



The Lower Manhattan Development Corporation, New York, NY

Community Development Block Grant Disaster Recovery Funds



To: Virginia M. Sardone, Acting Deputy Assistant Secretary for Grant Programs, DG

//SIGNED//

From: Kimberly S. Dahl, Regional Inspector General for Audit, 2AGA

Subject: The Lower Manhattan Development Corporation, New York, NY, Generally Administered Its Disaster Recovery-Funded Program in Accordance With Applicable Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Lower Manhattan Development Corporation's (LMDC) administration of Community Development Block Grant (CDBG) Disaster Recovery funds covering the period April 2017 through September 2018. The review was performed in response to a congressional mandate that HUD OIG continuously audit LMDC's administration of the \$2.783 billion in Disaster Recovery funds awarded to the State of New York in the aftermath of the September 11, 2001, terrorist attack on the World Trade Center in New York City. We reviewed more than \$47.2 million, or 100 percent, of the funds disbursed during the audit period for the activity selected for review.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 212-264-4174.



Audit Report Number: 2019-NY-1004

Date: August 14, 2019

The Lower Manhattan Development Corporation, New York, NY, Generally Administered Its Disaster Recovery-Funded Program in Accordance With Applicable Requirements

Highlights

What We Audited and Why

We performed the 23rd review of the Lower Manhattan Development Corporation's (LMDC) administration of the \$2.783 billion in Community Development Block Grant (CDBG) Disaster Recovery funds awarded to the State of New York in the aftermath of the September 11, 2001, terrorist attacks on the World Trade Center (WTC) in New York City. This review was performed in response to a congressional mandate that we continuously audit the administration of these funds. The objective of the audit was to determine whether LMDC administered its Disaster Recovery-funded WTC Performing Arts Center activity under its WTC Site program in accordance with applicable requirements. We reviewed more than \$47.2 million, or 100 percent, of the funds disbursed for the activity during our audit period.

What We Found

LMDC generally administered its Disaster Recovery-funded WTC Performing Arts Center activity under its WTC Site program in accordance with applicable requirements. For the more than \$47.2 million in disbursements reviewed, LMDC ensured that disbursements were for eligible and supported costs. In addition, LMDC provided effective subrecipient and contractor oversight for the activity reviewed.

What We Recommend

There are no recommendations.

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Background and Objective

The Lower Manhattan Development Corporation (LMDC) was created in December 2001 as a subsidiary of the Empire State Development to function as a joint State-City development corporation. An eight-member board of directors, appointed equally by the governor of New York and the mayor of New York City, oversees LMDC's affairs. The Empire State Development performs all treasury functions for LMDC.

The State of New York designated LMDC to administer \$2.783 billion of the \$3.483 billion¹ in Community Development Block Grant (CDBG) Disaster Recovery funds appropriated by Congress in the aftermath of the September 11, 2001, terrorist attacks on the World Trade Center (WTC) to assist with the recovery and revitalization of Lower Manhattan. Planned expenditures of Disaster Recovery funds are documented in action plans that receive public comment and are approved by the U.S. Department of Housing and Urban Development (HUD). As of September 30, 2018, HUD had approved several partial action plans, a final action plan, and amendments, which allocated the \$2.783 billion to various programs and activities (see appendix B for amounts by program), and LMDC had disbursed more than \$2.5 billion, or 90 percent, of the \$2.783 billion appropriated.

During this audit, we reviewed disbursements related to the WTC Performing Arts Center activity under the WTC Site program. HUD approved more than \$679.5 million for this program to use for (1) the planning and construction of a memorial and memorial museum; (2) the planning and possible construction of memorial-related improvements and cultural uses at the site; (3) the acquisition and deconstruction of the building located at 130 Liberty Street; (4) the acquisition of property south of the WTC; (5) the preservation, reconstruction, and display of the WTC Ship; and (6) the planning and development of the WTC Performing Arts Center. The WTC Performing Arts Center was designed to be a state-of-the-art mid-sized performing arts venue that would contribute to the economic development of the area, while improving the quality of life for those who live and work in Lower Manhattan. LMDC disbursed more than \$47.8 million for the WTC Site program during our audit period, including more than \$47.2 million disbursed for the WTC Performing Arts Center activity.

Our audit objective was to determine whether LMDC administered its Disaster Recovery-funded WTC Performing Arts Center activity under its WTC Site program in accordance with applicable requirements.

¹ The Empire State Development administers the remaining \$700 million.

Results of Audit

Finding: LMDC Generally Administered Its Disaster Recovery-Funded Program in Accordance With Applicable Requirements

LMDC generally administered its Disaster Recovery-funded WTC Performing Arts Center activity under its WTC Site program in accordance with applicable requirements. For the more than \$47.2 million in disbursements reviewed, LMDC ensured that disbursements were for eligible and supported costs. In addition, LMDC provided effective subrecipient and contractor oversight for the activity reviewed.

Program Administered in Accordance With Applicable Requirements

For the activity reviewed under the WTC Site program, LMDC generally ensured that disbursements were for eligible and supported costs. We tested more than \$47.2 million, or 100 percent, of the funds disbursed for the activity between April 2017 and September 2018. We found no material deficiencies.

Specifically, for the more than \$47.2 million in disbursements tested, LMDC disbursed funds for eligible costs that were adequately supported and complied with the HUD-approved partial action plans, subrecipient agreements, and applicable laws and regulations. For example, the voucher for a one-time leasehold payment related to the site was supported by sufficient documentation, such as the subrecipient agreement and amendments, lease and access agreement, payment authorization form, and invoice and approved voucher.

In addition, LMDC adequately monitored its subrecipient and contractors for the activity reviewed in accordance with HUD and Federal requirements. LMDC continuously monitored subrecipient performance against goals and performance standards prescribed in the subrecipient agreement, prepared monthly monitoring reports, and maintained adequate supporting documentation for the program. Further, procurement files were adequately maintained, and records showed that the activity met a national objective.

Conclusion

For the WTC Performing Arts Center activity under its WTC Site program, LMDC generally ensured that the disbursements were for eligible and supported costs and provided effective subrecipient oversight in accordance with applicable requirements.

Recommendations

There are no recommendations.

Scope and Methodology

We conducted our audit from February through May 2019 at LMDC's office located in Lower Manhattan and Empire State Development's office located in Midtown Manhattan. The audit covered the period April 2017 through September 2018.

To accomplish our audit objective, we

- Reviewed applicable laws, regulations, and program requirements.
- Reviewed LMDC's policies, procedures, and internal controls.
- Reviewed audited financial statements for the years ending March 31, 2017 and 2018.
- Reviewed HUD-approved partial and final action plans and amendments.
- Reviewed subrecipient agreements, construction contracts, procurement files, monthly status and progress reports, national objective documentation, and monitoring records related to the activity and disbursements selected.
- Reviewed prior Office of Inspector General (OIG) reports and audit work papers.
- Reviewed HUD monitoring reports and quarterly performance reports.
- Interviewed LMDC officials.

As of September 30, 2018, LMDC had disbursed more than \$2.5 billion, or 90 percent, of the \$2.783 billion appropriated. During the audit period, LMDC disbursed more than \$86 million in Disaster Recovery funds, including more than \$47.8 million² for the WTC Site program. Our audit focused on this program because it had the highest dollar amount disbursed during our review period and represented more than half of the funds disbursed during the period. See appendix B for more details on amounts budgeted and disbursed for each program.

Of the \$47.8 million disbursed for the WTC Site program during our audit period, more than \$47.2 million was disbursed for the WTC Performing Arts Center activity. We selected this activity for review because it had the highest dollar amount disbursed during our review period. We identified three disbursement vouchers during our audit period for this activity, including (1) a \$47,283,531 voucher for a one-time leasehold payment for easements and rights associated with the property site infrastructure, foundations, and subgrade elements; (2) a \$7,215 voucher for legal services and construction cost estimate work; and (3) a \$1,400 voucher for construction cost estimate work. We reviewed all three vouchers, which covered 100 percent of the more than \$47.2 million disbursed during our audit period for the WTC Performing Arts Center activity.

² During this same period, LMDC recovered \$2.5 million for the program, which is not reflected in the \$47.8 million. After accounting for the recovery, the net total disbursed during our audit period was \$45.3 million. This amount is reflected in appendix B.

For the three disbursement vouchers tested, we reviewed documentation to determine whether the amounts disbursed were for supported and eligible costs and complied with applicable requirements. We reviewed the lease and access agreement, commitment requests, HUD's drawdown requests, payment authorization forms, approved vouchers, board approvals, wire transfers, invoices, purchase orders, the certificate of liability insurance, timesheets, and billing rates.

To achieve our objective, we relied in part on computer-processed data generated by LMDC as well as data maintained on HUD's Disaster Recovery Grant Reporting (DRGR) system³ for background information and to select a sample of disbursements for review. Our assessment of the reliability of these data was limited to reconciling the data recorded in DRGR during our audit period to LMDC records and LMDC's disbursement data to its supporting documentation. We based our conclusions on source documentation obtained from LMDC for the program and activity selected for review.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

³ The DRGR system was developed by HUD's Office of Community Planning and Development to use for CDBG Disaster Recovery funds and other special appropriations. Data from the system are used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of LMDC's internal controls as a whole.

Appendixes

Appendix A

Auditee Comments



LMDC

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July 18, 2019

Kimberly S. Dahl
Regional Inspector General for Audit
U.S. Department of Housing and
Urban Development
26 Federal Plaza, Room 3430
New York, NY 10278

Dear Ms. Dahl:

The Lower Manhattan Development Corporation (LMDC) has reviewed the U.S. Department of Housing and Urban Development (HUD) Office of Inspector General Draft Audit Report that was provided to us on June 28, 2019 covering the period from April 2017 through September 2018. We recognize the importance of this and the previous 22 congressionally mandated audits your office has performed; we appreciate the effort you and your staff have put forth.

We are pleased that this report reflects our ongoing efforts to effectively administer Disaster Recovery funds in accordance with applicable requirements and that there are no findings or recommendations to report. LMDC will continue to work conscientiously to insure Disaster Recovery funds are disbursed in accordance with approved action plans and only for eligible HUD approved expenses.

Respectfully,

A handwritten signature in blue ink, appearing to read "D. Ciniello", is written over a light blue horizontal line.

Daniel A. Ciniello
Acting President
Lower Manhattan Development Corporation

Appendix B

Schedule of Disbursements as of September 30, 2018

Program ⁴	Budget as of Sept. 30, 2018	Net audit period disbursement Apr. 1, 2017- Sept. 30, 2018 ⁵	Cumulative disbursement as of Sept. 30, 2018	Balance remaining as of Sept. 30, 2018
Business Recovery Program	\$218,728,643	0	\$218,728,643	0
Job Creation & Attraction Program	143,000,000	(\$27,913)	106,545,288	36,454,712
Small Firm Attraction & Retention	27,625,391	0	27,625,391	0
Residential Grant Program	236,057,064	0	236,057,064	0
Employment Training Assistance	337,771	0	337,771	0
Interim Memorial	309,969	0	309,969	0
Columbus Park Pavilion	767,406	0	767,406	0
History & Heritage Marketing	4,612,619	0	4,612,619	0
Downtown Alliance Streetscape	4,000,000	0	4,000,000	0
New York Stock Exchange Security Improvements	24,891,703	0	24,891,703	0
Parks & Open Spaces	34,381,689	43,316	34,294,751	86,938
Hudson River Park Improvement	72,600,000	0	72,600,000	0
West Street Pedestrian Connection	22,361,533	0	22,361,533	0
Bridge	13,141,598	0	0	13,141,598
LM (Lower Manhattan) Communication Outreach	1,000,000	0	1,000,000	0
Chinatown Tourism Marketing	1,160,000	0	1,160,000	0
Lower Manhattan Info	2,548,556	0	2,548,556	0
WTC (World Trade Center) Site	679,503,783	45,303,769	672,797,954	6,705,829
Lower Manhattan Tourism Programs	3,950,000	0	3,950,000	0
East River Waterfront	168,000,000	11,587,094	136,776,468	31,223,532
Lower Manhattan Street Management	8,957,942	0	8,957,942	0
East Side K-8 School	23,000,000	0	23,000,000	0
Fiterman Hall	15,000,000	0	15,000,000	0
Chinatown LDC (Local Development Corporation)	7,000,000	51,620	6,207,163	792,837
Lower Manhattan Business Expansion	2,670,000	0	2,670,000	0
Lower Manhattan Housing	54,000,000	1,911	41,208,111	12,791,889
Lower Manhattan Public Service Programs	7,857,921	0	7,857,921	0
Planning & Administration	120,922,906	2,680,172	116,121,816	4,801,090
Community & Cultural Enhancements	85,789,823	430,124	77,504,649	8,285,174
Drawing Center	2,000,000	0	2,000,000	0
Fulton Corridor	29,342,328	0	29,342,328	0
Economic Development	6,928,418	27,629	5,118,349	1,810,069
Transportation Improvements	15,835,000	716,109	6,565,967	9,269,033
Education – Other	3,000,000	0	3,000,000	0
Utility Restoration and Infrastructure Rebuilding	483,382,087	0	483,382,087	0
Disproportionate Loss	33,000,000	0	33,000,000	0
Other World Trade Center Area Improvements	191,594,000	20,801,375	67,143,575	124,450,425
Settlement Funds	33,741,850	4,421,195	4,421,195	29,320,655
Totals	2,783,000,000	86,036,401	2,503,866,219	279,133,781

⁴ Items appear in the order presented in the HUD-approved quarterly performance reports.

⁵ The net amount disbursed includes amounts disbursed as well as recoveries to the program.