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Audit Report Number	2010-NY-1001
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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, New York/New Jersey Region, 2AGA

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

HIGHLIGHTS

What We Audited and Why

This is the thirteenth in our series of congressionally mandated audits of the Lower Manhattan Development Corporation's (auditee) administration of Community Development Block Grant (CDBG) 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, October 1, 2008, through March 31, 2009, the auditee disbursed \$50.3 million of the \$2.783 billion administered.

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

What We Recommend

There are no recommendations.

Auditee's Response

We discussed the results of our audit with the auditee during the audit. We provided a draft report to the auditee on September 24, 2009 and received its written comments that day. The auditee agreed with the report.

The complete text of the auditee's response can be found in appendix A 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 (CDBG) 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 the funds are documented in action plans that receive public comment and are approved by HUD. HUD had approved 15 partial action plans as of March 31, 2009, that allocated the \$2.783 billion to various programs and activities (see appendix B). As of March 31, 2009, the auditee had disbursed approximately \$1.61 billion, or 58 percent, of the \$2.783 billion allocated.

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

World Trade Center Memorial and Cultural program: As of March 31, 2009, HUD had approved approximately \$690 million² to fund the planning, selection, coordination, and construction of a memorial. 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.

Lower Manhattan Enhancement Fund program: As of March 31, 2009, HUD had approved approximately \$88.9 million for this program to provide grants through a competitive selection process to not-for-profit and government 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. This program includes the Cultural Enhancement and Community Enhancement Fund programs.

Hudson River Park Improvements program: As of March 31, 2009, HUD had approved approximately \$72.6 million for extensive renovations to the Hudson River waterfront in Lower Manhattan, including public recreational and ecological piers and an adjacent upland park.

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

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

² Of this amount, \$37.5 million is from the supplemental funding appropriation of \$783 million.

RESULTS OF AUDIT

The Auditee Generally Administered CDBG Disaster Recovery Assistance Funds in Accordance with HUD Regulations

The auditee generally (1) disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under HUD-approved partial action plans and applicable laws and regulations, (2) expended CDBG Disaster Recovery Assistance funds for eligible planning and administrative expenses in accordance with applicable laws and regulations, and (3) had a financial management system in place that adequately safeguarded funds and prevented misuse. Therefore, for the period reviewed, HUD was assured that CDBG Disaster Recovery Assistance funds were properly administered.

Funds Disbursed in Compliance with Guidelines

For the items tested, the auditee generally disbursed the CDBG Disaster Recovery Assistance funds reviewed during the audit period in accordance with HUD-approved partial action plans and applicable laws and regulations.

The auditee implemented multilevel review and approval procedures to ensure that funds were disbursed to subrecipients for eligible, reasonable, and necessary expenses that followed agreements and applicable laws and regulations. The auditee had established procedures to ensure that subrecipients were selected in compliance with HUD regulations and required its subrecipients to procure all materials, property, or services through a fair and open process. Through interviews, desk reviews, and site visits, the auditee continuously monitored the performance of subrecipients against the goals and performance standards prescribed in subrecipient agreements. Subrecipients were required to submit monthly status reports on the projects and supporting documentation for cost reimbursements. Monthly monitoring reports were issued for each project, documenting the project status, communication with the subrecipient, problems identified, and corrective action.

No material deficiencies were identified in our testing of the \$5.94 million disbursed under the World Trade Center Memorial and Cultural, the Lower Manhattan Enhancement Fund, and the Hudson River Park Improvements programs during this audit period.

Funds Expended for Eligible Planning and Administrative Expenses

The auditee generally expended CDBG Disaster Recovery Assistance funds for eligible planning and administrative expenses in accordance with applicable laws and regulations. As of March 31, 2009, \$86 million of the total budgeted \$112 million for

general planning and administrative activities had been disbursed. During the audit period, the auditee disbursed \$3.5 million for general planning and administrative expenses, and no exceptions were noted.

Financial System Adequate to Safeguard Funds

The auditee had a financial management system in place that adequately safeguarded funds and prevented misuse. The auditee and its parent company, the Empire State Development Corporation, had developed and implemented adequate fiscal controls and accounting procedures that ensured accurate, current, and complete reporting of financial data. Specifically, the auditee received and approved incoming invoices from subrecipients for payment and submitted the approved invoice packages to the Empire State Development Corporation, which processed the payments to vendors. Thus, the auditee had implemented an adequate management review and approval structure to ensure the accuracy and completeness of financial disbursements.

Conclusion

The auditee properly disbursed and administered CDBG Disaster Recovery Assistance funds.

Recommendations

There are no recommendations

SCOPE AND METHODOLOGY

During the audit period, October 1, 2008, through March 31, 2009, the auditee disbursed \$50.3 million of the \$2.783 billion in Disaster Recovery Assistance funds for activities related to the rebuilding and revitalization of Lower Manhattan. 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 obtained and analyzed the disbursements recorded during the audit period in both HUD’s Line of Credit and Control System and Disaster Recovery Grant Reporting System. Our audit focused on three programs, based upon a risk assessment, for which \$32.4 million was disbursed. For these programs, we obtained a general understanding of the auditee’s system of internal controls and tested, on a nonstatistical basis, \$5.94 million, representing 12 percent of the \$50.3 million disbursed for the period, as follows:

<u>Program</u>	Amount disbursed October 1, 2008, through March 31, 2009 <u>(in millions)</u>	Amount tested <u>(in millions)</u>
World Trade Center Memorial and Cultural	\$21.67	\$ 2.85
Lower Manhattan Enhancement Fund	5.56	1.67
Hudson River Park Improvements	<u>5.21</u>	<u>1.42</u>
Total	<u>\$32.44</u>	<u>\$ 5.94</u>

In addition, we reviewed 10 of the 35 community enhancement projects under the Lower Manhattan Enhancement Funds program to determine whether the subrecipients were procured and monitored by the auditee according to the applicable laws and regulations, as well as the eligibility of \$529,939 disbursed in April 2009 for these projects.

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 April through August 2009.

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

INTERNAL CONTROLS

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

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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 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

There were no significant weaknesses identified.

APPENDIXES

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



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September 24, 2009

Edgar Moore
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U.S. Department of Housing and
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26 Federal Plaza, Room 3430
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Dear Mr. Moore,

The Lower Manhattan Development Corporation has reviewed the U.S. Department of Housing and Urban Development Office of Inspector General Draft Audit Report that was provided to us on September 24, 2009 covering the period from October 2008 through March 2009. We recognize the importance of this and the previous 12 congressionally mandated audits your office has performed. This report reflects the fact that *"there were no significant weaknesses identified" and that we administered the grant funds reviewed in accordance with HUD Regulations.* LMDC has and will continue to work diligently to insure Disaster Assistance funds are safeguarded and disbursed for eligible HUD-approved expenses.

Sincerely,

Daniel A. Ciniello
Senior Vice President - Operations

Appendix B

SCHEDULE OF DISBURSEMENTS AS OF March 31, 2009

Program	Budget as of Mar. 31, 2009	Audit period disbursements Oct. 1, 2008 – Mar. 31, 2009 ³	Cumulative disbursed as of Mar. 31, 2009	Balance remaining as of Mar. 31, 2009
Business Recovery Grant program	218,946,000	(24,152)	218,859,310	86,690
Job Creation and Retention	143,000,000		104,803,730	38,196,270
Small Firm Attraction	29,000,000	(8,629)	27,883,505	1,116,495
Residential Grant (housing assistance program)	237,500,000		236,180,810	1,319,190
Employment Training Assistance	346,000		337,771	8,229
Memorial Design & Installation	315,000		309,969	5,031
Columbus Park Renovation	998,571			998,571
Marketing History and Heritage Museums	4,664,000		4,612,620	51,380
Downtown Alliance Streetscape	4,000,000		4,000,000	0
New York Stock Exchange Area Improvements	25,160,000	(265)	5,478,733	19,681,267
Parks and Open Space	46,981,689	(5,802)	17,782,926	29,198,763
Hudson River Park Improvements	72,600,000	5,210,094	63,280,416	9,319,584
West Street Pedestrian Connection	22,955,811	1,914,244	20,660,559	2,295,252
Lower Manhattan Communications Outreach	1,000,000		1,000,000	0
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
World Trade Center Memorial and Cultural program ⁴	690,017,180	21,674,466	450,047,780	239,969,400
Lower Manhattan Tourism	4,176,000	(156,650)	3,950,000	226,000
East River Waterfront Project	150,000,000	4,559	1,597,222	148,402,778
Local Transportation and Ferry Service	9,000,000	1,151,033	3,327,627	5,672,373
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	1,042,005	2,348,867	4,651,133
Affordable Housing	54,000,000	10,221,709	22,472,048	31,527,952
Public Services Activities	6,796,900	72,828	6,479,434	317,466
Administration & Planning	112,262,000	3,504,444	86,130,254	26,131,746
Disproportionate Loss of Workforce	33,000,000		32,999,997	3
Utility Restoration and Infrastructure Rebuilding	697,500,000		270,545,615	426,954,385
Lower Manhattan Enhancement Fund	88,950,849	5,558,737	19,100,950	69,849,899
Drawing Center	2,000,000			2,000,000
Fulton Corridor Revitalization	38,000,000	102,258	800,921	37,199,079
Economic Development – Other	7,000,000		2,040	6,997,960
Transportation Improvements	31,000,000			31,000,000
Education – Other	3,000,000			3,000,000
Total	2,783,000,000	50,260,879	1,607,775,817	1,175,224,183

³ Negative amounts represent recoveries to the program.

⁴ On September 2, 2008, HUD approved the reallocation of \$37.5 million from the Utility Restoration and Infrastructure Rebuilding program to the World Trade Center Memorial and Cultural program.