



**The Lower Manhattan Development
Corporation, New York, NY**

**Community Development Block Grant Disaster
Recovery Assistance Funds**



Issue Date: September 30, 2014

Audit Report Number: 2014-NY-1011

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

//SIGNED//

FROM: Edgar Moore,
Regional Inspector General for Audit, New York – New Jersey, 2AGA

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

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Lower Manhattan Development Corporation's (LMDC) administration of Community Development Block Grant (CDBG) Disaster Recovery Assistance funds covering the period April 1, 2012 through March 31, 2013. The review was performed in response to a congressional mandate that HUD OIG continuously audit LMDC's administration of the \$2.783 billion in 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.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 212-264-4174.



September 30, 2014

The Lower Manhattan Development Corporation, New York, NY, Generally Administered CDBG Disaster Recovery Assistance Funds in Accordance With HUD Regulations

Highlights

Audit Report 2014-NY-1011

What We Audited and Why

We performed the 18th review of the Lower Manhattan Development Corporation's (LMDC) administration of the \$2.783 billion in Community Development Block Grant (CDBG) Disaster Recovery Assistance funds awarded to the State of New York.

The objective of the audit was to determine whether LMDC disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the U.S. Department of Housing and Urban Development (HUD)-approved partial action plans for the Columbus Park Pavilion, West Street Pedestrian Connection, Fiterman Hall, and Education – Other programs.

What We Recommend

There are no recommendations.

What We Found

LMDC generally disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations for the Columbus Park Pavilion, West Street Pedestrian Connection, Fiterman Hall, and Education – Other programs.

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BACKGROUND AND OBJECTIVE

The Lower Manhattan Development Corporation (LMDC) was created in December 2001 as a subsidiary of the Empire State Development 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 LMDC's affairs. The Empire State Development performs all accounting functions for LMDC.

The State of New York designated LMDC to administer \$2.783 billion¹ of the \$3.483 billion² in Community Development Block Grant (CDBG) Disaster Recovery Assistance funds appropriated by Congress in the aftermath of 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 the U.S. Department of Housing and Urban Development (HUD). As of March 31, 2013, HUD had approved 15 partial action plans and multiple amendments, which allocated the \$2.783 billion to various programs and activities (see appendix B for amounts by program), and LMDC had disbursed more than \$2.23 billion, or 80 percent, of the \$2.783 billion appropriated.

During this audit, we reviewed disbursements related to the following programs:

Columbus Park Pavilion program: As of March 31, 2013, HUD had approved \$998,571 for the Columbus Park Pavilion program. This project includes rehabilitation to address the decay of the Columbus Park pavilion's infrastructure. The project expands on recent renovation efforts by the Parks Department and proposes the creation of new community space in the lower level of the pavilion and the refurbishment of the upper level of the pavilion for recreational programming. In addition, the project will eliminate barriers and promote accessibility for people with disabilities.

West Street Pedestrian Connection program: As of March 31, 2013, HUD had approved more than \$22 million for the West Street Pedestrian Connection program. The purpose of this project is to construct a temporary pedestrian bridge near the intersection of Vesey and West Streets and provide enhancements to the bridge and walkway at Liberty Street. This improvement is intended to foster safe pedestrian flow across West Street and appropriately handle the expected high volume of pedestrians that will use this crossing daily once the Port Authority Trans-Hudson service is fully restored. In addition, another project was created to fund pedestrian management-related services necessary to improve traffic and pedestrian safety at selected West Street pedestrian crossings.

Fiterman Hall program: As of March 31, 2013, HUD had approved \$15 million for the Fiterman Hall program. The funds are to be dedicated to costs for planning, design, and administrative expenses, including environmental, engineering, and other studies. The funds are also to be used

¹ This amount was funded by two grants, B-02-DW-36-0001 for \$2 billion and B-02-DW-36-0002 for \$783 million.

² The Empire State Development administers the remaining \$700 million.

for enhancement of interior and exterior public spaces upon completion of the replacement building, including landscaping and indoor and outdoor furniture.

Education – Other program: As of March 31, 2013, HUD had approved \$3 million for the Education – Other program. The funds are to be used to upgrade existing and create additional public school facilities, including classrooms, labs, theaters, and recreation space.

Our audit objective was to determine whether LMDC disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans for the following programs: Columbus Park Pavilion, West Street Pedestrian Connection, Fiterman Hall, and Education – Other.

RESULTS OF AUDIT

Finding: LMDC Generally Administered CDBG Disaster Recovery Assistance Funds in Accordance With HUD Regulations

LMDC officials generally disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations for the Columbus Park Pavilion, West Street Pedestrian Connection, Fiterman Hall, and Education – Other programs.

Funds Disbursed in Compliance With Guidelines

For the programs tested, LMDC generally disbursed the CDBG Disaster Recovery Assistance funds in accordance with the HUD-approved partial action plans, subrecipients' agreements, and applicable laws and regulations. We tested \$13.74 million disbursed under the Columbus Park Pavilion, West Street Pedestrian Connection, Fiterman Hall, and Education – Other programs during this audit period, and no material deficiencies were identified.

For the programs tested, LMDC disbursed funds to subrecipients for eligible, reasonable, and necessary expenses that complied with the subrecipients' agreements and applicable laws and regulations. Through interviews, desk reviews, and site visits, LMDC officials continuously monitored the performance of subrecipients against the goals and performance standards prescribed in the subrecipients' agreements. Subrecipients were required to submit monthly progress reports on the projects and adequate supporting documents for cost reimbursement. LMDC officials prepared either monthly, bi-monthly, or quarterly monitoring reports for each project, documenting the project status, communication with the subrecipients, problems identified, if any, and their resolutions.

Conclusion

For the programs tested, LMDC officials generally administered CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations.

Recommendations

There are no recommendations.

SCOPE AND METHODOLOGY

During the audit period, April 1, 2012 through March 31, 2013, LMDC disbursed \$78.4 million of the \$2.783 billion in CDBG Disaster Recovery Assistance funds appropriated for activities related to the rebuilding and revitalization of Lower Manhattan.

To accomplish our audit objective, we reviewed applicable laws, regulations, and program requirements; subrecipient agreements and contracts applicable to the disbursements; and HUD-approved partial action plans. We documented and reconciled disbursements recorded during the audit period in HUD’s Disaster Recovery Grant Reporting system. Our audit focused on four programs, for which we obtained a general understanding of LMDC’s internal controls and tested \$13.74 million in disbursements for the audit period, as follows:

Program	Amount tested (in millions)	Amount disbursed from April 1, 2012, through March 31, 2013 (in millions)	Percentage Tested
Columbus Park Pavilion	\$0.77	\$0.77	100%
West Street Pedestrian Connection	1.90	1.90	100%
Fiterman Hall	8.07	8.07	100%
Education – Other	3.0	3.0	100%
Total	\$13.74	\$13.74	

For the disbursements under the Columbus Park Pavilion, West Street Pedestrian Connection, Fiterman Hall, and Education – Other programs, we reviewed 100 percent of the drawdowns.

We also reviewed 100 percent of the 58 school grant applications for the Education – Other program, in which two schools applied under one grant application. NYCDOE permitted the two schools to make separate purchases under the same grant application. Therefore, a total of 59 schools were approved to make purchases by LMDC for the Education – Other program. In addition, we tested whether the 59 schools were located in the eligible program area and complied with the program requirements.

While we used the data obtained from HUD’s Disaster Recovery Grant Reporting system³ for informational purposes, our assessment of the reliability of the data in the system was limited to the data reviewed, which were reconciled to LMDC’s records; therefore, we did not assess the reliability of this system.

We performed our audit fieldwork from April through August 2014 at LMDC’s office located in Lower Manhattan and at the office of LMDC’s parent company, the Empire State Development, located in Midtown Manhattan.

³ The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the Disaster Recovery CDBG program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

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 finding and conclusion based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion of the effectiveness of the LMDC's internal control as a whole.

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1



September 26, 2014

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 (HUD) Office of Inspector General Draft Audit Report that was provided to us on September 25, 2014 covering the period from April 2012 through March 2013. We recognize the importance of this and the previous 17 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 LMDC "*administered CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations*" and that there are no findings or recommendations to report. LMDC has and will continue to work diligently to insure Disaster Recovery Assistance funds are safeguarded and disbursed for eligible HUD-approved expenses.

Respectfully,

Daniel A. Ciniello
Senior Vice President - Operations

Appendix B

SCHEDULE OF DISBURSEMENTS AS OF MARCH 31, 2013

Program	Budget as of Mar. 31, 2013	Audit period disbursement Apr. 1, 2012 – Mar. 31, 2013 ⁴	Cumulative disbursement as of Mar. 31, 2013	Balance remaining as of Mar. 31, 2013
Business Recovery Program	\$218,946,000	(\$7,313)	\$218,750,393	\$195,607
Job Creation & Attraction Program	143,000,000	(247,661)	107,220,142	35,779,858
Small Firm Attraction & Retention	29,000,000	(57,946)	27,625,391	1,374,609
Residential Grant Program	236,180,809		236,057,064	123,745
Employment Training Assistance	346,000		337,771	8,229
Interim Memorial	309,969		309,969	0
Columbus Park Pavilion	998,571	767,406	767,406	231,165
History & Heritage Marketing	4,612,619		4,612,619	0
Downtown Alliance Streetscape	4,000,000		4,000,000	0
NYSE Security Improvements	25,255,000		12,194,821	13,060,179
Parks & Open Spaces	46,981,689	2,021,480	20,172,380	26,809,309
Hudson River Park Improvement	72,600,000	31,918	72,600,000	0
West Street Pedestrian Connection	22,955,811	1,899,781	20,742,111	2,213,700
LM Communication Outreach	1,000,000		1,000,000	0
Chinatown Tourism Marketing	1,160,000		1,159,835	165
Lower Manhattan Info	2,570,000		1,752,391	817,609
WTC Site	706,718,783	25,209,587	625,273,382	81,445,401
Lower Manhattan Tourism Programs	3,950,000		3,950,000	0
East River Waterfront	163,000,000	7,378,665	56,468,950	106,531,050
Lower Manhattan Street Management	9,000,000	2,016,373	8,324,375	675,625
East Side K-8 School	23,000,000	9,429,401	22,998,703	1,297
Fiterman Hall	15,000,000	8,071,557	9,928,770	5,071,230
Chinatown LDC	7,000,000	365,765	5,267,600	1,732,400
Lower Manhattan Business Expansion	4,000,000		0	4,000,000
Lower Manhattan Housing	54,000,000		28,200,000	25,800,000
Lower Manhattan Public Service Programs	7,891,900	161,527	7,369,444	522,456
Planning & Administration	114,892,005	2,689,444	104,991,644	9,900,361
Community & Cultural Enhancements	87,855,844	6,205,569	60,524,842	27,331,002
Drawing Center	2,000,000		2,000,000	0
Fulton Corridor	35,000,000	108,442	8,171,150	26,828,850
Economic Development	6,775,000	378,908	4,267,600	2,507,400
Transportation Improvements	17,000,000	10,360	146,859	16,853,141
Education – Other	3,000,000	3,000,000	3,000,000	0
Utility Restoration and Infrastructure Rebuilding	483,382,087		483,382,087	0
Disproportionate Loss	33,000,000		32,999,997	3
Other World Trade Center Area Improvements	196,617,913	8,999,805	33,992,979	162,624,934
Total	\$2,783,000,000	\$78,433,068	\$2,230,560,675	\$552,439,325

⁴ Negative amounts represent recoveries to the program.