
AUDIT REPORT



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

2004-NY-1004

September 15, 2004

OFFICE OF AUDIT
New York/New Jersey Region



Issue Date	September 15, 2004
Audit Case Number	2004-NY-1004

TO: Nelson R. Bregon, General Deputy Assistant Secretary for Community Planning and Development, D

Alexander C. Malloy

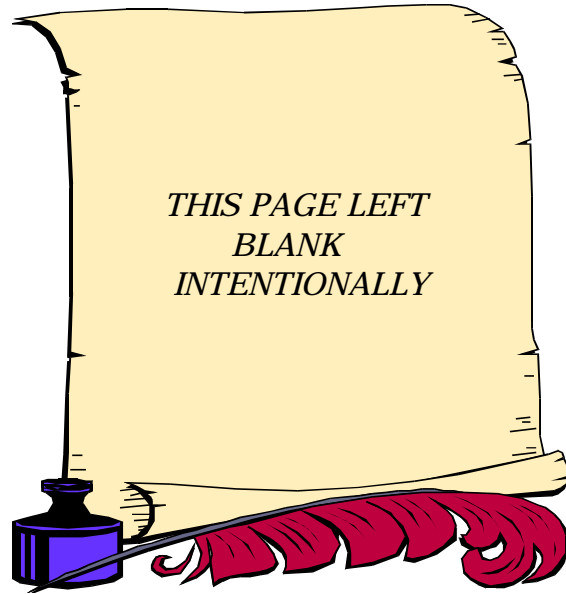
FROM: Alexander C. Malloy, Regional Inspector General for Audit, 2AGA

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

We are performing an on-going audit of the Lower Manhattan Development Corporation's (LMDC) administration of the Community Development Block Grant (CDBG) Disaster Assistance Funds, which were provided to the State of New York as a result of the September 11, 2001, terrorist attacks on the World Trade Center in New York City. The objectives of the current review were to determine whether LMDC: (1) disbursed CDBG Disaster Assistance Funds to eligible grant recipients in accordance with the guidelines established under the United States Department of Housing and Urban Development (HUD) approved Action Plans, (2) implemented adequate procedures for monitoring the programs financed with CDBG funds; and (3) has a financial management system in place that adequately safeguards funds. The current review covered the period from October 1, 2003 to March 31, 2004. This report contains one finding with recommendations for corrective actions.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days, please provide us for each recommendation without a management decision, a status report on: (1) the corrective action taken, (2) the proposed corrective action and the date to be completed, and/or (3) why action is considered unnecessary. Additional status reports are required at 90 days and 120 days after report issuance for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of this audit.

Should you or your staff have any questions, please contact Edgar Moore, Assistant Regional Inspector General for Audit, at (212) 264-4174.



Executive Summary

We are performing an on-going audit of the Lower Manhattan Development Corporation's (LMDC) administration of the Community Development Block Grant (CDBG) Disaster Assistance Funds awarded to the State of New York following the terrorist attacks on the World Trade Center in New York City. The objectives of the review were to determine whether LMDC (1) disbursed CDBG Disaster Assistance Funds to eligible grant recipients in accordance with the guidelines established under the United States Department of Housing and Urban Development (HUD) approved Action Plans, (2) implemented adequate procedures for monitoring the programs financed with CDBG funds, and (3) has a financial management system in place that adequately safeguards funds. This review is the third in a series of reviews that the Office of Inspector General (OIG) plans to conduct of LMDC's administration of the CDBG Disaster Assistance Funds. We plan to issue an audit report every six months and include the results of each review in the Inspector General's Semiannual Report to Congress.

The results of our review disclosed that LMDC generally disbursed the CDBG Disaster Assistance Funds to eligible applicants in accordance with the HUD approved Action Plans, adequately monitored the programs included in the HUD approved Action Plans, and has a financial management system capable of adequately safeguarding the funds. Our review did not disclose any exceptions regarding grant disbursements under the Disproportionate Loss of Workforce or the Utility Restoration and Infrastructure Rebuilding Programs. However, we noted processing deficiencies in the Employment Training Assistance Program (ETAP) that need to be resolved to enhance the efficiency of LMDC's administration of the funds and prevent other related administrative deficiencies from occurring. These issues are summarized below and discussed in detail in the finding.

Processing deficiencies in the Employment Training Assistance Program need to be resolved

Our review disclosed certain processing deficiencies in the Employment Training and Assistance Program (ETAP) that need to be corrected to enhance the efficiency of the program. We found that contrary to the program's application instructions and program guidelines the program administrator approved and disbursed grant payments as reimbursement for training costs to businesses without obtaining adequate supporting documentation. This occurred because the grant processor failed to follow program guidelines. As a consequence, supporting documentation that training costs reimbursed with HUD CDBG Disaster Assistance Funds were necessary, reasonable, and consistent with the stated goals of participating businesses' approved training projects was not available for review. Thus, we consider the training costs reviewed, totaling \$87,394, unsupported pending an eligibility determination by HUD.

Recommendations

We recommend that HUD instruct LMDC and/or its program administrator to obtain and maintain all missing documentation that support the grantee training costs charged to the ETAP, and

pursue reimbursement from those grant recipients who cannot support their costs. All recoveries should be refunded to the CDBG Disaster Assistance Fund.

Exit conference

The results of our audit were discussed with officials of LMDC and its program administrator during the audit and at an exit conference on August 31, 2004. LMDC provided written comments to our draft report on September 3, 2004. We included excerpts of the comments with the finding and provided the complete text of the comments in Appendix B of this report.

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Abbreviations

CFR	Code of Federal Regulations
CDBG	Community Development Block Grant
DLW	Disproportionate Loss of Workforce
ESDC	Empire State Development Corporation
ETAP	Employment Training Assistance Program

FCC	Federal Communications Commission
FERC	Federal Energy Regulatory Commission
HUD	United States Department of Housing and Urban Development
LMDC	Lower Manhattan Development Corporation
NYSPSC	New York State Public Service Commission
OIG	Office of Inspector General
URIR	Utility Restoration and Infrastructure Rebuilding

Introduction

The September 11, 2001, terrorist attacks on the World Trade Center in Lower Manhattan took a devastating toll on New York City. The attacks claimed many lives. In addition to the loss of many lives, many businesses suffered a disproportionate loss of their permanent New York City workforce, and some individuals who survived were displaced from the workforce because of the destruction of their employers' businesses and needed to obtain other skills for employment in the New York City area. In addition, the attacks inflicted widespread destruction upon the energy and telecommunications utility infrastructure, resulting in extensive disruptions in services to the business and residential communities of Lower Manhattan. In the aftermath of the terrorist attacks, Congress authorized HUD to provide the State of New York with \$3.483 billion of Community Development Block Grant (CDBG) Disaster Assistance Funds. On November 5, 2001, the Office of Management and Budget designated \$700 million in CDBG funding for New York City out of the Emergency Response Fund that Congress had appropriated.¹ On January 10, 2002, Congress appropriated an additional \$2 billion for CDBG funding, earmarking at least \$500 million to compensate small businesses, nonprofit organizations, and individuals for their economic losses.² Finally, on August 2, 2002, Congress appropriated an additional \$783 million of CDBG funding.³

Congressional funding to the State of New York for New York City

The Lower Manhattan Development Corporation (LMDC) was created in December 2001 as a subsidiary of the Empire State Development Corporation (ESDC) to function as a joint city-state development corporation. LMDC has been designated by the State of New York to develop programs and distribute \$2.783 billion of the \$3.483 billion appropriated by Congress in the January 2002 and August 2002 Emergency Supplemental Acts. The Empire State Development Corp., the parent company of LMDC, is administering the remaining \$700 million. A 16-member board of directors, appointed equally by the Governor of New York State and the Mayor of New York City, governs LMDC. The Chairman of the Board of Directors is John C. Whitehead and Kevin Rampe is the President.

¹ 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, Pub. L. 107-38, 115 Stat. 220, (2001).

² The Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act 2002(Emergency Supplemental Act 2002), Pub. L. 107-117, 115 Stat. 2336 (2002).

³ The 2002 Supplemental Appropriations Act for Recovery From and Response to Terrorist Attacks on the United States, Pub. L. 107-206.

Approved action plans

As of March 31, 2004, HUD had approved five of LMDC's Partial Action Plans and two Supplemental Partial Action Plans, which contained funding of \$1,621,465,704. The programs implemented under these Action Plans, along with the amounts drawn down by LMDC as of March 31, 2004, for each program, are as follows:

Programs	Budget as of 3/31/2004	Disbursed as of 3/31/2004	Balance as of 3/31/2004
Residential Grant	\$280,500,000	\$191,315,545	\$89,184,455
Employment Training Assistance	\$500,000	\$208,273	\$291,727
Interim Memorial	\$350,000		\$350,000
Business Recovery Grant	\$224,500,000	\$214,173,039	\$10,326,961
Small Firm Attraction And Retention Grants	\$50,000,000		\$50,000,000
Large Firm Job Creation And Retention	\$150,000,000	\$39,487,770	\$110,512,230
Renovation of Columbus Park Pavilion	\$428,571		\$428,571
History And Heritage, Downtown Marketing Initiative	\$4,664,000	\$15,709	\$4,648,291
Short-Term Capital Projects	\$69,405,000	\$6,015,973	\$63,389,027
Long-Term Planning	\$13,894,848		\$13,894,848
Disproportionate Loss of Workforce	\$33,000,000	\$30,491,810	\$2,508,190
Utility Restoration And Infrastructure Rebuilding	\$735,000,000	\$45,489,325	\$689,510,675
Chinatown Tourism And Marketing	\$1,000,000		\$1,000,000
Lower Manhattan Information	\$1,300,000		\$1,300,000
Administration	<u>\$56,923,285</u>	<u>\$26,776,910</u>	<u>\$30,146,375</u>
TOTALS	<u>\$1,621,465,704</u>	<u>\$553,974,354</u>	<u>\$1,067,491,350</u>

To meet the Congressional mandate to provide assistance to individuals as quickly as possible, LMDC began implementing the programs under its Action Plans immediately upon receiving HUD's approval. During the current audit period, October 1, 2003 through March 31, 2004, CDBG funds were disbursed to grant recipients under the following programs: Residential Grant,

Employment Training Assistance, Business Recovery Grant, Large Firm Job Creation and Retention, History and Heritage Downtown New York City Marketing Initiative, Short-Term Capital Projects, Disproportionate Loss of Workforce, and Utility Restoration and Infrastructure Rebuilding Programs. Funds were also disbursed for administrative expenses.

During the audit we concentrated our efforts on funds disbursed for the Employment Training Assistance, the Disproportionate Loss of Workforce and the Utility Restoration and Infrastructure Rebuilding Programs. These programs are being administered by LMDC's parent company ESDC, which is participating as a sub-recipient of LMDC. We did not review funds disbursed for any other programs or for administrative expenses.

Employment Training Assistance Program



**Employment
Training Assistance
Program**

The Employment Training Assistance Program (ETAP) was developed to provide grants to train current and prospective employees of businesses and not-for-profit organizations located in the area south of 14th Street. Priority was to be given to individuals directly affected by the events of September 11. Under LMDC Partial Action Plan No.1, approved by HUD on June 7, 2002, and amended on September 25, 2002, \$10 million was allocated to the ETAP. Because this program was similar to those offered by Federal, State, and City governments, as well as by not-for-profit organizations, under Partial Action Plan No. 4, LMDC reallocated up to \$9.5 million of these funds to the Business Recovery Grant Program (BRG). LMDC reallocated these HUD funds to target situation in which there was an immediate demand for funding and limited alternative sources of financing. Consequently, \$500,000 is now the amount allocated for the ETAP.

Originally, ESDC established December 31, 2003, as the deadline for businesses to submit applications for grant awards under the ETAP; however, this date was later amended to May 12, 2003. A business requesting a grant under the ETAP must have submitted an application to ESDC with a description of its training program, a detailed training program budget, and other supporting documentation as required by the program administrator (ESDC) by May 12, 2003. The business must receive written approval from ESDC before starting its training program. The training program must be completed within one year of the date of ESDC's approval. The ETAP grant award amount is the lesser of 50

percent of the ESDC-approved training budget or 50 percent of the actual training costs incurred and paid. The maximum ETAP grant award to a business located in the designated “Eligible Area” is \$100,000 and to a business located in the designated “Priority Area” is \$125,000. Grant payments are disbursed to the business by wire transfer upon completion of the ESDC-approved training program and the business’ submission of proof of payment with appropriate supporting documentation. Businesses approved for ETAP grant awards must submit their request for reimbursement no later than February 1, 2005, and the business is required to remain at its Lower Manhattan location for at least two years after the date it receives its grant payment. As of March 31, 2004, a total of \$208,273 in ETAP grant awards had been disbursed to 10 businesses.

World Trade Business Recovery from Disproportionate Loss of Workforce Program

**Disproportionate
Loss of Workforce
Program**

The Disproportionate Loss of Workforce (DLW) Program, approved by HUD on September 15, 2003, was developed to assist Lower Manhattan firms that lost a disproportionate share of their workforce due to the attacks of September 11, 2001. Funding for the program was from the August 2002 supplemental Federal appropriation, which provided \$33 million to assist those firms located in New York City at the time of the terrorist attacks, which suffered a disproportionate loss of their workforce and which intend to re-establish their operations in New York City.

To receive grant assistance under the DLW Program, a business must have (1) operated in Lower Manhattan on or south of Canal Street on and before September 11, 2001, and continued or resumed business operations within New York City; (2) as a result of the September 11, 2001 attacks, the business must have suffered a loss of (a) at least six permanent New York City employees representing at least 20 percent of its New York City permanent workforce or (b) at least 50 permanent New York City employees; and (3) the business must also currently employ at least 50 percent of its pre-September 11, 2001 New York City workforce (exclusive of those employees that lost their lives on September 11, 2001). The deadline for application for a DLW grant was October 15, 2003.

The DLW program administrator (ESDC) together with New York City Economic Development Corporation, established a formula for calculating the amount to be awarded to each eligible business

by taking into account the number of businesses submitting applications, the number of New York City based employees each business lost, and the percentage of each business' New York City based workforce lost as a result of the attacks. DLW grant awards contain a recapture provision that the business will repay the full amount of the grant funds it received if it fails to maintain at least 50 percent of its New York City employment level for three years from the time of grant award. DLW grant payments are disbursed in two installments by wire transfer; the first installment (95 percent of the grant award) is made in accordance with the calculation by the formula, and the other 5 percent is made approximately 160 days after the first disbursement.

As of March 31, 2004, a total of \$30,491,810 in DLW grant awards was disbursed to nine of the ten companies that applied to participate in the program.

Utility Restoration and Infrastructure Rebuilding Program

Utility Restoration and Infrastructure Rebuilding Program

The Utility Restoration and Infrastructure Rebuilding (URIR) Program approved by HUD on September 15, 2003, was developed to provide financial assistance directly to energy and telecommunications service providers for the reimbursement of qualified emergency and temporary restoration costs, as well as, for the costs associated with the permanent restoration of the utility infrastructure damaged in the aftermath of the September 11 terrorist attacks. Additionally, the program seeks to prevent costs borne by the utility service providers from being passed through to the customers.

The HUD-approved Action Plan for the URIR Program proposes the expenditure of \$735 million under six different categories, with \$250 million allocated for Category One - Emergency and Temporary Service Response - the category having the highest priority. The utility providers are eligible for 100 percent reimbursement of all actual, incurred uncompensated costs that are documented and properly classifiable as Category One costs. Costs that are reimbursed or reimbursable under insurance claims are not eligible for reimbursement under the URIR Program. If the \$250 million allocated for Category One is insufficient to cover the utility providers' documented incurred costs, available funds from the other categories will be reallocated in reverse priority order to pay for eligible Category One costs.

To be eligible for the URIR Program, the utility service provider must be investor-owned, and the company must be under the jurisdiction of the New York Public Service Commission (NYSPC), the Federal Energy Regulatory Commission (FERC), or the Federal Communications Commission (FCC) with service territory in the affected area in Lower Manhattan. The affected area is defined as the area on and south of Canal Street from the East River to the Hudson River.

The Partial Action Plan established October 31, 2003, as the application deadline for reimbursement of Category One costs not covered by settled or pending insurance claims and March 31, 2004, as the application deadline for costs that may or may not be partially covered by pending or settled insurance claims.

Advance payments amounting to one-third of the requested eligible Category One costs are disbursed to the utility providers within 30 days of receipt of a completed application with full documentation. The balance of the grant award will be made upon the program administrator's (ESDC) completion of a full audit and verification of the submitted costs. At the end of our audit period, March 31, 2004, a total of \$45,489,325 in advanced payments had been disbursed to three utility providers.

**Audit Scope and
Methodology**

We performed our on-site work between March 2004 and July 2004. The current review generally covered CDBG funds disbursed from October 1, 2003 through March 31, 2004, and when appropriate, was extended to cover periods before and after these dates.

Our on-going audit is being conducted in accordance with Generally Accepted Government Auditing Standards.

We provided a copy of this report to the Auditee.

Processing Deficiencies in the Employment Training Assistance Program Need to be Resolved

Our review of payments made to businesses under the WTC Employment Training Assistance Program (ETAP) disclosed processing deficiencies that need to be resolved. We found that contrary to the ETAP guidelines LMDC's program administrator, the Empire State Development Corporation (ESDC), disbursed grant payments as reimbursements for training costs to businesses without obtaining appropriate supporting documentation. We believe this occurred because the grant processor failed to follow program guidelines and application and reimbursement instructions. As a consequence, supporting documentation that training costs reimbursed with HUD CDBG Disaster Assistance Funds were necessary, reasonable, and consistent with the stated goals of participating businesses' approved training projects was not available for review. Thus, we consider the training costs reviewed, totaling \$87,394, unsupported pending an eligibility determination by HUD.

Scope and Methodology

We selected a sample of five ETAP grant recipients, who received grant payments totaling \$87,394 during our audit period of October 1, 2003 through March 31, 2004. These five recipients were selected from a universe of 10 businesses, representing approximately \$208,273 in ETAP grant disbursements that were made during the period between March 12, 2003 and March 31, 2004.

We reviewed the contents of the ETAP files to determine whether the grant recipients' submissions were consistent with the established guidelines. In addition, we evaluated the adequacy of the documentation supporting the recipients' eligibility, and the total ETAP training costs reimbursed with CDBG Disaster Assistance Funds.

Criteria

Office of Management and Budget (OMB) Circular A-87, Section C (1)(j), provides that to be allowable under Federal awards, costs must be adequately documented. The ETAP Reimbursement Instructions provides a list of the supporting documents that grant recipients must submit with their reimbursement requests. The ETAP Guidelines provides that eligible training costs are those costs incurred after the applicant receives written approval for its training project(s). The ETAP Application Instructions provide that employees being trained must be on the business payroll as of the date of the application. Title 24 Code of Federal Regulations (CFR) Section 570.490 provides that the State must establish and maintain the necessary records to

facilitate the review and audit by HUD of the State's administration of CDBG funds.

Appropriate supporting documentation not obtained

We were informed that all application and post-training reimbursement documents are reviewed to ensure that all supporting documents have been received before disbursing grant funds. However, our review of the files relating to our testing of five ETAP recipients disclosed that the program administrator did not always obtain or retain the appropriate post-training reimbursement documentation to support the costs associated with approved training projects. We noted that copies of cancelled checks were not attached to the reimbursement documentation, and invoices were not marked "paid," indicating the check number used to pay for the training costs as required. Several invoices were ambiguous in that the goods or services offered and their correlation to the approved training projects were not readily apparent. We also noted that the supporting documentation to validate on-the-job training expenses, such as wages paid to trainees for time spent in training and wages paid for in-house trainers, was not available. In the absence of this documentation, there is inadequate assurance that the costs incurred by these businesses were necessary and reasonable to the approved training projects and were paid before the requests for reimbursement were received. Consequently, \$87,394 in training project costs that were reimbursed with HUD CDBG Disaster Assistance Funds could not be fully substantiated.

Wages charged to grant not corroborated by payroll records

The ETAP application Training Project Budget requires that the grantee provide the average hourly trainee wages; however, the ETAP guidelines do not offer specific instructions concerning the support for on-the-job training wages. Nevertheless, we believe prudent business practice dictates that charges to grant awards for salaries and wages should be corroborated by actual payroll documentation. Accordingly, because neither payroll time distribution records nor documents reflecting the time spent in or providing training were accessible, we could not determine the actual wage rates per hour or the number of training hours. Therefore, we were unable to verify the amount of wages charged to the grants for trainees and/or in-house training providers.

Wages charged to grant appeared to be overstated

It should be noted that only one of the five ETAP grant recipients tested attached payroll documentation to its reimbursement request. In this case our examination of the recipient's payroll records disclosed that the entire amount reflected on the payroll for each individual trainee was charged to the grant. However, based on an evaluation of the documentation provided regarding the time spent in training, it appeared that the hours used in the calculation of the trainee wages were inflated; therefore, the wages charged to the grant were overstated. We also noted that two of the five ETAP grant recipients tested did not furnish adequate documentation to support the expenses charged to the grant for the on-the-job and in-house trainer. Accordingly, adequate supporting documentation was not obtained.

Documentation justifying deviations from the guidelines was not maintained

In addition, in two instances, we noted that the program administrator deviated from the program guidelines without documenting its determinations. In one case, contrary to the ETAP guidelines, which provide that training costs should be incurred after the program administrator provides written approval of the businesses training program, we noted that two businesses began incurring training costs before receiving written approval of their training projects. An official of the program administrator acknowledged that this was allowed as long as the training project started after the date of application. Furthermore, the official asserted that the training projects had already been approved, but there was a delay in providing the businesses with formal approval. Although the guidelines reflect that the program administrator may amend the requirements, we believe that the program administrator should have documented and maintained in the files its acknowledgement that due to unique circumstances, businesses would be permitted to incur training costs before receiving written approval of their training projects.

Program administrator approved an application that did not comply with application instructions

In another instance, although the guidelines and instructions for the ETAP application clearly state that to be eligible for the training grant, new full-time permanent employees must be on the business' payroll at the eligible premises as of the date of the application, our review disclosed that the program administrator approved a business' application for training assistance for 20 employees when it was evident that as of the date of the application, there were only six

full-time permanent employees at the eligible premises. An official of the program administrator informed us that the ETAP Program allows for the approval of training budgets that include employees who are expected to be hired by the training date. This allowance encourages job growth and is confirmed through reviews of the businesses' NYS-45 unemployment insurance forms at the time of reimbursement to ensure that all employees are eligible by the time the training takes place. Nevertheless, documentation supporting this claim, such as an official waiver of the established guidelines, etc. was not made available to us.

Insufficient evidence to support business operations at eligible premises

We noted that the program administrator did not obtain sufficient evidence to provide assurance that one of the five businesses was operating at the eligible premises reported on the application. We noted that the leaseholder of the reported address was not the grant recipient, but rather its parent company. Further, the address reflected on the business' voided check and stationery was outside the eligible area. An official of the program administrator acknowledged that documentation indicating that the grant recipient operated its business at a property location leased by its parent company should have been obtained and maintained in the files.

Site visits conducted to obtain documentation

Because the program administrator was unable to provide appropriate supporting documentation to confirm that recipients' training projects were completed in accordance with the application instructions, we conducted on-site visits to four of the five ETAP recipients in our sample to verify the existence of the necessary documentation. As a result of our visits, we were able to review a substantial portion of the documentation that was unavailable in the program administrator's files, such as copies of cancelled checks, paid invoices, payroll records for the period covering the ETAP training, and a brief description of the ambiguous invoices and their relationship to the approved training projects.

Recipient relocates business operations days after receiving the grant payment

However, our site visit to one recipient revealed that contrary to the program guidelines, which provide that training supplies purchased should be used exclusively for training, software purchased using ETAP funds was being used in the course of the recipient's normal business operation and that the software was being resold to its business clients. Also,

the business offered several training courses that lead to trainees receiving professional certifications, which is also not allowed under the program. Despite the guidelines prohibiting a business from relocating its operations from the eligible area within two years of disbursement of the grant, this business relocated its operations outside the eligible area within days of receiving its ETAP grant payment. We learned that this may have occurred because the program administrator's compliance letter to businesses to ensure that their operations remain within the eligible program area had not been mailed to the businesses. Accordingly, we question whether this business has broken its commitment to stay in the eligible area.

Auditee comments

LMDC advised its Program Administrator to take corrective actions to address the processing deficiencies cited in the finding. The Program Administrator began taking corrective actions and has obtained some additional documentation from grant recipients to fully substantiate their eligibility and is continuing to seek additional documentation. The Program Administrator is also evaluating the additional documentation for the grant recipient who relocated its business outside of the eligible area to determine whether grant payments should be recaptured.

OIG evaluation of auditee comments

The actions undertaken by LMDC are responsive to our recommendations.

Recommendations

We recommend that HUD, the General Deputy Assistant Secretary for Community Planning and Development, instruct LMDC and/or its program administrator to:

- 1A. Determine the eligibility of the unsupported costs of \$87,394 that pertain to the five ETAP grants in our sample. This should be done by obtaining and evaluating the documentation that supports the training costs reported by grant recipients. If the supporting documentation cannot be obtained, then LMDC and/or its program administrator should request that these businesses reimburse the program the grant amounts related to the unsupported items.

Also, LMDC should review and evaluate the adequacy of the documentation of the five cases we did not review.

- 1B. Continue to obtain documentation that fully supports the eligibility and the training costs of all grant recipients (including wages) and maintain the documentation in the program administrator's files.
- 1C. Obtain documentation from grant recipients to substantiate whether the grant recipients calculated and charged to the grants the correct amount of trainee wages. If the amounts are incorrect, the appropriate corrective action should be taken.
- 1D. Document all changes to the program guidelines and maintain the documentation in the program files.
- 1E. Determine whether to recapture the grant from the recipient who relocated its business operations outside the eligible area within days of receiving the ETAP grant payment.
- 1F. Ensure that grantee compliance letters, which are designed to provide assurance that recipients maintain their business operations at the eligible premises for two years following the disbursement of the grant, are immediately mailed to recipients.

Management Controls

In planning and performing our audit, we considered the management controls of the Lower Manhattan Development Corporation to determine our auditing procedures, not to provide assurance on the controls. Management controls include the plan of organization, methods, and procedures adopted by management to ensure that its goals are met; the processes for planning, organizing, directing, and controlling program operations; and the systems for measuring, reporting, and monitoring program performance.

Relevant Management Controls

We determined the following management controls were relevant to our audit objectives:

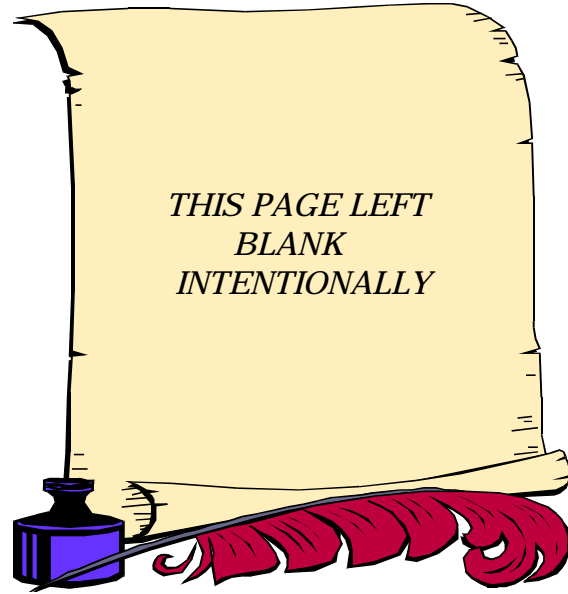
- Program Operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with Laws and Regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and 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.

It is a weakness if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

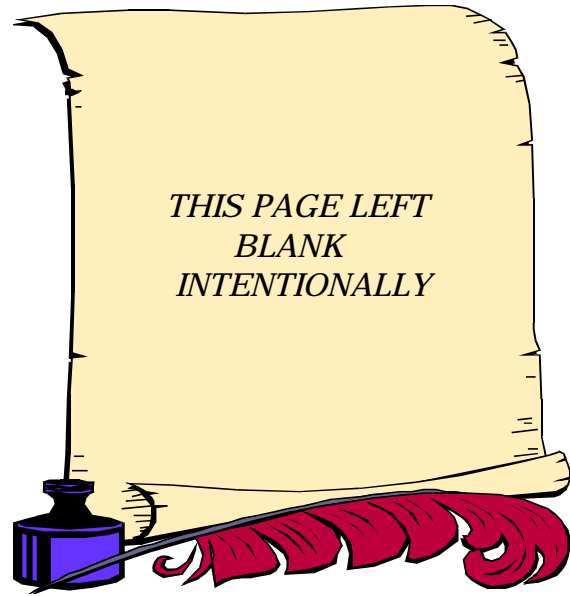
Weaknesses

Based on our review, we found weaknesses in the processing controls of the Employment Training Assistance Program (ETAP), in regards to the documentation required from grant recipients to support the propriety of grant payments (see Finding).



Follow Up On Prior Audits

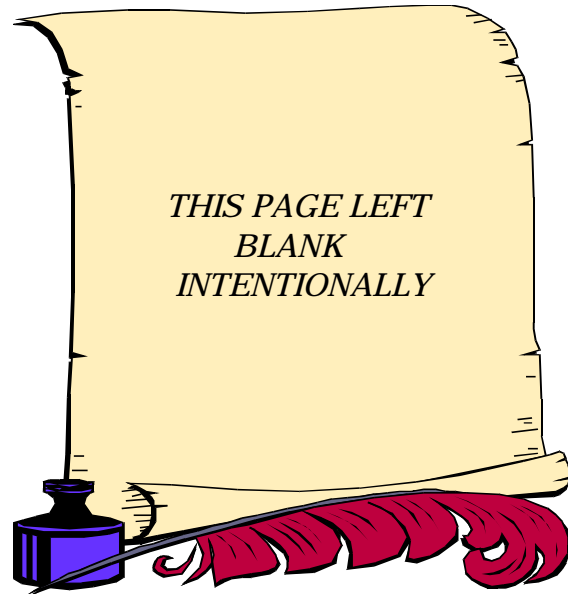
We issued Audit Report number 2004-NY-1002 on March 25, 2004. The report contained three audit findings with recommendations for corrective action. The findings involved processing deficiencies in the Residential Grant Program (RGP), duplicate payments made to grant recipients, and a request that LMDC establish a formal receivable account in its accounting records to track collectible funds owed to the RGP. All recommendations related to these audit findings have been sustained, and LMDC has implemented corrective actions to close all recommendations.



Schedule of Questioned Costs

<u>Type of Questioned Costs</u>	
<u>Finding</u>	<u>Unsupported 1/</u>
1	\$87,394
Totals	<u>\$87,394</u>

- 1/ Unsupported costs are costs charged to a HUD-financed or HUD-insured program or activity, and eligibility cannot be determined at the time of audit. The costs are not supported by adequate documentation, or there is a need for a legal or administrative determination on the eligibility of the costs. 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.



Auditee Comments



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September 3, 2004

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

Dear Mr. Malloy,

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 originally provided to us on August 10th, 2004. The LMDC understands the significance of HUD's review of activities associated with the use of CDBG funds and its recommendations for additional or modified management policies and controls. The attached document presents LMDC management's response to the draft Audit Report.

Sincerely,



Kevin Rampe
President

Attachment

LMDC Response to HUD OIG Draft Report for September 2004

LMDC has reviewed the draft audit report from the HUD Office of the Inspector General (IG) covering the period from October 2003 through March 2004 with its Subrecipient/Program Administrator. Since this review did not disclose any exceptions or findings related to the Disproportionate Loss of Workforce or the Utility Restoration and Infrastructure Rebuilding Programs the response only addresses the finding related to the Employee Training and Assistance Program (ETAP). These programs are administered by our parent company, ESDC.

LMDC instructed the Program Administrator to take corrective actions on the items identified in this report as processing deficiencies. The Program Administrator began taking corrective action as soon as the issues pertaining to the reported finding were communicated to them. Please find below explanations of the corrective actions taken or planned.

HUD IG Recommendation 1A: *Determine the eligibility of the unsupported costs of \$87,394 that pertain to the five ETAP grants whose training cost have been questioned.*

Date Started: August 2004

Target date complete: October 2004

ESDC has reviewed the initial applications and supporting documentation for the five businesses identified in the HUD IG report and has determined that at the time of grant award all five businesses were eligible. This eligibility determination was based on ESDC's compliance with the guidelines or the changes to the guidelines discussed later in this response.

As a result of this review, ESDC has requested additional documentation from the five grant recipients cited in this report to determine if violations of the ETAP guidelines were committed after the awards were granted. If such a determination is made, efforts to recapture these funds would be made. To date, ESDC has received, and is currently reviewing, documentation requested from three of the grant recipients (#'s 30597, 30598 and 30769). Additional documentation requests have been made for further examination.

HUD IG Recommendation 1B: *Obtain documentation that fully supports the eligibility and the training cost of all grant recipients (including wages) and maintain the documentation in the program administrator's files.*

Date Started: August 2004

Target date complete: October 2004

ESDC has requested missing documentation from the five cited grant recipients and has begun reviewing what has been received from three of them to insure documentation received supports grantee eligibility and training costs (including wages). ESDC has received and reviewed documentation from three of the five grant recipients. The following should be noted:

- One of the ETAP grant recipients (ID #30597) provided ESDC with updated copies of all cancelled checks and corresponding invoices. Both LMDC and HUD IG staff concurred that effective corrective action was taken.

- Two other grant recipients (#'s 30598 and 30769) provided ESDC with updated copies of all cancelled checks and corresponding invoices but further information has been requested. Grant recipient # 30598 needs to provide a legible version of the cancelled check associated with an April 29, 2004 invoice. Grant recipient # 30769 needs to provide further documentation to explain the connection between one cancelled check and its corresponding invoice. This grant recipient needs to provide additional evidence that it operated from the eligible premise reported on its application because the lease provided was for its parent company not the grant recipient.
- Two of the ETAP grant recipients (ID # 30800 and # 30591) to date have not provided ESDC with the requested documentation. ESDC sent both businesses certified letters on August 27, 2004 requesting the documentation and informing the grant recipients that if the requested documentation is not received by September 8, 2004 ESDC may begin the process to recapture all grants monies issued.

***HUD IG Recommendation 1C:** Determine whether the grant recipients calculated and charged to the grants the correct amount of trainee wages. If the amounts are incorrect the appropriate corrective action should be taken.*

Date Started: August 2004

Target date complete: October 2004

ESDC has requested documentation from the four cited grant recipients and has begun reviewing what has been received from three of them to insure training wages were properly calculated and charged. The following should be noted:

- One of the grant recipients (ID #30598) provided ESDC with a listing of employees who attended training documenting hours in training, rate of pay, and wages paid for the on the job training that was reviewed and found to be appropriate by LMDC and HUD IG staff.
- Another grant recipient (ID # 30597) provided ESDC with a listing of employees who attended training documenting hours in training, rate of pay, and wages paid for the on the job training but additional payroll records have been requested to verify information recorded on the training listing calculation submitted to ESDC.
- One of the grant recipients (ID # 30769) provided ESDC with documentation of total training cost combining the total of both outsourced and in-house training cost. ESDC has requested that the business provide further documentation that separates costs associated with outsourced versus in-house training cost.
- Grant recipients # 30591 has not provided ESDC with the requested documentation to date. ESDC sent them a certified letter on August 27, 2004 requesting the documentation and informing the business that if the requested documentation is not received by September 8, 2004 ESDC begin the process of recapturing grants monies issued to that business.

***HUD IG Recommendation 1D:** Document all changes to the Program guidelines and maintain the documentation in the Program files.*

Date Started: August 2004

Target date complete: COMPLETED

LMDC believes that as a new program is implemented changes to the Program Guidelines are expected in order to administer the Program as fairly and consistently as possible for the benefit of applicants. LMDC agrees with the policy decisions ESDC made related to grant recipients 30769 and 30591. HUD IG also indicated their agreement with the rationale but recommended it be documented. LMDC agrees that the rationale for allowing these deviations from the original guidelines resulting in policy changes should be documented and included in the appropriate files. Consequently, upon LMDC instructions, ESDC has appropriately documented and filed the rationale for the waivers or policy changes in the Program Files thereby resolving this matter.

***HUD IG Recommendation 1E:** Determine whether to recapture the grant from the recipient who relocated its business operations outside the eligible area within days of receiving the ETAP grant payments. Document all changes to the Program guidelines and maintain the documentation in the Program files.*

Date Started: August 2004

Target date complete: October 2004

ESDC is currently reviewing the requested additional documentation recently received from the grant recipient (#30598) to determine whether grant payments can be fully substantiated or if recapture procedures in whole or part should begin.

***HUD IG Recommendation 1F:** Develop procedures to ensure that grantee compliance letters, which are designed to provide assurance that recipients maintain their business operations at the eligible premises for two years following the disbursement of the grant, are immediately mailed to recipients.*

Date Started: August 2004

Target date complete: October 2004

ESDC will send letters to a representative sample of the ETAP grant recipients to request information from the grant recipients needed to determine if they are in compliance with grant agreement terms including maintaining their business operations at the eligible premises for two years following the grant disbursement.