims were missing proof of one or more of the criteria.

E: And I can speak more about the compensation decisions. For those decisions, we found that the Fund didn’t consistently document the rationale for award offsets. An award offset reduces an award to account for other financial recoveries which the claimant may have previously received. For example, some claimants may have been awarded damages for their September 11th related injuries. The Fund should have considered those damages when calculating the compensation. But the Fund didn’t consistently document the rationales for award offsets, and that posed a risk that the Fund paid too much or too little money to some of the claimants.

There is also a process for expediting awards for deceased victims whose representatives reported extreme financial hardships. Unfortunately, we did identify systemic weaknesses in the process for expediting these types of claims. This resulted in some claimants having to file amended claims to get the full amount that they were entitled to. It also risked that some claimants wouldn’t be fully compensated through the expedited process.

SL: Has the Fund done anything to address the issues you found in the claims management process?

E: Yes, the Fund has definitely made some changes. They has provided evidence to our office that it has prioritized the requirement that staff maintain complete files to support eligibility as well as the claim decisions. Also, the Fund has provided evidence that they revised guidance on the two compensation issues, which we just talked about.

SL: Now let’s talk about the second category of your findings – the awarding and oversight of contracts to help support the operations of the Fund. Walk me through your findings.

L: Sure. So as I mentioned earlier, when Congress reopened the Fund, there was no money set aside for operations. Both the Civil Division and the Justice Management Division stepped in to help support the Fund’s operations. This included awarding and overseeing several contracts for services that the Fund needed to help review claims. We didn’t identify any discrepancies in how the Justice Management Division awarded and monitored the Fund’s contracts. However, we did identify some issues, specifically regarding the Civil Division’s contract support and monitoring.

SL: What kinds of issues did you identify?

Transcript: “Podcast: Department of Justice’s Administration of the September 11th Victim Compensation Fund,” August 2017

L: Well, between 2011 and 2016, the Civil Division issued 18 non-competitive neutral services contracts. Typically, these kinds of contracts are only awarded in certain circumstances, which we elaborate in the report. We found that these and other contracts lacked sufficient documentation of the justification for awarding without competition.

Further, those 18 non-competitive neutral services contracts were awarded to the private law firms where the Deputy Special Master worked. I’ll tell you some of the circumstances regarding those contracts. To administer the Fund, both the Special Master and the Deputy Special Master worked as part-time uncompensated DOJ employees as Special Government Employees. At the same time, they both continued to practice law as partners in their respective law firms.

The Fund requested that the Civil Division issue non-competitive contracts to the firms of the Deputy Special Master for legal services and administrative support from the employees who worked on the original Fund in 2001. The Deputy Special Master signed the contracts on behalf of her law firms, and the Civil Division relied on the Fund staff to develop the requirements of these contracts.

SL: Did the review team have concerns with this practice?

E: Yes, we found that the justification for using non-competitive contracts lacked sufficient detail and that there was no sufficient administrative oversight over the contracts. We were also concerned that the contracts with the Deputy Special Master’s firms might create an appearance of a conflict of interest. Both the Civil Division and the Fund recognized this issue as well, and they asked the Justice Management Division for guidance. However, we didn’t find any evidence that the Justice Management Division or the Civil Division appropriately addressed or resolved the question. So this led us to recommend the Civil Division ensure that it reviews contracts issued in relation to Special Government Employees or their businesses for potential or actual conflicts of interest.

SL: Did you have any other findings related to the awarding and oversight of contracts?

E: Yes, we definitely did. We noticed that the Civil Division did not effectively monitor some of these contracts. We go over all of these issues in much greater detail in our report.

SL: And finally, can you briefly tell me about the recommendations that the report makes?

L: The OIG report makes 7 recommendations. Three recommendations to the Fund regarding the claim management process, which we issued closed, and four to the Civil Division, regarding oversight and support of the Fund’s operation.

SL: Louis, Emily, thank you so much for speaking with me today.

Transcript: “Podcast: Department of Justice’s Administration of the September 11th Victim Compensation Fund,” August 2017

L: Thank you, Stephanie. It was a pleasure.

SL: That’s it for today. To read the report, please visit our website, oig.justice.gov. Thanks for joining us.

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