



**The Lower Manhattan Development
Corporation, New York, NY**

**Community Development Block Grant Disaster
Recovery Assistance Funds**



Issue Date: July 18, 2013

Audit Report Number: 2013-NY-1008

TO: Yolanda Chavez
Deputy Assistant Secretary for Grant Programs, (DG)

FROM: *Edgar Moore*
Edgar Moore
Regional Inspector General for Audit, New York-New Jersey, 2AGA

SUBJECT: The Lower Manhattan Development Corporation, New York, NY, Generally Administered CDBG Disaster Recovery Assistance Funds in Accordance With HUD Regulations

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the Lower Manhattan Development Corporation's (LMDC) administration of Community Development Block Grant (CDBG) Disaster Recovery Assistance Funds covering the period April 1, 2011, through March 31, 2012. 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 Assistance funds awarded to the State of New York in the aftermath of the September 11, 2001, terrorist attacks on the World Trade Center in New York City.

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 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

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



July 18, 2013

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New York, NY, Generally Administered CDBG Disaster
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Regulations**

Highlights

Audit Report 2013-NY-1008

What We Audited and Why

We performed the 17th review of the Lower Manhattan Development Corporation's (LMDC) administration of the \$2.783 billion in Community Development Block Grant (CDBG) Disaster Recovery Assistance funds awarded to the State of New York.

The objectives of the audit were to determine whether LMDC (1) disbursed CDBG Disaster Recovery Assistance Funds in accordance with the guidelines established under HUD-approved partial action plans for the Community and Cultural Enhancements, East Side K-8 School, and Other World Trade Center Area Improvements; (2) maintained a financial management system that adequately safeguarded the funds and prevented misuse; and (3) had a plan for the allocated program funds that remained unspent.

What We Recommend

There are no recommendations.

What We Found

LMDC (1) generally disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations for the programs subject to our review, (2) had a financial management system in place that adequately safeguarded funds and prevented misuse, and (3) had a plan for the allocated program funds that remained unspent.

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BACKGROUND AND OBJECTIVES

The Lower Manhattan Development Corporation (LMDC) was created in December 2001 as a subsidiary of the Empire State Development Corporation to function as a joint city-State development corporation. A 16-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 Corporation performs all accounting functions for LMDC.

The State of New York designated LMDC to administer \$2.783 billion¹ of the \$3.483 billion² in Community Development Block Grant (CDBG) Disaster Recovery Assistance funds appropriated by Congress in the aftermath of the September 11, 2001, terrorist attacks on the World Trade Center to assist with the recovery and revitalization of Lower Manhattan. Planned expenditures of Disaster Recovery Assistance 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 March 31, 2012, HUD had approved 15 partial action plans and multiple amendments that allocated the \$2.783 billion to various programs and activities (see appendix B for amounts by program), and LMDC had disbursed approximately \$2.152 billion, or 77 percent, of the \$2.783 billion appropriated.

During this audit, we reviewed disbursements and financial management procedures related to the following programs:

Community and Cultural Enhancements program: As of March 31, 2012, HUD had approved more than \$87 million for the Community and Cultural Enhancements program. This program will address a range of community and cultural needs by providing grants, through a competitive selection process, to not-for-profit and government organizations for projects and programs that demonstrate the ability to spur long-term Lower Manhattan revitalization, benefiting area residents, workers, businesses, and visitors. Grants would be provided to not-for-profit organizations that, through proposed or existing facilities and activities, demonstrate excellence, animate the neighborhood, and support cultural life in Lower Manhattan.

East Side K-8 School program: As of March 31, 2012, HUD had approved \$23 million for the East Side K-8 School program. This project would create a K-8 public school consisting of approximately 97,000 gross square feet. The K-8 public school would be constructed in portions of the ground through fifth floors of a mixed-use development project. In addition, the funds will be used to upgrade existing and create additional public school facilities, including classrooms, labs, theaters, and recreation space.

Other World Trade Center Area Improvements program: As of March 31, 2012, HUD had approved more than \$196 million for the Other World Trade Center Area Improvements program with allocated funds under LMDC's \$783 million grant.³ The funds would assist properties and businesses damaged by and economic revitalization directly related to the September 11, 2001 terrorist attacks on New York City. Funding under this program will be used by the following

¹ This amount was funded by two grants: B-02-DW-36-0001 for \$2 billion and B-02-DW-36-0002 for \$783 million.

² The Empire State Development Corporation administers the remaining \$700 million.

³ See footnote 1.

activities, some of which are funded under LMDC's \$2 billion grant as separate line items: the World Trade Center Memorial and Museum, the World Trade Center Performing Arts Center, a pedestrian bridge over West Street at West Thames Street, and the East River Waterfront Esplanade and Piers. Further, the Other World Trade Center Area Improvements program will fund activities and costs associated with World Trade Center Memorial and cultural facilities and affordable housing, education, infrastructure, open space, quality of life, transportation, and economic development projects benefiting the area.

Our audit objectives were to determine whether LMDC (1) disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under HUD-approved partial action plans for the following programs: Community and Cultural Enhancements, East Side K-8 School, and Other World Trade Center Area Improvements; (2) maintained a financial management system that adequately safeguarded the funds and prevented misuse; and (3) had a plan for the allocated program funds that remained unspent.

RESULTS OF AUDIT

Finding: LMDC Generally Administered CDBG Disaster Recovery Assistance Funds in Accordance With HUD Regulations

LMDC officials generally (1) disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations for the programs subject to our review, (2) had a financial management system in place that adequately safeguarded funds and prevented misuse, and (3) had a plan for the allocated program funds that remained unspent.

Funds Disbursed in Compliance With Guidelines

For the items tested, LMDC generally disbursed the CDBG Disaster Recovery Assistance funds in accordance with HUD-approved partial action plans, subrecipients' agreements, and applicable laws and regulations. We tested \$11.23 million of \$21.76 million disbursed under the Community and Cultural Enhancements, East Side K-8 School, and Other World Trade Center Area Improvements programs during this audit period, and no material deficiencies were identified.

For the items tested, LMDC disbursed funds to subrecipients for eligible, reasonable, and necessary expenses that complied with the agreements and applicable laws and regulations. Through interviews, desk reviews, and site visits, LMDC officials continuously monitored the performance of subrecipients against the goals and performance standards prescribed in the subrecipient agreements. Subrecipients were required to submit monthly progress reports on the projects and adequate supporting documents for cost reimbursement. LMDC officials prepared either monthly or quarterly monitoring reports for each project, documenting the project status, communication with the subrecipients, problems identified, if any, and their resolutions.

Financial System Adequate To Safeguard Funds

LMDC had a financial management system in place that adequately safeguarded funds and prevented misuse. LMDC officials generally safeguarded program funds by adequately monitoring its subrecipients, which provided assurance that funds were expended to meet overall program objectives. During the review period, LMDC developed and implemented adequate fiscal controls and accounting procedures that ensured accurate, current, and complete reporting of

financial data. LMDC officials reviewed and approved invoices for payments and submitted the invoice packages to the parent company, the Empire State Development Corporation, which processed the payments to subrecipients and vendors.

LMDC's Plan for Program Funds That Remained Unspent

During the audit, we noted that six programs had 80 percent or more of their allocated funds unspent, and LMDC officials provided both verbal and written explanation for the unspent funds. Specifically, subgrantees were in the process of submitting documentation for four programs to LMDC for reimbursement, and the funds for two programs' had been reallocated to other programs. As a result, we determined that although six programs had less than 80 percent of the funds allocated but not disbursed, LMDC had a plan for the allocated program funds that remained unspent.

Conclusion

For the items tested, LMDC officials generally administered CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under HUD-approved partial action plans, had a financial management system in place to safeguard funds and prevent misuse, and had plans for the remaining unspent funds.

Recommendations

There are no recommendations.

SCOPE AND METHODOLOGY

During the audit period, April 1, 2011, through March 31, 2012, LMDC disbursed \$53.8 million of the \$2.783 billion in Disaster Recovery Assistance funds appropriated for activities related to the rebuilding and revitalization of Lower Manhattan.

To accomplish our audit objectives, we reviewed applicable laws, regulations, and program requirements; HUD-approved partial action plans; and LMDC’s accounting books and records. We documented and reconciled disbursements recorded during the audit period in HUD’s Disaster Recovery Grant Reporting system. Our audit focused on three programs, for which we obtained a general understanding of LMDC’s internal controls and tested a nonstatistical sample of \$11.23 million in disbursements, representing 52 percent of the \$21.76 million disbursed for the three programs during the audit period, as follows:

Program	Amount tested (in millions)	Amount disbursed from April 1, 2011, through March 31, 2012 (in millions)
Community and Cultural Enhancements	\$1.72	\$5.49 ⁴
East Side K-8 School	6.78	13.54
Other World Trade Center Area Improvements	2.73	2.73
Total	<u>\$11.23</u>	<u>\$21.76</u>

For the disbursements under the Community and Cultural Enhancements program, we reviewed a nonstatistical sample of two projects with the highest disbursements from the Community Enhancement fund, one project with the highest disbursements from the Cultural Enhancement fund, and two other projects selected to get a representation of different types of projects.

For the East Side K-8 School program, LMDC officials authorized three drawdowns, of which we reviewed the highest disbursed drawdown.

For the Other World Trade Center Area Improvements program, LMDC officials authorized one drawdown, of which we reviewed 100 percent.

In addition, we reviewed the subrecipients’ agreements, subcontracts, and sub-subcontracts applicable to the disbursements in our sample. We reviewed and reconciled LMDC’s bank statements with HUD’s Disaster Recovery Grant Reporting system drawdown reports. In addition, we traced the drawdowns for the programs subject to review to the general ledgers to determine whether LMDC maintained a financial management system that adequately safeguarded the funds and prevented misuse. We also reviewed the HUD quarterly performance reports to identify the

⁴ The amount of \$383,347.22 was drawn down from the WTC Site program on December 21, 2011, and this was reclassified to the Community & Cultural Enhancements program on June 6, 2012.

programs for which LMDC had disbursed less than 80 percent of the allocated funds to determine whether LMDC had plans for the funds that remained unspent.

While we used the data obtained from HUD's Disaster Recovery Grant Reporting system for informational purposes, our assessment of the reliability of the data in the system was limited to the data reviewed, which were reconciled to LMDC's records; therefore, we did not assess the reliability of this system.

We performed the audit fieldwork at LMDC's office located in Lower Manhattan and at LMDC's parent company, the Empire State Development Corporation, office located in Midtown Manhattan from February 2013 through June 2013. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 objectives:

- 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 the effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

We evaluated internal controls related to the audit objectives in accordance with generally accepted government auditing standards. Our evaluation of internal controls 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 the LMDC's internal control as a whole.

Appendix A

AUDITEE COMMENTS



July 2, 2013

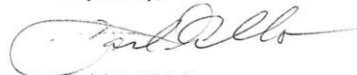
Edgar Moore
Regional Inspector General for Audit
U.S. Department of Housing and
Urban Development
26 Federal Plaza, Room 3430
New York, NY 10278

Dear Mr. Moore:

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 26, 2013 covering the period from April 2011 through March 2012. We recognize the importance of this and the previous 16 congressionally mandated audits your office has performed and appreciate the effort you and your staff put forth.

We are pleased that this report reflects the fact that LMDC "*administered CDBG Disaster Recovery Assistance funds in accordance with HUD Regulations*" and that there are no negative findings or recommendations to report. LMDC has and will continue to work diligently to insure Disaster Recovery Assistance funds are safeguarded and disbursed for eligible HUD-approved expenses.

Respectfully,



Daniel A. Ciniello
Senior Vice President - Operations

Appendix B

SCHEDULE OF DISBURSEMENTS AS OF MARCH 31, 2012

Program	Budget as of Mar. 31, 2012	Audit period disbursement Apr. 1, 2011 – Mar. 31, 2012 ⁵	Cumulative disbursed as of Mar. 31, 2012	Balance remaining as of Mar. 31, 2012
Business Recovery Program	218,946,000	(18,238)	218,757,706	188,294
Job Creation & Attraction Program	143,000,000	(105,084)	107,467,802	35,532,198
Small Firm Attraction & Retention	29,000,000	(18,804)	27,683,337	1,316,663
Residential Grant Program	236,180,809	0	236,057,064	123,745
Employment Training Assistance	346,000	0	337,771	8,229
Interim Memorial	309,969	0	309,969	0
Columbus Park Pavilion	998,571	0	0	998,571
History & Heritage Marketing	4,612,619	0	4,612,619	0
Downtown Alliance Streetscape	4,000,000	0	4,000,000	0
NYSE Security Improvements	25,255,000	507,479	12,194,821	13,060,179
Parks & Open Spaces	46,981,689	24,598	18,150,900	28,830,789
Hudson River Park Improvement	72,600,000	0	72,568,082	31,918
West Street Pedestrian Connection	22,955,811	514,830	18,842,331	4,113,480
LM Communication Outreach	1,000,000	0	1,000,000	0
Pace Green Roof Design	100,000	0	0	100,000
Chinatown Tourism Marketing	1,160,000	0	1,159,835	165
Lower Manhattan Info	2,570,000	0	1,752,391	817,609
WTC Site	706,618,783	1,931,994	599,680,448	106,938,335
Lower Manhattan Tourism Programs	3,950,000	0	3,950,000	0
East River Waterfront	149,000,000	10,264,466	49,090,285	99,909,715
Lower Manhattan Street Management	9,000,000	2,116,880	6,308,002	2,691,998
East Side K-8 School	23,000,000	13,540,599	13,569,302	9,430,698
Fitterman Hall	15,000,000	1,855,429	1,857,213	13,142,787
Chinatown LDC	7,000,000	118,254	4,901,834	2,098,166
Lower Manhattan Housing	54,000,000	0	28,200,000	25,800,000
Lower Manhattan Public Service Programs	7,891,900	270,732	7,091,951	799,949
Planning & Administration	114,892,005	3,089,835	102,302,200	12,589,805
Community & Cultural Enhancements	87,855,844	5,487,504 ⁶	54,818,585	33,037,259
Drawing Center	2,000,000	1,745,440	2,000,000	0
Fulton Corridor	39,000,000	6,851,112	8,062,708	30,937,292
Economic Development	6,775,000	2,872,685	3,888,692	2,886,308
Transportation Improvements	31,000,000	0	136,499	30,863,501
Education – Other	3,000,000	0	0	3,000,000
Utility Restoration and Infrastructure Rebuilding	483,382,087	0	483,382,087	0
Disproportionate Loss	33,000,000	0	32,999,997	3
Other World Trade Center Area Improvements	196,617,913	2,727,117	24,993,174	171,624,739
Total	2,783,000,000	53,776,828	2,152,127,605	630,872,395

⁵ Negative amounts represent recoveries to the program.

⁶ The amount of \$383,347.22 was drawn down from the WTC Site program on December 21, 2011, and this was reclassified to the Community & Cultural Enhancements program on June 6, 2012.