

NYC DEP

Fax: 212-669-4023

** Transmit Conf. Report **

P.1

Sep 6 2002 14:54

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September 6, 2002



Department of
Environmental
Protection

59-17 Junction Boulevard
Rushing, New York
11225-1108

Christopher O. Ward
Commissioner

Hon. Jane Kenny
Regional Administrator
United States Environmental Protection
Agency, Region II
290 Broadway
New York, New York 10007

Re: United States Environmental Protection Agency (USEPA) /
City of New York (City) / New York City Department of
Environmental Protection (DEP) / USEPA World Trade
Center Indoor Dust Cleaning Program (Program)

ane:

As we discussed yesterday, in order to expedite moving ahead with program, we are asking the selected contractors to provide additional security to protect the interests of USEPA and the City against claims arising from alleged theft, damage or destruction of personal property of contractor personnel. In addition to maintaining an insurance policy against employee dishonesty, the contractors will be required to authorize USEPA to deduct and retain additional retainage (above and beyond the standard 10% contract retainage) as security for the contractors' obligation to pay and satisfy all such claims. In the case of air monitoring contractors, the additional retainage will total \$75,000 per contractor; in the case of cleaning contractors, it will total \$100,000 per contractor. We have been advised by Brad Gair of the Federal Emergency Management Agency (FEMA) that he concurs in this approach.

In order to implement these measures, we agree that all claims for theft, damage or destruction of personal property asserted by building owners/apartment owners with respect to work under the Program should be directed to the contractor with a copy to DEP (Attention: Virginia Smyth), and we agree that USEPA's project completion form to be executed by individual building owners/apartment owners upon completion of work should instruct the owner to forward any such claims

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The City of New York
Department of Environmental Protection

59-17 Junction Boulevard
 Flushing, New York
 11355-1008

Christopher D. Wacht
Commissioner

September 6, 2002

Hon. Jane Kenny
 Regional Administrator
 United States Environmental Protection
 Agency, Region II
 290 Broadway
 New York, New York 10007

Re: United States Environmental Protection Agency (USEPA) /
 City of New York (City) / New York City Department of
 Environmental Protection (DEP) / USEPA World Trade
 Center Indoor Dust Cleaning Program (Program)

Dear Jane:

As we discussed yesterday, in order to expedite moving ahead with the Program, we are asking the selected contractors to provide additional security to protect the interests of USEPA and the City against claims stemming from alleged theft, damage or destruction of personal property by contractor personnel. In addition to maintaining an insurance policy against employee dishonesty, the contractors will be required to authorize DEP to deduct and retain additional retainage (above and beyond the standard 10% contract retainage) as security for the contractors' obligation to pay and satisfy all such claims. In the case of air monitoring contractors, the additional retainage will total \$75,000 per contractor; in the case of cleaning contractors, it will total \$100,000 per contractor. We have been advised by Brad Gair of the Federal Emergency Management Agency (FEMA) that he concurs in this approach.

In order to implement these measures, we agree that all claims for theft, damage or destruction of personal property asserted by building owners/apartment owners with respect to work under the Program should be directed to the contractor with a copy to DEP (Attention: Virginia Smyth), and we agree that USEPA's project completion form to be executed by individual building owners/apartment owners upon completion of work should instruct the owner to forward any such claims