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TO: Jeanne VanVlandren, Acting 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, NY, Generally Administered CDBG Disaster Recovery Assistance Funds in Compliance With Regulations

HIGHLIGHTS

What We Audited and Why

This is the fourteenth 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, NY. During the audit period, April 1 through September 30, 2009, the auditee disbursed \$38.8 million of the \$2.783 billion being 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 disbursements reviewed during the audit, HUD had assurance that the CDBG Disaster Recovery Assistance funds were properly administered.

What We Recommend

There are no recommendations.

Auditee's Response

We discussed the results of our review with the auditee during the audit. We provided the auditee with a copy of the draft report on March 4, 2010, and requested a written response by March 11, 2010, which we received on March 5, 2010.

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 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 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, 2009, that allocated the \$2.783 billion to various programs and activities (see appendix B). As of September 30, 2009, the auditee had disbursed more than \$1.64 billion, or 59 percent, of the \$2.783 billion allocated.

During this audit, we reviewed the following:

World Trade Center Memorial and Cultural program: As of September 30, 2009, HUD had approved approximately \$690 million 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.

Hudson River Park Improvement program: As of September 30, 2009, HUD had approved approximately \$72.6 million to complete extensive renovations to the Hudson River waterfront in Lower Manhattan, including public recreational piers, an ecological pier, and an adjacent upland park.

Local Transportation and Ferry Service program: As of September 30, 2009, HUD had approved approximately \$9 million for this program to restore and enhance transportation services, eliminate deficiencies, and anticipate future needs so that Lower Manhattan can continue to lay the foundation for its revitalization.

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.

RESULTS OF AUDIT

The Auditee Generally Administered CDBG Disaster Recovery Assistance Funds in Compliance With 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 disbursements reviewed during the audit, HUD had assurance that the CDBG Disaster Recovery Assistance funds were properly administered.

Funds Disbursed Were 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. We tested \$2.46 million of the approximately \$27.6 million disbursed under the World Trade Center Memorial and Cultural, Hudson River Park Improvement, and Local Transportation and Ferry Service programs during this audit period, and no material deficiencies were identified.

The auditee continued to operate the system of internal controls over its disbursements that was documented in prior audits. It 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 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 review, and site visits, the auditee continuously monitored the performance of subrecipients against the goals and performance standards prescribed in the subrecipient agreement. Subrecipients were required to submit monthly status reports on the projects and supporting documentation for cost reimbursements. Auditee officials prepared monthly monitoring reports for each program that documented the status of the program and identified problems, if any, and their resolution.

Funds Were 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 September 30, 2009, \$90.9 million of the \$112.2 million budgeted for general planning and administrative activities had been disbursed. During the audit period, the auditee disbursed \$2.9 million for general planning and administrative expenses, and no exceptions were noted with the items tested.

The Auditee's Financial System Adequately Safeguarded 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, developed and implemented adequate fiscal controls and accounting procedures that ensured accurate, current, and complete reporting of financial data. Specifically, the auditee receives and approves incoming invoices from subrecipients for payment and submits the approved invoice packages to the Empire State Development Corporation, which processes the payments to vendors. Thus, the auditee has implemented an adequate management review and approval structure to ensure accurate and complete financial transactions.

Conclusion

HUD had assurance that the CDBG Disaster Recovery Assistance funds disbursed during the audit period were administered in accordance with HUD regulations.

Recommendations

There are no recommendations.

SCOPE AND METHODOLOGY

During the audit period, April 1 through September 30, 2009, the auditee disbursed \$38.8 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 auditee disbursements during the audit period that were identified in HUD’s Line of Credit and Control and Disaster Recovery Grant Reporting systems;
- Used the software program Audit Command Language (ACL) to review the auditee’s disbursements for any illogical and irregular disbursements;
- Interviewed auditee staff to document information on any operational changes since the last audit period;
- Conducted a risk assessment of programs based upon expenditures and past audit findings to identify areas that might warrant detailed testing during the audit;
- Documented the system of controls implemented for the World Trade Center Memorial and Cultural, Hudson River Park Improvement, and Local Transportation and Ferry Service programs, for which \$27.6 million was disbursed; and
- Selected a nonstatistical sample of seven drawdowns in the three programs mentioned above, totaling approximately \$2.5 million, which represented 6.4 percent of the \$38.8 million disbursed during the audit period, to test compliance with internal controls.

<u>Program</u>	<u>Amount disbursed April 1 through September 30, 2009 (in millions)</u>	<u>Amount tested (in millions)</u>
World Trade Center Memorial and Cultural	\$25.96	\$ 1.56
Hudson River Park Improvement	0.93	0.63
Local Transportation and Ferry Service	<u>0.67</u>	<u>0.27</u>
Total	<u>\$27.56</u>	<u>\$ 2.46</u>

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 November 2009 through February 2010.

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

Auditee Comments



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March 5, 2010

Edgar Moore
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U.S. Department of Housing and
Urban Development
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 March 5, 2010 covering the period from April 2009 through September 2009. We recognize the importance of this and the previous 13 congressionally mandated audits your office has performed and appreciate the effort you and your staff put forth. We are pleased that this report reflects the fact that *"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 SEPTEMBER 30, 2009

Program	Budget as of Sept. 30, 2009	Audit period disbursements Apr. 1, – Sept. 30, 2009 ²	Cumulative disbursed as of Sept. 30, 2009	Balance remaining as of Sept. 30, 2009
Business Recovery Grant program	218,946,000	(15,749)	218,839,916	106,084
Job Creation and Retention	143,000,000	319,610	105,123,340	37,876,660
Small Firm Attraction	29,000,000	(160,215)	27,722,990	1,277,010
Residential Grant (housing assistance program)	237,500,000		236,057,064	1,442,936
Employment Training Assistance	346,000		337,771	8,229
Memorial Design & Installation	315,000		309,969	5,031
Columbus Park Renovation	998,571		0	998,571
Marketing History and Heritage Museums	4,664,000		4,612,619	51,381
Downtown Alliance Streetscape	4,000,000		4,000,000	0
New York Stock Exchange Area Improvements	25,160,000		5,477,869	19,682,131
Parks and Open Space	46,981,689	10,285	17,793,211	29,188,478
Hudson River Park Improvements	72,600,000	934,989	64,215,406	8,384,594
West Street Pedestrian Connection	22,955,811		18,327,501	4,628,310
Lower Manhattan Communications Outreach	1,000,000		1,000,000	0
Green Roof Project	100,000		0	100,000
Chinatown Tourism & Marketing	1,160,000		1,159,835	165
Lower Manhattan Information program	2,570,000		1,752,391	817,609
World Trade Center Memorial and Cultural ³	690,017,180	25,961,343	475,403,970	214,613,210
Lower Manhattan Tourism	4,176,000		3,950,000	226,000
East River Waterfront Project	150,000,000	28,231	1,625,453	148,374,547
Local Transportation and Ferry Service	9,000,000	668,435	3,996,060	5,003,940
East Side K-8 School	23,000,000		28,703	22,971,297
Fitterman Hall Reconstruction	15,000,000		1,784	14,998,216
Chinatown Local Development Corporation	7,000,000		2,188,867	4,811,133
Affordable Housing	54,000,000		22,464,895	31,535,105
Public Services Activities	6,796,900	18,289	6,497,721	299,179
Administration & Planning	112,262,000	2,940,222	90,880,002	21,381,998
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	8,075,480	26,921,871	62,028,978
Drawing Center	2,000,000		0	2,000,000
Fulton Corridor Revitalization	38,000,000	39,795	846,238	37,153,762
Economic Development – Other	7,000,000		2,040	6,997,960
Transportation Improvements	31,000,000	13,910	13,910	30,986,090
Education – Other	3,000,000		0	3,000,000
Total	2,783,000,000	38,834,625	1,645,097,008	1,137,902,992

² Negative amounts represent recoveries to the program.

³ 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.