



The City of New York, Office of Management and Budget, New York, NY

Community Development Block Grant Disaster
Recovery Assistance Funds, Public Service Activity



To: Marion Mollegen McFadden
Deputy Assistant Secretary for Grant Programs, DG

From: //SIGNED//
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Regional Inspector General for Audit, 2AGA

Subject: The City of New York, NY, Did Not Always Disburse Community Development Block Grant Disaster Recovery Assistance Funds to Its Subrecipient in Accordance With Federal Regulations

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 City of New York, Office of Management and Budget's administration of the Community Development Block Grant Disaster Recovery Assistance funds awarded to the 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 8M, 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.



Audit Report Number: 2015-NY-1001
Date: November 24, 2014

The City of New York, NY, Did Not Always Disburse Community Development Block Grant Disaster Recovery Assistance Funds to Its Subrecipient in Accordance With Federal Regulations

Highlights

What We Audited and Why

We audited the City of New York, Office of Management and Budget's administration of the Community Development Block Grant Disaster Recovery Assistance (CDBG-DR) funds awarded to the City as a result of damages caused by Hurricane Sandy. This review was related to the disbursement of \$183 million as reimbursement to the Health and Hospitals Corporation under the City's Public Service activity. The objectives of the audit were to determine whether the City (1) disbursed CDBG-DR funds in accordance with the guidelines established under the U.S. Department of Housing and Urban Development (HUD)-approved action plan and HUD rules and regulations and (2) maintained effective program and financial management controls.

What We Found

City officials did not always disburse CDBG-DR funds in accordance with Federal regulations. Specifically, City officials disbursed \$183 million to the City's subrecipient for unsupported salary and fringe benefits and unreasonable and unnecessary expenses, and did not adequately monitor its subrecipient and sufficiently document national objectives. In addition, the City had weaknesses in its financial management controls, and allowed the disbursement without a proper review to support the claim. These deficiencies were attributed to weaknesses in the City's management controls over its disbursement process and monitoring procedures and City officials' failure to follow the requirements of the City's grant agreement. As a result, City officials could not assure HUD that CDBG-DR funds were disbursed for eligible, reasonable, and necessary program expenses in compliance with HUD rules and regulations. Further, the remaining allocation of \$40 million would be considered funds put to their intended use if City officials implement our recommendations to establish adequate monitoring controls.

What We Recommend

We recommend that HUD's Deputy Assistant Secretary for Grant Programs instruct City officials to (1) provide documentation to justify the \$183 million in unsupported salary and fringe benefits and associated expenses charged to the grant, and (2) strengthen controls over disbursements to ensure that all costs charged to the program are eligible and adequately supported with source documentation in compliance with Federal regulations.

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Background and Objectives

The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. The U.S. Department of Housing and Urban Development (HUD), Office of Block Grant Assistance, is responsible for the management and oversight of the CDBG Disaster Recovery Assistance (CDBG-DR) program.

A unique part of the CDBG program is that it provides disaster recovery assistance, which helps cities, counties, and States recover from presidentially declared disasters, especially in low-income areas. CDBG-DR funding is appropriated by Congress as a special CDBG appropriation in response to a disaster. The statutory authority for CDBG-DR funding is made through individual supplemental appropriations to address specific disasters. Funding for damages caused by Hurricane Sandy are found in the Disaster Appropriations Act of 2013 (Public Law 113-2). This appropriation has provided the City of New York access to more than \$4.2 billion in disaster assistance. CDBG-DR funds are to be used for necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure, and housing and economic revitalization in the most impacted and distressed areas. Each activity must (1) address a disaster-related impact (direct or indirect) in a presidentially declared county for the covered disaster, (2) be a CDBG-eligible activity, and (3) meet a national objective.

On October 29, 2012, Hurricane Sandy made landfall along the New Jersey coastline, impacting more than a dozen States. Over the span of 48 hours, the storm caused the New York City metropolitan area to experience high winds, extensive rainfall, and a storm surge that flooded many low-lying areas of the city. The storm left in its path power outages, damaged homes, and damage to critical public and private infrastructure.

The chart below identifies the three allocations made to the City for CDBG-DR-funded activities.

Date of Federal Register	Allocation amount
March 5, 2013	\$1,772,820,000
November 18, 2013	\$1,447,000,000
May 30, 2014	\$994,056,000
Total funding through May 2014	\$4,213,876,000

The City allocated \$322 million to public services, which was approved by HUD in an action plan, dated May 10, 2013, from the first allocation of funding. The City disbursed \$183 million

from HUD's Line of Credit Control System¹ (LOCCS) on November 14, 2013, to reimburse its subrecipient, the Health and Hospitals Corporation, under the public service activity. HHC is a public-benefit, not-for-profit Corporation operated by the City for the express purpose of operating the City's health-care network, including hospitals and clinics.

Under the Public Service category, CDBG funds may be used to provide public services, including labor, supplies, materials, and other costs, provided that each of the following criteria are met:

The public service must be either

- A new service or
- A quantifiable increase in the level of a service, above that which has been provided by or on behalf of the unit of general local government, through funds raised by such unit, or received by such unit from the State in which it is located during the 12 months before submission of the grantee's applicable action plan.² This requirement is intended to prevent the substitution of CDBG funds for recent support of public services by the grantee using local or State government funds.

The objectives of the audit were to determine whether the City (1) disbursed CDBG-DR funds in accordance with the guidelines established under the HUD-approved action plans and HUD rules and regulations and (2) maintained effective program and financial management controls. This review was related to the disbursement of \$183 million as reimbursement to the City's subrecipient, the Health and Hospitals Corporation, under the Public Service activity.

¹ The Line of Credit Control System (LOCCS) is HUD's primary grant disbursement system and handles disbursements for a majority of HUD programs. The system is Internet based. Grant disbursements are assisted via the Internet through eLOCCS.

² Regulations at 24 CFR (Code of Federal Regulations) 570.201(e) provide for an exception to this requirement, stating that such exemption may be made if HUD determines that any decrease in the level of service was the result of events not within the control of the unit of general local government.

Results of Audit

Finding: The City Did Not Always Disburse CDBG-DR Funds to Its Subrecipient in Accordance With Federal Regulations

City officials disbursed \$183 million to the City's subrecipient, the Health and Hospitals Corporation, for unsupported salary and fringe benefits and associated utility expenses and unreasonable and unnecessary costs, and did not adequately monitor its subrecipient and sufficiently document national objectives. In addition, the City had weaknesses in its financial management controls, which allowed the expenditure without a proper review to support the claim. These deficiencies were attributed to weaknesses in the City's management controls over its disbursement process and monitoring procedures and City officials' failure to follow the requirements of the City's grant agreement. As a result, City officials could not assure HUD that \$183 million in CDBG-DR funds was disbursed for eligible, reasonable, and necessary program expenses in compliance with HUD rules and regulations.

Unsupported Salary and Fringe Benefit Expenses

City officials disbursed CDBG-DR funds to its subrecipient, the Health and Hospitals Corporation, for unsupported salary and fringe benefits and associated utility expenses. The \$183 million, charged to the CDBG-DR grant on November 14, 2013, reimbursed the City's subrecipient for costs associated with salary, fringe benefits, and utility expenses incurred by Bellevue and Coney Island Hospitals. This condition occurred because the City had weaknesses in its financial management controls over disbursements. Further, City officials relied on the subrecipient to ensure that costs claimed complied with Federal regulations.

Regulations at 2 CFR (Code of Federal Regulations) Part 225, appendix B, paragraph 8(h)(3), provide that "where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification." Taking into consideration that the subrecipient incurred the costs in question before the City's grant agreement was executed, the requirement for periodic certifications may seem unreasonable. However, there should be certification to support that employees charged to the grant worked on Hurricane Sandy-related grant activities. In addition, City officials did not comply with 24 CFR Part 85.20(b)(6), Source Documentation, which requires that accounting records be supported by source documentation, such as canceled checks, paid bills, payrolls, time and attendance records, etc. During the review, City officials provided summary spreadsheets listing the costs charged to the grant. However, the costs were not adequately supported by source documentation.

The table below shows the breakdown of the summary spreadsheet provided by City officials, which included \$118.6 million for Bellevue Hospital and \$64.3 million for Coney Island Hospital.

Expense type	Bellevue Hospital	Coney Island Hospital	Total
Salary	\$69,529,476	\$47,407,325	\$116,936,801
Fringe benefits	36,753,280	25,059,513	61,812,793
Affiliation	17,890,516	0	17,890,516
Utilities	3,764,538	636,397	4,400,935
Less insurance and third-party payments	(9,314,607)	(8,726,432)	(18,041,039)
Total	\$118,623,203	\$64,376,803	\$183,000,006

The salaries charged to the CDBG-DR grant pertained to hospital employees from various departments for each hospital. The salaries and fringe benefits were charged to the grant under the following categories: (1) new services to the community, urgent care, mobile vans, and other new services; (2) restoration of facilities to operations; and (3) service readiness: support services, affiliation, information technology, other centrally managed contract allocations, maintenance of equipment and other critical expenses, and service-related other than personal services. The affiliation costs included more salary expenses for Bellevue Hospital and utility costs for both hospitals. The Corporation submitted the claim for \$183 million by reducing the amount of actual costs incurred by insurance and third-party payments.

City officials did not provide justification and adequate documentation to substantiate the basis for the salary and fringe benefits costs of the hospital employees charged to the CDBG-DR grant. Further, City officials did not provide required certifications, adequate personnel activity reports, or other supporting documentation to substantiate that the salary expense charged to the CDBG-DR grant were eligible disaster-related activities. City officials stated that the salary and fringe benefit expenses charged to the grant were prorated based on applying a factor to the actual expenses for the period charged to the grant.

As a result, City officials could not assure HUD that the CDBG-DR funds charged to the grant were for eligible, reasonable, and necessary disaster-related program expenses.

Unreasonable and Unnecessary Expenses Incurred

City officials used CDBG-DR funds for expenses related to employees who did not work or who worked at other facilities without supporting documentation to indicate that the activity was grant related. The Corporation chose to keep all employees of Bellevue and Coney Island Hospitals on its payrolls in lieu of instituting temporary layoffs.

In addition, CDBG-DR funds were used for the hospitals' utility expenses. City officials charged approximately \$4.4 million to the disaster recovery grant for utilities, which was used for steam, gas, and electric costs incurred by the two hospitals. The invoices submitted included 100 percent of these costs for periods when the facilities were closed, which represented the normal operating expenses of the Health and Hospitals Corporation.

In an annual yearend report, dated February 28, 2013, the president of the Corporation expressed concerns about financial burdens placed on the Corporation as a result of the storm (Hurricane Sandy). Specifically, the report expressed concerns of over \$180 million in lost revenue. The report states:

We remain very concerned, however, about roughly \$180 million dollars in lost revenue incurred during the period when our Bellevue and Coney Island facilities were fully or partially closed, as these losses are not Federal Emergency Management Agency (FEMA) reimbursable. If not addressed, this loss will severely destabilize our finances going into next fiscal year. We remain hopeful that a portion of the several billion dollars appropriated by Congress recently in storm related Community Development Block Grant funds can be tapped to cover these losses.

Reimbursement for lost revenue is not a reasonable expense under the Public Service category.

Regulations at 2 CFR Part 225, appendix a, paragraph C(1)(a), state that to be allowable under Federal awards, costs must be necessary and reasonable for proper and efficient performance and administration of Federal awards. The costs charged to the grant for employees who could not return to work due to the closure of the two hospitals and utility costs did not appear to be a reasonable cost for the disaster assistance grant. This condition occurred because City officials did not conduct an adequate review of the claim submitted by its subrecipient and did not require the subrecipient to submit source documentation to support the reimbursement claim.

Further, during the review, City officials could not readily answer questions related to the utility costs charged to the grant without consulting the subrecipient. The subrecipient provided summary schedules to show what utility costs were paid during the period that were charged to the grant. However, the schedules did not account for adjustments to the costs for the period October 28, 2012, through June 27, 2013, for Coney Island Hospital and October 28, 2012, through February 6, 2013, for Bellevue Hospital, which should have reduced the charges when the hospital departments reopened.

A statistical sample of 90 employees was selected for Bellevue Hospital, and a second statistical sample of 85 employees was selected for Coney Island Hospital. During our survey, we tested 30 employees, consisting of 15 employees at each hospital. Our survey results showed that 100 percent of the employees tested charged some leave during the period reviewed. In addition, we found one employee who was on extended sick leave for an injury sustained that was unrelated to the storm, yet this employee's leave was charged to the grant. As a result, City officials could not assure HUD that CDBG-DR funds charged to the grant were reasonable and necessary disaster-related program expenses.

Inadequate Monitoring of Subrecipient

City officials did not adequately monitor the City's subrecipient, the Health and Hospitals Corporation, and approved invoices without a review of source documents to substantiate the costs. In accordance with 24 CFR Part 85.40(a), grantees are responsible for managing the day-to-day operations of grantee- and subgrantee-supported activities to ensure compliance with applicable Federal requirements.

City officials provided a checklist for monitoring the Corporation, which detailed how the claim for \$183 million met one of the required national objectives of the CDBG program. City officials did not provide further evidence to show that they monitored the subrecipient. Upon further inquiries about the breakdown of the amount charged, City officials could not readily answer questions and stated that they would have to get back to us. Further, City officials stated that it was their policy to rely on the subrecipient to provide details on the amount charged to the CDBG-DR grant because of the relationship the City had with its subrecipient. On September 4, 2013, the City entered into a subrecipient agreement with the Corporation. The terms of the agreement specified that the subrecipient would comply with Federal regulations.

The City's lack of review and its reliance on the subrecipient showed weaknesses in its monitoring procedures. Further, the City's policy and procedures manual did not contain adequate steps detailing how the City would monitor its subrecipient to ensure compliance with Federal regulations. Accordingly, City officials approved invoices from the City's subrecipient without a review of source documentation to substantiate the costs charged to the CDBG-DR grant. This issue was cited as a concern in HUD's monitoring report, conducted in September 2013, before the City's disbursement of CDBG-DR funds.

City officials planned to disburse an additional \$40 million to the Corporation for similar costs charged to the grant under the public service activity. City officials should establish and implement adequate controls and procedures to ensure that the City's subrecipient is adequately monitored in compliance with all applicable requirements so that the remaining \$40 million allocation for the Corporation can be put to its intended use.

National Objectives Not Sufficiently Documented

City officials did not sufficiently document that one of the required national objectives was met as required by the grant agreement between the City and HUD. Regulations at 24 CFR Part 570.208(a)(1) define area benefit activities as an activity that benefits all residents in a particular area in which 51 percent of the residents are low- and moderate-income persons.

On May 10, 2013, HUD officials approved the City's action plan, which detailed the City's plans for the public service activity and meeting the required national objective for low- and moderate-income persons. After HUD officials completed their monitoring review in September 2013, HUD worked with the City officials to change the required national objective from low- and moderate-income persons clientele to low- and moderate-income area benefit beginning in February 2014. City officials were instructed to submit additional documentation to HUD for review to change the required national objective.

It appeared that City officials were unfamiliar with the criteria and Federal requirements regarding meeting one of the required three national objectives of the CDBG program. City officials maintained that both hospitals complied with this national objective. However, HUD advised the officials to separate the activities by hospital as shown in HUD's Disaster Recovery

Grant Reporting³ (DRGR) system because HUD did not agree that both hospitals would meet the national objective of low- and moderate-income area benefit. Although the disbursement of CDBG-DR funds occurred in November 2013, City officials agreed in March 2014 to make the HUD-requested adjustment of separating the activities by hospital in HUD's DRGR system. However, as of October 6, 2014, City officials were still working with HUD to submit documentation to satisfy the required national objective for Bellevue Hospital.

Consequently, City officials disbursed CDBG-DR funds without sufficiently documenting that the expenses charged to the grant for the Bellevue Hospital site met a required national objective as required by the terms of the grant agreement with HUD. Therefore, City officials need to improve the process of defining the national objectives and ensure that they can demonstrate that the objectives have been met.

Conclusion

City officials disbursed \$183 million to the City's subrecipient, the Health and Hospitals Corporation, for unsupported salary and fringe benefits and associated utility expenses and unreasonable and unnecessary costs and did not adequately monitor its subrecipient and sufficiently document the national objectives. Therefore, the CDBG-DR funds disbursed to the City's subrecipient were considered unsupported. These deficiencies were attributed to weaknesses in the City's financial management controls over its disbursement process and monitoring procedures and City officials' failure to follow the requirements of the City's grant agreement with HUD. As a result, City officials could not assure HUD that \$183 million in CDBG-DR funds was disbursed for eligible, reasonable, and necessary program expenses in compliance with HUD rules and regulations.

Recommendations

We recommend that HUD's Deputy Assistant Secretary for Grant Programs instruct City officials to

- 1A. Provide documentation to justify the \$183 million in unsupported salary and fringe benefits and associated expenses charged to the CDBG-DR program. If documentation provided does not support the costs, this amount should be repaid from non-Federal funds.
- 1B. Strengthen controls over disbursements to ensure that all costs charged to the program are eligible, reasonable, necessary, and adequately supported with source documentation in compliance with Federal regulations.
- 1C. Establish and implement adequate controls and procedures to ensure that subrecipients are monitored in compliance with all applicable requirements so that the remaining \$40 million allocation for the Health and Hospitals Corporation will be put to its intended use.

³ DRGR is a HUD reporting system that is facilitated via the Internet to allow grant recipients to identify activities funded under their action plans and amendments, along with budgets and performance goals for those activities.

- 1D. Ensure that the national objectives are defined and adequately documented in relation to the \$183 million disbursement and any future allocation and that changes to the national objectives are sufficiently documented.

Scope and Methodology

Our review generally covered the period October 28, 2012, through June 27, 2013, and was extended as needed. We performed our fieldwork from January through July 2014 at the City's offices located at 255 Greenwich Street, New York, NY; the Health and Hospitals Corporation's corporate offices located at 125 Water Street, New York, NY; Bellevue Hospital located at 462 1st Avenue, New York, NY; and Coney Island Hospital located at 26-01 Ocean Parkway, Brooklyn, NY.

To accomplish our audit objectives, we

- Reviewed applicable laws, regulations, HUD handbooks, HUD notices, and the City's policies and procedures.
- Obtained an understanding of the City's disbursement and financial controls.
- Interviewed officials of HUD's Disaster Recovery and Special Issues Division, New York City Office of Management and Budget, and Health and Hospitals Corporation.
- Reviewed the City's action plan and amendments.
- Reviewed the grant agreement between HUD and the City.
- Reviewed the subrecipient agreement between the City and the Corporation.
- Evaluated the City's internal controls and reviewed computer controls to identify potential weaknesses related to our objectives.
- Reviewed data in HUD's DRGR system and Line of Credit Control System.
- Reviewed the City's financial statements for the years 2012 and 2013.

We selected two statistical samples of employees charged to the grant from the Corporation's Personal Services Expenditure Reporting (PSER) system, which contained payroll data for the employees for the two hospitals charged to the grant. The payroll data covered the dates for which the City claimed reimbursement for the period October 28, 2012, through February 6, 2013, for Bellevue Hospital and October 28, 2012, through June 27, 2013, for Coney Island Hospital. The universe for Bellevue Hospital consisted of 4,149 employees with a total of \$69.5 million in salaries and benefits. The universe for Coney Island Hospital consisted of 2,510 employees with a total of \$47.4 million in salaries and benefits. A statistical sample of 90 employees was selected for Bellevue Hospital, and a second sample of 85 employees was selected for Coney Island Hospital, from which a survey size of 15 employees for each hospital was tested during the survey. The value of the survey amounted to \$284,698 for Bellevue Hospital and \$359,660 for Coney Island Hospital.

Our sampling method was variable with a one-sided 95 percent confidence interval. This design allowed us to account for variation in the sizes of the salary claims covered by the disaster recovery grant. Salary claims were ranked by dollar value and then stratified to control for variance in dollar amounts.

We relied in part on computer-processed data primarily for obtaining background information on the City's disbursement of program funds. We performed a minimal level of testing and found the data to be adequate for our purposes.

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 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

Based on our review, we believe that the following items are significant deficiencies:

- City officials did not have adequate controls over program operations when they did not (1) ensure that adequate documentation was maintained for the \$183 million in disbursements associated with salaries, fringe benefits, and associated utility costs charged to the disaster assistance program, (2) adequately monitor the City's subrecipient, and (3) sufficiently document national objectives in accordance with HUD rules and regulations (see finding).
- City officials did not have adequate controls over compliance with laws and regulations when they did not comply with HUD regulations for disbursing program funds and monitoring program subrecipients before reimbursing claims submitted by the City's subrecipient (see finding).
- City officials did not have adequate controls over safeguarding resources when they disbursed CDBG-DR funds without maintaining source documentation and had weaknesses in their financial management controls that allowed disbursement without a proper review (see finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Unsupported 1/	Funds to be put to better use 2/
1A	\$183,000,000	
1C		\$40,000,000
Totals	\$183,000,000	\$40,000,000

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if City officials implement our recommendations to establish controls requiring that subrecipients be monitored and requests for funds be properly supported before payment, it will ensure compliance with all applicable regulations of the CDBG-DR program so that the remaining \$40 million allocation for the City's subrecipient, the Health and Hospitals Corporation, can be put to its intended use.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



The City of New York
Office of Management and Budget
255 Greenwich Street, 8th Floor • New York, New York 10007

City of New York's Response to HUD OIG's Draft Audit Report

Set forth below is the City of New York's ("City") response to the HUD OIG's Draft Audit Report regarding the OIG's review of the City's disbursement of \$183 million in CDBG-DR funds to the New York City Health & Hospitals Corporation ("HHC"). These observations were provided in a written draft received by the City on October 1, 2014, and a revised report received on October 6, 2014. The City appreciates the opportunity to address the Draft Audit Report in advance of the issuance of a final Audit Report.

The OIG's Draft Audit Report of October 6, 2014, includes one Finding: **The City of New York, NY Did Not Always Disburse CDBG-DR Funds to Its Subrecipient in Accordance with Federal Regulations**. This Finding is broken into four parts, which the City will address separately. We ask that the final Audit Report include a copy of this response and reflect the record as described below.

The use of CDBG-DR funds to help support certain HHC staff operations costs including those costs associated with staff displaced by Hurricane Sandy was established early in the grant-making process in consultation with the Federal Department of Housing and Urban Development ("HUD") and the City's Law Department. Identification of such staff was a crucial element of the agreement and a thorough analysis was conducted subsequent to identifying reimbursable amounts. Maintaining detailed activity records for HHC staff known to have been displaced by Sandy is counterintuitive to the flexibility needed in the midst of the crisis and unnecessary once affected staff and associated costs and any offsetting benefits were tied back to the eligible facilities.

1. ***OIG: Unsupported Salary and Fringe Benefit Expenses.***

City's Response:

The City respectfully disagrees with this observation. **The City provided justification and adequate documentation to prove that the claimed amounts charged to the CDBG-DR grant were for eligible, reasonable, and necessary disaster related operation expenses.** Furthermore, the notion that drawdown requests were simply processed by and through the City without any consideration of content does not withstand scrutiny when the actual review work performed by City staff is taken into account. Most clearly, the City reviewed and analyzed relevant documentation from its subrecipient, including raw Personal Services Expenditure Reporting System ("PSER") data, a detailed list of employees claimed under CDBG-DR, and the fringe rate calculation throughout the data gathering and claiming process.

Eligible, Reasonable, and Necessary Disaster-Related Program Expenses

At the outset, the Report fails to acknowledge that OMB continuously consulted with HUD concerning HHC's fiscal and programmatic activities with respect to the claim amount. OMB had in-person meetings and conference calls with HUD staff several times between mid-April 2013 and September 13, 2013, when OMB submitted its first drawdown request. In addition, on July 26, 2013, OMB sent [REDACTED] Acting Director, HUD Disaster Recovery & Special Issues Division, a 10-page narrative description of HHC's public service activities, plus attachments, demonstrating that HHC's operational costs, including salary, fringe benefits

Comment 1

Comment 2

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 2

and associated costs, were reasonable and necessary within the parameters of federal OMB Circulars A-87, A-110, and A-122, and were otherwise eligible for reimbursement with CDBG-DR funds. These documents were the subject of a conference call among HUD, OMB, and HHC on July 30, 2013. The following day, July 31, 2013, ██████████ sent the City an email confirming that HHC's activities were "CDBG-eligible public service activities" which might qualify under the Low- and Moderate-Income Clientele national objective. Copies of the documentation sent to ██████████ and her subsequent email were shared with OIG on 8/25/2014.

Comment 3

After OMB submitted its first request to draw down the \$183 million, OMB and HUD representatives discussed the request by telephone. Thereafter, additional documentation was sent to HUD, and an in-person monitoring meeting including OMB and HUD staff was held to discuss the draw-down request and next steps. During a conference call on September 25, 2013, HUD asked OMB for revised documentation. After additional meetings and conference calls, OMB submitted a revised draw-down request. Further revised documents were submitted to HUD on November 6, 2013. On November 12, 2013, the following entry was made in HUD's DRGR data system approval record by ██████████: "The City of New York provided supporting documentation for this voucher. The activity is identified in an approved action plan." In April 2014, HUD requested that the City break the \$183 million in HHC activity into two voucher drawdown requests, one each for Bellevue Hospital and Coney Island Hospital. More detail of the chronology is provided in the following table:

Document	Submitted by OMB	Purpose	Review Completed by OMB
<ul style="list-style-type: none"> • IOCS Funding Request for HHC Bellevue – Sec. 1. Eligibility • IOCS Funding Request for HHC Coney – Sec. 1. Eligibility 	To HUD: 9-13-13 To OIG: 1-16-14	As per HUD's guidance, OMB created a timeline of when services were coming back online and also illustrated the period during which new services were rendered. Information regarding the service timelines was provided by the HHC facilities.	This document was created by OMB as supporting documentation for the HHC claim packet
C. Chronology for the Review of HHC's Claim	To OIG: 1-15-14 [Created specifically per OIG's request]	A chronology of the City's HHC drawdown approval, beginning 4-19-13 and ending with the drawdown approval in LOCCS on 11-12-13.	This document was created by OMB at the request of OIG

Comment 4

The record shows that OMB reviewed and analyzed HHC's supporting documentation, and had the benefit of the analysis of those records done by an independent auditing firm. As a result of extensive consultation with HUD about the adequacy of that documentation, the documentation was supplemented in accordance with their guidance. HUD ultimately found that documentation sufficient to show that the grant funds would be used for eligible, reasonable, and necessary CDBG-DR program expenses.

A description of the supporting documentation reviewed by the City and submitted to HUD is set forth below. HUD specifically acknowledged receipt of this documentation at the time it approved OMB's payment voucher.

Document	Submitted by OMB	Purpose	Review Completed by OMB
Bellevue & ConeyIsland_PSERS with proration	To OIG: 2-5-14 To HUD: 3-27-14	Raw export of data from the Personal Services Expenditure Reporting System (PSER)	Reviewed the raw data and used the spreadsheet to walkthrough how HHC calculations were done. The file includes the method used for prorating days to adjust the total salaries for the period being claimed for each hospital.
BellevuePS_Amt by Category	To OIG: 2-5-14 To HUD: 3-27-14	The revised Bellevue PS detail with the Kirby staff removed and the old version with Kirby included.	File break down of the claim amount solely for Bellevue by the 3 categories: new services, facilities restoration, and service readiness. The file also lists all employees claimed under each category.
ConeyPS_Amt by Category	To OIG: 2-5-14 To HUD: 3-27-14	Similar structured file to Bellevue (see above)	The file lists all employees claimed under each service category.

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Personnel costs broken out by employee	To OIG: 2-5-14 To HUD: 3-27-14	PS claim file - three tabs - Bellevue claim (Nov. - Feb.), Coney Island claim (Nov. - Feb), Coney Island claim (post Feb - June) by name, including title and claim amount per person.	Used file as a benchmark for what the CDBG-DR claim should be after calculation is done. Used to make sure calculations were accurate. Was also used to discuss the rationale and reasonableness for paying for certain employees.
B. HHC Analysis (10.29.13)	To HUD: 10-29-13	High-level summary of the \$183 million claim broken out by PS, fringe, and OTPS.	Another document used for cross-referencing and also submitted to HUD as support for the claim.

Comment 5

Prior to drawing down \$183 million in CDBG-DR funds, and disbursing them to HHC, OMB in fact reviewed and analyzed HHC's supporting documentation to assure itself that the documentation was sufficient to meet the reasonable and necessary standards set forth in OMB Circulars A-122 and A-87, the applicable HUD rules and regulations, and the City's HUD-approved Action Plan. This documentation included payroll data for designated employees pulled from the PSER, which OMB also verified for accuracy. The City's claim for salaries did not account for 100 percent of all personnel costs, as only 92% of all active employees from Bellevue Hospital and 94% of all active employees from Coney Island Hospital are accounted for in the claim. The \$183 million claim excludes all staff on Family, Medical, or other official Leave during the claim period. Only staff scheduled to operate the two hospitals during the claim timeframes identified were charged to the CDBG-DR funds.

Comment 6

The PSER was the primary source used to determine Personnel Services ("PS") costs for HHC's claim. The PSER database consists of information pulled from the payroll system, which is used to produce employee paychecks. Validated timesheets are either scanned or keyed into the system, and then processed at HHC's central office. The validation process, which was part of the Subrecipient's internal quality control process, includes review for accuracy, verification, and approval of the timesheet data by HHC management. The system automatically generates error codes if any problem is detected. Based on a thorough review of the system, the City concluded that the PSER and its raw exports could be used as a viable tool for a CDBG-DR claim for 6661 hospital staff. The PSER report provided a series of reports with a description of payroll expenditures on a fiscal year-to-date basis.

Before the CDBG-DR drawdown, OMB had the benefit of the review performed by Deloitte, the City's independent auditor, with respect to the HHC payroll data. OMB also performed an extensive duplication of benefits ("DOB") analysis of HHC's claim, ensuring that no funds were duplicative for the Sandy activity covered by this claim. The DOB analysis for HHC was aligned with the DOB procedure as detailed in NYC's Infrastructure and Other City Services ("IOCS") Policies and Procedures Manual and documented by:

Document	Submitted by OMB	Purpose	Review Completed by OMB
Calculating Duplication of Benefits (HHC)	To OIG: 1-30-14 To HUD: 3-24-14	The methodology was provided to give an explanation of how HHC identified any sources of funds to the two hospitals during the claim period. Funds during the claim period that could be used for operation costs were removed from the total need at the two facilities to arrive at the CDBG-DR claim amount and to comply with HUD regulations.	This document was created by OMB to outline the DOB process used throughout the claim process

The sources of funding received by HHC for Bellevue and Coney Island Hospitals during the requested period of operations that could be and were used to offset the unmet need for CDBG-DR funds included:

- Medicaid Admin Grant
- All inpatient and outpatient collections for visits provided during this interim period;
- Patient Centered Medical Home Medicaid Fee for Service Collections;

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- Patient Centered Medical Home Managed Care payments based on monthly membership, with February payments prorated for the month;
- Managed Care primary care capitation (based on membership), with February payments prorated for the month;
- Pharmacy collections with February payments prorated for the month;
- Additional case management fees paid on the Medicaid Remittance;
- Lab Chargeback for Bellevue laboratory services to other HHC facilities, prorated to account for the claim period for FY13;
- Cancer Center funding at Woodhull; and
- City tax funding for Ida G. Israel Community Health Center.

2. OIG: Unreasonable and Unnecessary Expenses Were Incurred.

City's Response:

The City respectfully disagrees with this observation. Disbursement of CDBG-DR funds for expenses related to certain employees working outside the service area and utility expenses were reasonable and necessary to ensure that the affected hospitals would be fully staffed and ready to resume operations once the emergency restoration work was complete. Moreover, HUD explicitly confirmed during the monitoring process and at the time of draw down that such expense was an eligible operations cost for CDBG-DR reimbursement.

In order for Bellevue and Coney Island hospital to operate at full capacity as quickly as possible, it was essential for both hospitals to retain staff on payroll and on an "on-call" nature. By enabling Coney Island and Bellevue Hospitals to reopen gradually, rather than waiting until the hospital could regain full operations, the hospitals were able to continue serving large numbers of community members during the critical post-disaster recovery period.

The Audit Report states that "reimbursement for lost revenue is a not a reasonable expense under the Public Service category." However, "lost revenue" was not the basis of the CDBG-DR claim. Rather, the claim was intended to cover the cost of maintaining hospital operations during a period when all staff could not be deployed on-site, with the goal of reinstating service at the earliest opportunity without loss of capacity or capability. To imply that CDBG-DR funds went to cover HHC's "lost revenue" is inaccurate and may be misleading to the public. Funds were used appropriately and reasonably to provide a necessary public service to those communities served by Bellevue and Coney Island Hospitals. The HHC activity in this claim meets the HUD exception (570.201(e)) for Public Service activity, whereby a decrease in the level of service was the result of events not within their control. This exception allows the City to use CDBG-DR funds to provide assistance to a non-profit hospital that lost operational funds due to Sandy.

Service Employees

The Audit Report states "The costs charged to the grant for employees who could not return to work due to closure of the two hospitals and utilities costs does not appear to be a reasonable cost to the disaster assistance grant." However, as described in the claim, all employees covered by the claim were retained for the purpose of restoring and re-opening HHC's facilities on time and at full operational capacity. Many staff were retained on standby and others were used in other capacities until the hospitals were reopened.

After Bellevue and Coney Island Hospitals were evacuated, HHC staff worked to reopen these facilities rapidly. Four months after the storm, services were fully restored at Bellevue Hospital, and partially restored at Coney Island Hospital. During that four-month period, in-patient (and most out-patient) services could not be provided at those hospitals. As a result, medical employees were redeployed throughout other HHC facilities to mitigate staff attrition and maintain critical staffing levels post-storm, thus avoiding further delay of reopening the two storm-affected hospitals--retention of this staff allowed the hospitals to re-open at full staff capacity. In addition,

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non-medical staff was maintained to assist with the vital recovery of the closed facilities. Employee **timesheets are available to establish the costs of these redeployed staff. Such timesheets indicate the hours and work location as these individuals conducted normal hospital-related work appropriate for their qualifications.**

It is important to note that many LMA (Low- to Moderate-income Area) service area residents were displaced as a result of the storm. Thus, these patients had to seek hospital services outside the service area, and from hospitals unharmed by the storm. For this reason, it was reasonable and necessary, and in the interest of Public Service, including health and safety, for staff to be retained, regardless of what specific role they performed during the claim period, and where they were performing services—in order to serve these LMA service area residents. In this way, LMA service area residents benefitted from all staff being retained during the claim period.

Indeed, HUD agreed with this approach when it confirmed that these activities were eligible for reimbursement on July 31, 2013 (supporting documentation was shared with OIG during their audit review and on 8/25/14). Also, in its July 18, 2014 Monitoring Review Report, HUD stated: “To use CDBG-DR funds for an eligible public service, the service must be considered a new service or a quantifiable increase in the level of an existing service. **“HUD also considers decreases in the level of a service as the result of events not within the control of local government, such as a disaster event, to be within the scope of public service eligibility”** (page 24, emphasis added). Thus, HUD acknowledged in the Monitoring Report, and in its approval of the drawdown, that HHC’s personnel and OTPS expenses constituted an eligible activity. Regardless of the capacity in which personnel were serving during the claim period, they were engaged in Public Service eligible activities because they were serving displaced residents at hospitals outside the affected area, and were retained on staff to insure that provision of services at the affected hospitals would resume as quickly as possible.

Utilities

The Audit Report states “City officials charged approximately \$4.4 million to the disaster recovery grant for utilities, which were used for steam, gas and electric costs incurred by the two hospitals. The invoice submitted included 100 percent of these costs for the time periods the facilities were operating at less than full capacity, which represents the normal operating expenses for the Health and Hospitals Corporation.” However, **assets were used to offset these utilities costs**, as reflected by the DOB calculation. Specifically, during the claim periods, CDBG-DR funds paid for 74% of Bellevue Hospital’s utilities costs and 78% of Coney Island Hospital’s, each for the finite period of November 2012 – February 2013. * The DOB for HHC’s Public Services activity was calculated by itemizing the funding sources available and subtracting them from the Total Operations Costs.

The Audit Report also states “The subrecipient provided summary schedules to show what utilities costs were paid during the period charged to the grant. However, the schedules did not account for any adjustments to the costs for the period of October 28, 2012 through June 27, 2013 for Coney Island Hospital and October 28, 2012 through February 6, 2013 for Bellevue Hospital that should have reduced the charges when the hospital departments reopened.” This statement is incorrect for two reasons: first, Coney Island Hospital’s utilities were only claimed for the period of October 28, 2012, through February 18, 2013, i.e. the City’s claim did not include any utilities costs for the months of March, April, May, or June 2013; and second, **a DOB analysis was done and applied to these operating costs, the CDBG-DR claim for utilities was effectively reduced.**

Utility costs were discussed with HUD at the September 2013 monitoring visit, and they were approved at the time of the drawdown two months later. HUD did not question the reasonableness or necessity of these costs. Clearly, utilities were essential during the recovery period in order to do restoration work within the facilities and allow for the gradual reopening of both hospitals. HHC assets available to cover utility costs during the claim period were accounted for in the duplication of benefit calculation.

The narrative for the claim document (“Calculation of the NYC Health & Hospitals Corporation’s Disaster Claim”) states that the utilities were paid for in relation to the number of days it took both hospitals to open; not

* The City will update, as needed, the draw package to make it more clear what the dollar value is that was claimed for CDBG-DR.

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with respect to particular services reopening. Specifically, the claim document states as follows:

Pg. 1: "All utility costs for Bellevue and Coney Island Hospitals are included for the actual usage of electricity and gas, which were critical to keep the buildings safe, to enable limited services to resume, and to allow for the repair and maintenance to occur."

Pg. 3: "In addition to the Personnel Expenses, some Other Than Personnel Expenses are also included here. Any utilities paid for the hospitals for the relevant time period are included. This does not include temporary generator power covered by FEMA. This, rather, is the electrical power and gas that resumed after the storm. The utility amounts are based on actual usage for electricity and gas. These utilities enabled critical work and repairs to occur, without which service provision would have been greatly delayed."

The utilities for both hospitals were prorated to align monthly billing amounts with the claim period. The billing statement was for fiscal year 2013 (July 2012 until February 2013). The claim period is from October 28, 2012, until February 6 and 18, 2013, respectively, for both Bellevue and Coney Island. The full months of November until January were included. The month of February was then prorated by the number of days in the claim to get the remainder.

Documents	Submitted by OMB	Purpose	Review Completed by OMB
<ul style="list-style-type: none"> • Utilities thru Feb 2013 (HHC) • Utilities Documentation [part of Deloitte folder] 	To OIG: 1-23-14 To HUD: 3-24-14	HHC's corporate utility tracking sheet and the payment documentation for utilities.	Reviewed cost allocation for utilities for both hospitals.
Affiliation Costs - Bellevue-NYU -- FY12-14 [folder]	To OIG: 2-28-14 To HUD: 3-24-14	Affiliation Agreements (contracts)	Review of contract financials and termination rule.

While the City respectfully disagrees with this finding, it will continue to explore opportunities to strengthen controls over disbursements to ensure that all costs charged to the program are eligible, reasonable and necessary and adequately supported with source documentation.

3. OIG: Inadequate Monitoring of Subrecipient.

City's Response:

The City respectfully disagrees with this observation. As discussed throughout this document and again here, the documentary record shows that HHC was monitored adequately, and back up documents were reviewed prior to the approval of invoices.

The City has done extensive monitoring and oversight of HHC prior and subsequent to this draw. OMB's Health Task Force is responsible for the fiscal oversight of HHC and was reviewing all budget activity both pre- and post-Sandy. More specifically, HHC provided primary source documents to OMB to substantiate its costs consisting of PSER data, affiliation cost spreadsheets and utility bills and receipts. These documents were separately reviewed and analyzed by Deloitte, the City's independent auditor. In addition to its own analysis of HHC's documents, OMB also reviewed and analyzed Deloitte's Single Audit report prior to requesting a drawdown of CDBG-DR funds. *See response to #1 above.* The City's analysis was also shared with and supported by HUD throughout the claim process.

The Audit Report states "Further, the City's policy and procedures manual does not have adequate steps detailing how the City monitors its subrecipient to ensure compliance with Federal regulations." It continues: "This was cited as a concern in HUD's monitoring report, dated September 2013, prior to the City's disbursement of CDBG-DR funds." However, this was not raised as an official concern in the monitoring report (dated December 12, 2013, after the HHC disbursement), but was a comment made by HUD in the report. Indeed, the City further

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refined its monitoring procedures after HUD's September 2013 monitoring visit and prior to this disbursement. The policies and procedures that were followed at the time of the disbursement were reflected in a revised IOCS policies and procedures manual, which was presented to HUD after the disbursement.

While the City disagrees with this finding, as a routine practice, it does and will continue to implement controls and procedures to ensure that the Health and Hospitals Corporation is monitored in compliance with all applicable requirements. Moreover, the City's Office of Management and Budget is building a Disaster Recovery Monitoring Unit to further strengthen the existing monitoring efforts. As of October 10, 2014, the staff for this Monitoring Unit are pending hire.

4. *OIG: National Objectives Were Not Sufficiently Documented.*

City's Response:

The City respectfully disagrees with this observation. The Audit Report states that "City officials were unfamiliar with the criteria and Federal requirements regarding meeting one of the required three national objectives of the CDBG program." The City believes this is inaccurate. HUD initially agreed that the City had demonstrated that HHC's activities met the required national objective for Low-Mod Limited Clientele ("LMC"). At the time of the drawdown, the City used the best available information to determine the national objective, in line with HUD's guidance. After the drawdown was approved, HUD revised its decision and told the City that it would have to reclassify the national objective and present a new justification on a Low-Mod Area ("LMA") basis. Since then, HUD has approved a new national objective (LMA) for one of the two HHC hospitals at issue, and documentation concerning the other hospital has been submitted to HUD for its review.

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On a Technical Assistance call with HUD on July 24, 2014, the City received guidance clarifying that a national objective does not have to be fully established prior to a drawdown. HUD confirmed for the City has the ability to draw down on a national objective based on best information available. NYC is currently in the process of adjusting the LMI area benefit objective for HUD for Bellevue Hospital, with the most recent exchange being a phone call on August 7, 2014. NYC is in continuing conversations with HUD about potential additional backup related to substantiating the current proposed national objective for Bellevue.

The City made a written submission to HUD on July 30, 2013, in support of its claim that HHC was engaged in public service activities that qualified under the low and moderate income clientele national objective. In her July 31, 2013 email, HUD DRSID Acting Director [REDACTED] acknowledged that based on the information provided by OMB, HHC's activities might be qualified to be eligible under LMC based on the hospitals clientele being more than 50% Medicaid or Medicare patients. Thereafter, based on subsequent conversations with HUD, OMB made additional submissions to HUD demonstrating that HHC's activities were qualified. HUD agreed that the activities were qualified under the low and moderate income clientele national objective and approved OMB's draw down of funds on that basis on November 12, 2013. However, six weeks later, on December 24, 2013, HUD revised its decision and advised OMB that it "does not allow a general all-purpose hospital to qualify under the low-and moderate-income clientele national objective as anyone in the area can benefit from a hospital. The [C]ity should determine whether this activity is eligible under another national objective." As a result, the City has assembled documentation to show that HHC's activities are eligible under the LMA national objective. Documentation showing Coney Island Hospital's eligibility for this objective was submitted to HUD and approved by it on July 18, 2014. LMA data for Bellevue Hospital was submitted to HUD on July 17, 2014.

Document	Submitted by OMB	Purpose	Review Completed by OMB
Monthly Payer Mix during early FY13	To OIG: 1-28-14 To HUD: 3-24-14	HHC provided information from its Siemens Financial System, Decision Support System on its payor mix for the months immediately prior to the storm: July, Aug., Sept. and Oct. 2012. Spreadsheet information indicates that at least 51% of the customer base is on Medicaid or Medicare and thus meets the 51% Low- Mod- requirement for HUD.	Reviewed to confirm accuracy of data

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Accordingly, **the record shows that the City met the required national objective** which was approved by HUD on November 12, 2013. HUD subsequently revised its decision and directed the City to qualify under a different standard. The City has satisfied HUD that Coney Island Hospital qualifies under the LMA standard, and is awaiting approval from HUD that Bellevue Hospital qualifies as well based on revised service area documentation the City has submitted. This observation should be withdrawn once the justification for Bellevue is approved.

Document	Submitted by OMB	Purpose	Review Completed
Coney LMA Justification	Discussed at OIG Pre-Exit Conference 7-8-14 To HUD: 3-11-14	Justification, including maps, for L/M Income Area Benefit for Coney Island Hospital.	This document was created by OMB per HUD's request
FY12 Patient Origin (HHC) – separate files for Bellevue and Coney Island	Not shared with HUD, but were referenced in the national objective justification for HHC Bellevue and HHC Coney Island	Descriptions of the service areas for Coney and Bellevue that were developed by HHC's planning office.	The data was reviewed to ensure a CDBG-DR-applicable data set was extracted

While the City disagrees with this finding, it will work closely with HUD to ensure that the national objective for HHC is adequately documented in relation to the \$183 million disbursement and any future allocation. The City has been in ongoing discussions with HUD from the date that the claim was submitted and has continued to follow HUD guidance regarding documenting national objectives. As of October 7, 2014, the City continues to work with HUD on finalizing an appropriate service area determination for Bellevue Hospital.

Recommendations:

The City acknowledges recommendations 1A - 1D. As reflected in the details above, the City will continue to work with HUD to ensure that recommendations which CPD identifies are met. The City has worked carefully with knowledgeable Federal and City officials to understand and comply with CDBG-DR funding requirements. We have established and maintain a sound system of internal controls, including detailed records appropriate to the funding agreement. The City has pursued reimbursements in accordance with HUD regulations, and provided supporting documentation for HHC staff redeployment and associated costs due to Hurricane Sandy.

Comment 11



Calvin Johnson, Assistant Director, CDBG-DR
NYC Office of Management & Budget

OIG Evaluation of Auditee Comments

- Comment 1 City officials disagree that the salary and fringe benefit expenses are unsupported and contend that the justification and documentation provided prove that the claimed amounts charged to the grant were for necessary, reasonable, and eligible disaster-related expenses. However, the documentation provided did not sufficiently show that the employees whose salaries were charged to the CDBG-DR grant actually performed work related to the grant. Further, City officials did not provide required certifications, adequate personnel activity reports or other supporting documentation to substantiate the salary expense charged to the CDBG-DR grant. Therefore, the salary and fringe benefits costs charged to the grant are considered unsupported.
- Comment 2 City officials contend that our report fails to acknowledge that they continuously consulted with HUD to ensure that the costs charged to the CDBG-DR grant were eligible public service activities. Further, the officials state that the narrative descriptions of the public activities and associated costs submitted to HUD were within the parameters of Federal Office of Management and Budget circulars. Our report does not question the eligibility of the costs charged but that the costs charged were not adequately supported. Regulations at 24 CFR Part 85(b)(6) require that accounting records be supported by source documents, such as canceled checks, paid bills, payrolls, and time and attendance records. Without adequate documentation and detailed activity records, there is no assurance that the employees charged to the grant worked exclusively on grant activities.
- Comment 3 City officials cite a listing of the documents provided to HUD and that the information was acknowledged by HUD at the time the City's payment voucher was approved. However, our review of the documents provided to HUD showed that the documents did not include sufficient source documentation, such as certifications, activity reports, or other documentation, to show that the employees charged to the grant actually worked on Hurricane Sandy-related activities. As a result, the costs are considered unsupported, and City officials will have to submit additional documentation to HUD so that an eligibility determination can be made.
- Comment 4 City officials state that they reviewed and analyzed the supporting documents provided by the City's subrecipient, the Health and Hospitals Corporation. The officials provided the details and descriptions of what was reviewed and stated that the records were reviewed by an independent auditor. However, as stated above, without detailed activity reports, there is no evidence that the employees worked on activities related to Hurricane Sandy. Further, in HUD's monitoring report related to a review conducted in September 2013, it was noted that the City's policies and procedures lacked monitoring procedures detailing how the

City would monitor program partners to ensure compliance with all program requirements. The HUD monitoring report also expressed concern regarding the City's process for reviewing and processing the reimbursement request from its subrecipient, especially relating to ensuring compliance with CDBG-DR record-keeping requirements. Based on our review, it was evident that the City did not adequately monitor its subrecipient or require source documents to substantiate the costs charged.

- Comment 5 City officials contend that before disbursing the \$183 million in CDBG-DR funds, they reviewed and analyzed the Corporation's supporting documentation to ensure that it complied with HUD rules and regulations. Further, they stated that the claim for personnel costs accounted for only 92 percent of all active employees from Bellevue Hospital and 94 percent of all active employees from Coney Island Hospital and excluded all staff on family, medical, or other leave during the period claimed. Contrary to the officials' contention, our review found that 100 percent of the employees tested at each hospital charged some leave during the period claimed. Therefore, the statement that all staff on family, medical, or other leave was excluded from the claim for personnel costs was inaccurate. In addition, we found that one employee charged to the grant was on extended sick leave for an injury sustained that was unrelated to the storm. Therefore, the facts presented in the report are true and accurate. As part of the audit resolution process, City officials will be required to submit to HUD additional documentation to substantiate costs charged to the grant.
- Comment 6 City officials provided background information in the PSER system, an independent auditor review of payroll data before the CDBG-DR drawdown, and an extensive analysis of the duplication of benefits. None of this background information addresses the fact that officials did not always disburse CDBG-DR funds to the City's subrecipient in accordance with Federal regulations. Further, the independent auditor's review was to verify whether the data in the PSER system were valid. It did not test to ensure that the drawdown submitted complied with HUD rules and regulations.
- Comment 7 City officials disagree that unreasonable and unnecessary expenses were incurred, stating that it was essential for both hospitals to retain staff on payrolls and in an "on call" status so that the hospitals would reopen gradually. Further, the officials contend that lost revenue was not the basis for the CDBG-DR claim. However, our audit concluded that the salary costs charged to the grant for employees who did not work should be considered as unreasonable. In addition, by not maintaining records for the employees who may have been transferred to other hospitals on how their work related to Hurricane Sandy is another reason why these costs should be considered unreasonable. Further, regarding the loss of revenue, as the report notes, the subrecipient's annual yearend report disclosed concerns about financial burdens of more than \$180 million in lost revenue. Thus, City officials' contention that the lost revenue was not the basis for the

charges to the CDBG-DR grant is questionable. Lost revenue is not a reasonable expense under the Public Service category.

Comment 8 City officials disagree that the costs associated with the employees who could not return to work due to closure of the two hospitals and the utility costs did not appear to be reasonable charges to the disaster assistance grant. According to the officials, all employees covered by the claim were retained to reopen and restore the two facilities, and the utility costs were offset by assets. However, the officials state that they will continue to explore opportunities to strengthen the City's controls over disbursements to ensure that all costs charged to the program are eligible, reasonable, necessary, and adequately supported with source documentation. It is our position that if the employees did not work, they should not be charged to the grant.

Further, the summary schedules provided by City officials to support the utility costs charged to the grant did not include evidence of a reduction in the costs charged as the hospital departments were reopened, which would then be considered normal operating expenses. In addition, City officials did not provide documentation during our review to support their claim that the utility costs were offset by assets. We remind officials that although the \$183 million drawdown was approved by HUD, it was expressly noted by HUD in the DRGR system and in emails to the officials that the draw would be subject to additional monitoring and review.

Lastly, we recognize the officials' willingness to explore opportunities to strengthen controls over disbursements to ensure that all costs charged to the program are eligible, reasonable, necessary, and adequately supported with source documentation. Such actions are responsive to the recommendations.

Comment 9 City officials disagree that the monitoring of the subrecipient was inadequate and state that the HUD December 2013 monitoring report does not state that their policies and procedures manual did not contain adequate steps detailing how they would monitor their subrecipient. At the beginning of our review, it was evident that the monitoring of the City's subrecipient was inadequate as the City officials could not answer routine questions regarding the details of the drawdown made. Further, the officials did not maintain monitoring files on the City's subrecipient. However, City officials have begun to implement adequate controls and procedures to ensure that subrecipients are monitored in compliance with all applicable requirements. The actions of the City officials are responsive to the recommendations.

Comment 10 City officials disagree that the national objectives were not documented and that they were unfamiliar with applicable criteria and Federal requirements. According to the officials, HUD initially agreed that the City had demonstrated that the activities met the required national objectives. Based on the discussion held during the exit conference and the officials' feedback, we have revised the report to reflect that the national objectives were not sufficiently documented and

that the officials must provide additional documentation to support the national objective for Bellevue Hospital. Further, we acknowledge the corrective actions taken by the officials to provide additional documentation and that they are working with HUD to resolve this issue.

Comment 11 City officials acknowledge the report recommendations 1A-1D and state that they will continue to work with HUD to ensure that the recommendations are addressed. We suggest that City officials continue to seek guidance from HUD not only on the report recommendations, but also for all of the City's planned Hurricane Sandy-related activities to be charged to the CDBG-DR grants.