

## Consumers for Dental Choice

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December 9, 2004

Elias H. Zerhouni, M.D., Director  
National Institutes of Health

Re: Case 2004-99: Investigation of no-bid NIDCR/FDA contract with consultants LSRO Inc., and BETAH Associates, Inc.

Dear Dr. Zerhouni:

In an end run of NIH's scientific principles, a consultant handpicked by the National Institute of Dental and Craniofacial Research (NIDCR) has prematurely released a report – while you are conducting an investigation of whether NIDCR acted illegally in procuring the contract! It is a deception on American families for this government report to issue claiming a product is safe without also disclosing that an investigation is being conducted about the legality of that report and the contract underpinning it.

On July 30 you wrote me to announce you were investigating NIDCR and FDA's deal with two handpicked consultants, BETAH and LSRO, regarding the enormously important issue of the health risks of mercury amalgam fillings. The investigation, Case No. 2004-99, began at once. Your government relations department reported to Capitol Hill yesterday that it is ongoing. Indeed, as you advised me in that letter, "I will share with you the outcome of the investigation," and you further advised me on October 5 that the investigation is ongoing, I too recognize (having not been notified further) that your investigation is not completed.

The contract by NIDCR is a case study of public corruption: (1) a contract with no bid and no RFP, 2) NIDCR writing the handpicked consultant, LSRO Inc., in advance to explain the results it desired, (3) finding a meetings coordinator, BETAH Associates Inc., to become the strawperson contractor, a company plainly unqualified to conduct scientific research, (4) dictating that BETAH appoint LSRO as subcontractor (another violation of rules), so that LSRO could be hired secretly and without a bid; (5) covering up this legerdemain by falsely terming the work a "conference" instead of a study (so that conference coordinator BETAH could be shoehorned in as contractor). On October 26, we sent you a report of **sixteen issues needing to be investigated** re this contract and in the contract practices of NIDCR; attached.

Like you, the Subcommittee on Wellness and Human Rights of the House Government Reform Committee began an investigation of this contract. Chairman Dan Burton and Ranking Member Diane Watson wrote NIDCR Director Lawrence Tabak for an explanation. Continuing the cover-up, Tabak provided false and deceptive testimony. He testified that BETAH "identified" LSRO. But in reality, it was Tabak's special assistant Norman Braveman who identified LSRO, whereupon NIDCR and LSRO began negotiating a contract. Tabak was cc'd on the correspondence between the two. It was only when they were apprised that they could not, without a bid, hire LSRO that they enlisted BETAH – far from "identifying" LSRO, BETAH entered the contract picture months after LSRO had been identified.

Tabak, Braveman, and a dentist at FDA, Dr. Susan Runner, steered the work to a consultant with a history of returning studies favorable to industry and packing panels with biased members; see, e.g., [http://neuro-www.mgh.harvard.edu/forum\\_2/ADHDF/6.6.998.55AMWashingtonPos.html](http://neuro-www.mgh.harvard.edu/forum_2/ADHDF/6.6.998.55AMWashingtonPos.html). To achieve results reflecting their own special interests – mercury amalgam is endorsed by organized dentistry -- NIDCR mandated a packed panel by disqualifying any scientist with an opinion on amalgam! By excluding anyone who had ever done research on mercury – NIDCR knowingly created a panel exactly the opposite to who is supposed to sit. LSRO then produced the results outlined by NIDCR in the first draft of the contract – a substance with almost a gram of toxic mercury, planted inches from a child’s brain, is safe! The results (not surprisingly) are “the polar opposite of the direction of the science,” according to Dr. David Kennedy, former president, International Academy of Oral Medicine and Toxicology. Professor Boyd Haley notes the announcement falsely claims that the World Health Organization has found no major problems with mercury amalgam, when in fact, the leader of that study, Dr. Mats Berlin, recently recommended that his nation of Sweden proceed expeditiously to abolish mercury amalgam.

Before publishing, LSRO was forced to have the work reviewed by an independent researcher – who dissented vigorously, condemning the draft as unscientific and plainly wrong. This academician is a veteran of panels of the National Academy of Sciences and has done decades of research into mercury amalgam. His work product is being covered up by LSRO and NIDCR.

NIDCR then acted inappropriately to enable release of the study. **NIDCR secretly provided a status report about a pending investigation to LSRO**, a violation of the fundamental rules of a government investigation. (I informed you of this development on November 16; see attached.)

Dr. Zerhouni, it’s time to reign in this rogue agency – one which has violated the integrity of NIH by approving a contract while you are investigating its wrongdoing, one spends millions of dollars on amalgam with dentist colleagues to the virtual exclusion of toxicologists, one which works against NIH’s goal of a mercury-free environment by shilling for mercury fillings. We ask that you act promptly in four ways:

- 1) As Senator Lautenberg recommended to you in October, **refer the investigation to the Inspector-General**. The stench of public corruption, combined with Tabak’s high-ranking position with NIH, makes a fair and complete in-house investigation no longer tenable.
- 2) **Take mercury amalgam research away from NIDCR**. As Senator Lautenberg also noted, (1) it is “an inherent conflict of interest,” due to organized dentistry’s endorsement of mercury fillings; and (2) dentists simply are not qualified to determine if mercury damages the brain; that issue is one for toxicologists and physicians. NIDCR has wasted \$33,000,000 so far; that is enough.
- 3) **Disassociate NIH from this sham report**.
- 4) **Order NIDCR’s head, Dr. Tabak, to cooperate fully with Congress**. Deceptive testimony is below the standards of integrity you have mandated.

In closing, I must repeat the admonition I gave the United States Attorney on August 5, and to you on October 26. Release of this report is not only irresponsible but dangerous. Pregnant women and parents will rely on it (as will dentists) and continue to receive mercury fillings, resulting in a major exposure to a potent neurotoxin. Amalgam

can harm the developing brain of a child or fetus. With NIDCR abdicating its duty – and recklessly so – it is important to create a record for current and future injured children:

I further wish to put your clients [NIH and FDA officials] on notice that they should inform LSRO/Betah not to publish this report during the pendent investigation. Should the latter publish a report that misrepresents the overwhelming peer-reviewed literature showing the health risks of mercury amalgam fillings, and should wrongdoing by government officials then be found, it will be an indication of intentional disregard of public health and violation of the public trust. At that point, we will [i.e. would] do all we can to assist parents and pregnant women whose children or fetuses are harmed by mercury exposure to seek a remedy against those government officials and government agencies.

Sincerely,

Charles G. Brown  
Counsel

Attachments