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Audit Report Number	2008-NY-1004
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TO: Nelson R. Bregon, General Deputy Assistant Secretary for Community Planning and Development, D

FROM: *Edgar Moore*
Edgar Moore, Regional Inspector General for Audit, 2AGA

SUBJECT: Lower Manhattan Development Corporation, New York, New York,
Community Development Block Grant Disaster Recovery Assistance Funds

HIGHLIGHTS

What We Audited and Why

This is the tenth in our series of congressionally mandated audits of the Lower Manhattan Development Corporation's (auditee) administration of the Community Development Block Grant 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. During the audit period, April 1 through September 30, 2007, the auditee disbursed \$132.7 million of the approximately \$2.8 billion administered.

Our audit objectives were to determine whether the auditee (1) disbursed Disaster Recovery Assistance funds in accordance with the guidelines established under U.S. Department of Housing and Urban Development (HUD)-approved partial action plans, (2) expended Disaster Recovery Assistance funds for eligible administration and planning expenses in accordance with applicable laws and regulations, and (3) had a financial management system in place that adequately safeguarded funds and prevented misuse.

What We Found

The auditee generally disbursed the \$132.7 million in Disaster Recovery Assistance funds in accordance with HUD-approved action plans, expended funds for eligible administration and planning expenses in accordance with applicable laws and regulations, and maintained a financial management system that adequately safeguarded funds and prevented misuse. However, an internal control weakness existed in the management of grant repayments in one program. The subrecipient that administered the Employment Training Assistance Program credited 10 grant recipient repayments to the wrong HUD grant and did not return recovered funds to HUD's Line of Credit Control System in a timely manner. Consequently, there was no assurance that funds were properly recorded and promptly returned.

What We Recommend

We recommend that HUD's General Deputy Assistant Secretary for Community Planning and Development require the auditee to strengthen controls to ensure that future grant repayments to the Employment Training and Assistance Program are properly recorded and credited to the correct HUD grant.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We discussed the results of our review during the audit and provided a draft report to the auditee on March 18, 2008. We held an exit conference on March 25, 2008, and requested that any written comments be provided by that date. We received a written response on March 27, 2008. Auditee officials generally agreed with our finding, advising that they had reminded the subrecipient to post future recoveries to the appropriate grant and program budget line items and to continue to return recovered funds to HUD in an efficient manner.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVES

The Lower Manhattan Development Corporation (auditee) 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 State and the mayor of New York City, oversees the auditee's affairs. The Empire State Development Corporation performs all accounting functions for the auditee, including payroll, payments to the auditee's vendors, and drawing down funds from the U.S. Department of Housing and Urban Development (HUD).

The State of New York designated the auditee to administer \$2.783 billion¹ of the \$3.483 billion in Community Development Block Grant Disaster Recovery Assistance funds appropriated by Congress following 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 HUD. HUD had approved 15 partial action plans as of September 30, 2007, that allocated the \$2.783 billion to various programs and activities (see appendix C for amounts by program). As of September 30, 2007, the auditee had disbursed approximately \$1.38 billion, or 50 percent, of the \$2.783 billion allocated.

During this audit, we reviewed administration and planning expenses, auditee monitoring procedures, and disbursements related to the following programs:

World Trade Center Memorial and Cultural: As of September 30, 2007, HUD had approved approximately \$622.5 million for this program to fund the planning, selection, coordination, and construction of a memorial and memorial center. In addition, funds were earmarked for planning and possible construction of memorial-related improvements and museum and cultural uses on the World Trade Center site and adjacent areas, complementing the commercial redevelopment and infrastructure improvements by the Port Authority of New York and New Jersey, the owner of the World Trade Center Site. Of the \$622.5 million, HUD approved \$237.1 million for the acquisition and deconstruction of 130 Liberty Street, the Deutsche Bank building.

Lower Manhattan Community and Cultural Enhancement Funds: As of September 30, 2007, HUD had approved \$88.95 million for this program to provide grants through a competitive selection process to not-for-profit organizations for projects that address cultural and community needs in lower Manhattan and demonstrate the ability to spur long-term revitalization of the area, benefiting area residents, workers, businesses, and visitors.

Hudson River Park Improvement

As of September 30, 2007, HUD had approved \$72.6 million for this program to complete extensive renovations to the Hudson River waterfront in lower Manhattan, including public recreational piers (Piers 25 and 26), an ecological pier, and an adjacent upland park. The public

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

facilities to be created include habitat planting areas, a boathouse, a restaurant, a children's playground, volleyball courts, basketball courts, an open lawn, boat docking, mini golf, an informal athletic field, and a skate park. The proposed activities are to be linked by pathways, planted areas, and a riverside pedestrian esplanade.

Small Firm Attraction and Retention Grant: As of September 30, 2007, HUD had approved \$29 million for this program to help retain and create jobs at assisted firms.

Our audit objectives were to determine whether the auditee (1) disbursed Disaster Recovery Assistance funds in accordance with the guidelines established under HUD-approved partial action plans, (2) expended Disaster Recovery Assistance funds for eligible administration and planning expenses in accordance with applicable laws and regulations, and (3) had a financial management system in place that adequately safeguarded funds and prevented misuse.

RESULTS OF AUDIT

Finding 1: The Auditee Generally Administered Grant Funds in Accordance with HUD Regulations

The auditee generally disbursed the \$132.7 million in Disaster Recovery Assistance funds in accordance with HUD-approved action plans, expended funds for eligible administration and planning expenses in accordance with applicable laws and regulations, and maintained a financial management system that adequately safeguarded funds and prevented misuse. However, an internal control weakness existed in the management of grant repayments in one program. The subrecipient that administered the Employment Training Assistance Program credited 10 grant recipient repayments to the wrong HUD grant and did not return recovered funds to HUD's Line of Credit Control System in a timely manner. Consequently, there was no assurance that funds were properly recorded and promptly returned.

Weaknesses in the Management of Repayments in One Program

Internal control weaknesses in the management of grant repayments under the Employment Training Assistance Program resulted in the subrecipient's not properly crediting repayments to the correct HUD grant and not remitting the repayments to HUD's Line of Credit Control System in a timely manner. On August 1, 2002, the auditee executed a subrecipient agreement with the Empire State Development Corporation, its parent corporation, to administer the Employment Training Assistance Program. Although all grants had been awarded, the subrecipient managed the recapture of funds from two recipients. On September 29, 2006, a settlement was made with one recipient² for the repayment of \$8,138 in 12 monthly installments of \$678 beginning October 1, 2006, and continuing until September 1, 2007. The recipient made six installments but failed to make the April 2007 payment. Rather than requiring the immediate repayment of the \$4,069 unpaid balance plus \$2,563 in interest as stipulated in the settlement agreement, the subrecipient allowed the recipient to skip the April 2007 payment and resume monthly payments in May 2007. A subrecipient official explained that deferring collection was a standard practice because a number of grant recipients had experienced financial problems and had difficulty in repaying the grant. While such action may be more practical in certain situations than enforcing the provision for immediate repayment, there was no documentation as to why there was a deviation from the settlement agreement. However, we noted that the debt had been satisfied, and subrecipient officials noted that if repayment had not resumed in the next month, additional collection efforts would have been initiated.

² The other recapture is being litigated.

Ten successive grant repayments, totaling \$6,782, were credited to the wrong HUD grant and program budget line item when returned. While HUD's Line of Credit and Control System disclosed that the subrecipient properly credited the initial \$1,356 repayment to the auditee's grant under the Employment Training Assistance Program, the 10 subsequent payments were erroneously credited to the subrecipient's grant under the Small Firm Attraction and Retention Grant program. After HUD's Office of Inspector General (OIG) notified the subrecipient of the error on December 4, 2007, it requested that HUD transfer the \$6,782 to the auditee's grant under the Employment Training Assistance Program. The Line of Credit and Control System reflects that the error was corrected on December 21, 2007.

Further, the repayments collected did not appear to have been returned to HUD's Line of Credit Control System within a reasonable timeframe. The time that elapsed between the subrecipient's receipt of the repayments and their return to HUD's Line of Credit Control System averaged 53 days, with a range of 17 to 105 days. While no specific criteria exist on timeframes for when repayments should be returned to HUD's Line of Credit Control System, prudent business practice would dictate that it be done as soon as practical and that any interest earned also be returned to HUD's Line of Credit Control System.

Conclusion

A weakness in management controls caused a subrecipient to transfer repayments to the wrong HUD grant and program budget line item and to not promptly return repayments to HUD's Line of Credit Control System. Although the amount is immaterial, the breakdown in controls is significant because it permitted 10 consecutive repayments to be returned to the wrong grant without detection.

Recommendations

We recommend that HUD's General Deputy Assistant Secretary for Community Planning and Development direct the auditee to strengthen controls by developing procedures to

- 1A. Ensure that the \$6,782 recovered and any future grant repayments to the Employment Training and Assistance Program are accurately recorded and remitted to HUD's Line of Credit Control System in a timely manner.

SCOPE AND METHODOLOGY

To achieve our audit objectives, we reviewed applicable laws, regulations, and program requirements; HUD-approved partial action plans; and the auditee’s accounting books and records. We documented disbursements made during the audit period and reconciled disbursements recorded in HUD’s Line of Credit and Control System to the auditee’s records.

During the audit period, April 1 through September 30, 2007, the auditee disbursed \$132.7 million of the \$2.783 billion in Disaster Recovery Assistance funds for activities related to the rebuilding and revitalization of lower Manhattan. We tested \$23 million, representing 17.3 percent of the amount disbursed for the period. The following areas were tested:

<u>Area</u>	<u>Amount disbursed Apr. 1, 2007, through Sept. 30, 2007</u> (in millions)	<u>Amount tested</u> (in millions)
World Trade Center Memorial and Cultural Program	\$ 37.1	\$ 19.2
Hudson River Park Improvement Program	\$ 3.2	\$ 3.1
Lower Manhattan Community and Cultural Enhancement Program	\$ 2.9	\$ 0.4
Administration and planning expenses	<u>\$ 2.6</u>	<u>\$ 0.3</u>
Total	<u>\$ 45.8</u>	<u>\$ 23.0</u>

We also tested the auditee’s policies and procedures for monitoring the above programs. In addition, we analyzed the subrecipient’s implementation of actions taken to recapture funds from noncompliant Small Firm Attraction and Retention Grant recipients.

We performed our on-site work at the auditee’s office in lower Manhattan and at the auditee’s parent company, the Empire State Development Corporation, in midtown Manhattan from October 2007 through March 2008.

We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined 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 significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

Based on our review, we did not identify any significant weaknesses. Nevertheless, the following item is a reportable weakness:

- Safeguarding resources - The auditee's subrecipient did not adequately safeguard resources when it did not properly credit 10 repayments to the correct HUD grant and remit the funds to HUD's Line of Credit Control System in a timely manner.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Funds to be put to better use 1/
1A	\$6,782 ³

- 1/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. This includes reductions in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings which are specifically identified. In this instance, the auditee took corrective action when notified of the error, thus ensuring that the Employment Training Assistance Program funds repaid were available to be reallocated to other programs.

³ As of December 21, 2007, the correct posting of the \$6,782 repayment was reflected in HUD's Line of Credit and Control System.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



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March 27, 2008

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 Office of Inspector General Draft Audit Report that was provided to us on March 18, 2008. The attached document presents LMDC management's response to the draft Audit Report.

Sincerely,

Daniel A. Ciniello
Senior Vice President - Operations

Attachment

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1

LMDC Response to HUD OIG Draft Report

LMDC has reviewed the draft audit report from the HUD Office of the Inspector General (OIG) that you indicated covered the period from April 1, 2007 through September 30, 2007. As you know, the LMDC has and will continue to work diligently to ensure that Disaster Assistance funds are safeguarded and appropriately disbursed for eligible expenses. This report reflects our accomplishments in that no significant weaknesses were identified. Our response to your recommendation is provided below.

HUD IG Recommendation 1A: Ensure that the \$6,782 recovered and any future grant repayments to the Employment Training and Assistance Program are accurately recorded and remitted to HUD's Line of Credit Control System in a timely manner.

As you know, the incorrect posting of the \$6,782 in recovered funds was corrected in December within two weeks of when the matter was identified. The booking of these repayments to the wrong budget line had no impact on the timing of the return of these funds to HUD's Line of Credit Control System as the money was returned when the initial transactions were processed. We have reminded our Subrecipient's finance and collections personnel to properly post recoveries to the appropriate grant and program budget lines in the future. The Subrecipient was also reminded to continue to remit recovered funds to HUD's Line of Credit Control System in an efficient manner.

OIG Evaluation of Auditee Comments

Comment 1 While the auditee generally agreed with our finding, it did not address the development of additional procedures to strengthen the existing controls over the management of grant repayments. Enhancing such procedures will ensure that future grant repayments are credited to the correct HUD grant and program budget line item and that funds are promptly returned to HUD.

Appendix C

SCHEDULE OF PROGRAM FUNDING AND DISBURSEMENTS AS OF SEPTEMBER 30, 2007

Program	Budget as of Sept. 30, 2007	Audit period disbursements Apr. 1, 2007 - Sept. 30, 2007	Cumulative disbursed as of Sept. 30, 2007	Balance remaining as of Sept. 30, 2007
Business Recovery Grant Program	218,946,000		218,940,531	5,469
Job Creation and Retention	150,000,000	582,500	98,538,447	51,461,553
Small Firm Attraction	29,000,000	2,056,750	22,178,750	6,821,250
Residential Grant (Housing Assistance Program)	237,500,000	11,182	236,142,567	1,357,433
Employment Training Assistance	346,000	(1,356)	344,553	1,447
Memorial Design & Installation	315,000		309,969	5,031
Columbus Park Renovation	998,571			998,571
Marketing History and Heritage Museums	4,664,000	451,477	4,290,311	373,689
Downtown Alliance Streetscape	4,000,000		4,000,000	0
New York Stock Exchange Area Improvements	25,160,000	1,613	5,476,256	19,683,744
Parks and Open Space	46,981,689	100,298	17,735,005	29,246,684
Hudson River Park Improvements	72,600,000	3,188,960	7,731,232	64,868,768
West Street Pedestrian Connection	22,955,811	5,484,631	18,327,501	4,628,310
Lower Manhattan Communications Outreach	1,000,000		1,001,583	(1,583)
Green Roof Project	100,000			100,000
Chinatown Tourism & Marketing	1,160,000		999,835	160,165
Lower Manhattan Information Program	2,570,000		1,752,391	817,609
WTC Memorial and Cultural Program	622,517,180	37,144,260	343,801,352	278,715,828
Lower Manhattan Tourism	4,176,000	135,000	4,106,650	69,350
East River Waterfront Project	150,000,000	314,047	1,018,896	148,981,104
Local Trans and Ferry Service	9,000,000	560,185	567,138	8,432,862
East Side K-8 School	23,000,000		28,703	22,971,297
Filterman Hall Reconstruction	15,000,000		1,784	14,998,216
Chinatown Local Development Corporation	7,000,000	160,000	164,123	6,835,877
Affordable Housing	54,000,000		7,153	53,992,847
Public Services Activities	6,796,900	380,840	5,984,019	812,881
Administration & Planning	112,262,000	2,606,457	75,921,151	36,340,849
Disproportionate Loss of Workforce	33,000,000		32,999,997	3
Utility Restoration and Infrastructure Rebuilding	735,000,000	76,582,522	269,427,643	465,572,357
Lower Manhattan Enhancement Fund	88,950,849	2,883,681	7,686,661	81,264,188
Drawing Center	2,000,000			2,000,000
Fulton Corridor Revitalization	38,000,000	78,255	89,039	37,910,961
Economic Development – Other	30,000,000			30,000,000
Transportation Improvements	31,000,000			31,000,000
Education – Other	3,000,000			3,000,000
Total	2,783,000,000	132,721,302	1,379,573,240	1,403,426,760