



The Lower Manhattan Development Corporation, New York, NY

Community Development Block Grant Disaster Recovery Funds



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

//SIGNED//

From: Kimberly Greene
Regional Inspector General for Audit, 2AGA

Subject: The Lower Manhattan Development Corporation, New York, NY, Generally
Disbursed CDBG Disaster Recovery 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 funds covering the period April 1, 2014 through March 31, 2015. 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 funds awarded to the State of New York in the aftermath of the September 11, 2001, terrorist attack on the World Trade Center in New York City. During the audit period, we reviewed \$5.12 million of the \$21.54 million disbursed for the four programs selected for review.

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 212-264-4147.



Audit Report Number: 2016-NY-1004

Date: February 19, 2016

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

Highlights

What We Audited and Why

We performed the 20th review of the Lower Manhattan Development Corporation's (LMDC) administration of the \$2.783 billion in Community Development Block Grant (CDBG) Disaster Recovery 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. The objective of the audit was to determine whether LMDC disbursed CDBG Disaster Recovery funds in accordance with the guidelines established under the U.S. Department of Housing and Urban Development (HUD)-approved partial action plans for the (1) New York Stock Exchange Security Improvements, (2) East River Waterfront, (3) Lower Manhattan Business Expansion, and (4) Community & Cultural Enhancements programs. Specifically, we reviewed \$5.12 million of the \$21.54 million disbursed for the four programs selected for review.

What We Found

LMDC generally disbursed CDBG Disaster Recovery funds in accordance with the guidelines established under the HUD-approved partial action plans and applicable laws and regulations for the (1) New York Stock Exchange Security Improvements, (2) East River Waterfront, (3) Lower Manhattan Business Expansion, and (4) Community & Cultural Enhancements programs.

What We Recommend

There are no recommendations.

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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 treasury 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 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 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, 2015, 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 \$2.4 billion, or 86 percent, of the \$2.783 billion appropriated.

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

New York Stock Exchange Security Improvements: As of March 31, 2015, HUD had approved approximately \$25.26 million for this program. This program consisted of two phases. Phase one of the program involved installing security barriers and guard facilities on critical streets, developing a more effective street treatment plan, and providing more attractive street furniture to facilitate secure pedestrian and vehicular circulation within the historic core of Lower Manhattan. Phase two of the program focused on public realm improvements to enhance the attractiveness of the New York Stock Exchange Area as a competitive location for businesses, residents, and visitors.

East River Waterfront: As of March 31, 2015, HUD had approved \$163 million for this program. The East River Waterfront design study provided recommendations for improved alternative uses for the waterfront between the Battery Maritime Building and Pier 42 to the north, including the development of open spaces and sites for a wide variety of uses. This program would help reinvigorate the 2-mile stretch and enhance use by residents, workers, and visitors. Together with other public initiatives in the area, these projects will help strengthen the central business district in Lower Manhattan and enhance the viability of its residential communities.

Lower Manhattan Business Expansion: As of March 31, 2015, HUD had approved \$4 million for this program. This program is a grant program intended to entice startup businesses to Lower Manhattan and support the expansion of established companies in Lower Manhattan with office

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.

space and funding opportunities. This economic development program would support approximately 18 startup companies and the estimated creation or preservation of 320 jobs.

Community & Cultural Enhancements: As of March 31, 2015, HUD had approved more than \$88.77 million for the Community & Cultural Enhancements program. The Community Enhancement and Cultural program funds will be allocated by LMDC to not-for-profit and government organizations. The Community Enhancement fund will focus on projects that support community facilities or programs that provide for education, employment, health care services, and recreational or community gathering needs. The Cultural Enhancement fund will focus on programs that provide cultural facilities or programming in Lower Manhattan and demonstrate the ability to spur long-term Lower Manhattan revitalization and benefit area residents, workers, businesses, and visitors.

HUD has authorized the use of up to 5 percent of the total grants to LMDC for costs associated with planning and administration activities, which includes costs for overhead, personnel, and consultants.

Our audit objective was to determine whether LMDC disbursed CDBG Disaster Recovery funds in accordance with the guidelines established under HUD-approved partial action plans for the (1) New York Stock Exchange Security Improvements, (2) East River Waterfront, (3) Lower Manhattan Business Expansion, and (4) Community & Cultural Enhancements programs.

Results of Audit

LMDC Generally Disbursed CDBG Disaster Recovery Funds in Accordance With HUD Regulations

LMDC officials generally disbursed CDBG Disaster Recovery funds in accordance with the guidelines established under the HUD-approved partial action plans, subrecipient agreements, and applicable laws and regulations for the New York Stock Exchange Security Improvements, East River Waterfront, Lower Manhattan Business Expansion, and Community & Cultural Enhancements programs.

Funds Disbursed in Compliance With HUD-Approved Action Plans and Federal Requirements

For the programs tested, LMDC generally disbursed CDBG Disaster Recovery funds in accordance with the HUD-approved partial action plans, subrecipient agreements, and applicable laws and regulations. We tested approximately \$5.12 million of the \$21.54 million disbursed under the New York Stock Exchange Security Improvements, East River Waterfront, Lower Manhattan Business Expansion, and Community & Cultural Enhancements programs. We found no material deficiencies.

Specifically, for the items tested, LMDC disbursed funds to subrecipients and vendors for eligible, reasonable, and necessary expenses that complied with the HUD-approved partial action plans, subrecipients' agreements, and applicable laws and regulations. LMDC officials continuously monitored subrecipient performance against goals and performance standards prescribed in subrecipient agreements. Monthly progress reports and adequate supporting documentation for cost reimbursements must be maintained for each project. Audit fieldwork disclosed that LMDC officials prepared monthly, bimonthly, and quarterly monitoring reports and maintained adequate supporting documentation for each of their projects. Additionally, these reports documented communications and identified problems and resolutions.

Conclusion

For the items tested during our review, LMDC officials generally disbursed CDBG Disaster Recovery funds in accordance with the established guidelines under HUD-approved partial action plans, subrecipient agreements, and applicable laws and regulations for the New York Stock Exchange Security Improvements, East River Waterfront, Lower Manhattan Business Expansion, and Community & Cultural Enhancements programs.

Recommendations

There are no recommendations.

Scope and Methodology

During the audit period, April 1, 2014 through March 31, 2015, LMDC disbursed more than \$56.7 million of the \$2.783 billion in CDBG Disaster Recovery funds appropriated for activities related to the rebuilding and revitalization of Lower Manhattan.

To accomplish our audit objective, we

- Reviewed applicable laws, regulations, program requirements.
- Reviewed LMDC’s policies, procedures, and internal controls.
- Reviewed HUD-approved partial action plans and amendments.
- Reviewed Empire State Development and LMDC records and subrecipient agreements applicable to the disbursements.
- Reviewed HUD quarterly performance reports and prior Office of Inspector General (OIG) audit work papers.
- Reviewed HUD monitoring reports.
- Interviewed LMDC officials.
- Obtained data in HUD’s Disaster Recovery Grant Reporting (DRGR) system.³
- Reviewed audited financial statements for the years ending March 31, 2014 and 2015.
- Reconciled disbursements in DRGR that were recorded during the review period.

During our audit, we selected four programs to gain a general understanding of LMDC’s internal controls. We tested a nonstatistical⁴ sample of \$5.12 million, or 23.79 percent, of the \$21.54 million disbursed during our review period as follows:

Program	Amount tested (in millions)	Amount disbursed from April 1, 2014 through March 31, 2015 (in millions)
New York Stock Exchange Security Improvements	\$1.43	\$2.89
East River Waterfront	2.64	12.91
Lower Manhattan Business Expansion	0.29	1.66
Community & Cultural Enhancements	0.76	4.08
Total	\$5.12	\$21.54

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

⁴ A nonstatistical selection is appropriate when the auditor knows enough about the population to identify a relatively small number of items of interest. The results of procedures applied to items selected under this method apply only to the selected items and must not be projected to the portion of the population that was not tested.

For the disbursements under the New York Stock Exchange Security Improvements, East River Waterfront, and Lower Manhattan Business Expansion programs, we reviewed the largest dollar amount drawn down and disbursed for each program. For the Community & Cultural Enhancements program, we reviewed the three largest dollar amounts drawn down and disbursed for this program.

For informational purposes, we used the data obtained from HUD's DRGR system. The assessment of this reliability was limited to the data we reviewed and reconciled to LMDC records. Therefore, we did not assess the reliability of this system.

We performed our audit fieldwork from September through December 2015 at the LMDC office located in Lower Manhattan and the LMDC parent company, Empire State Development, located in Midtown Manhattan.

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 objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective(s).

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 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 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 objectives 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 on the effectiveness of LMDC's internal control as a whole.

Appendixes

Appendix A

Auditee Comments



LMDC

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January 15, 2016

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

Dear Ms. Greene:

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 January 15, 2016 covering the period from April 2014 through March 2015. We recognize the importance of this and the previous 19 congressionally mandated audits your office has performed and appreciate the effort you and your staff have put forth.

We are pleased that this report reflects the fact that LMDC *"disbursed CDBG Disaster Recovery Assistance funds in accordance with the guidelines established under the HUD-approved partial action plans, subrecipient agreements, and applicable laws and regulations"* and that there are no findings or recommendations to report. LMDC has and will continue to work conscientiously to insure Disaster Recovery Assistance funds are disbursed in accordance with approved action plans and only for eligible HUD-approved expenses.

Respectfully,

A handwritten signature in black ink, appearing to read "D. Ciniello", written over a light blue horizontal line.

Daniel A. Ciniello
Senior Vice President
Lower Manhattan Development Corporation

Appendix B
Schedule of Disbursements as of March 31, 2015

Program	Budget as of Mar. 31, 2015	Audit period disbursement Apr. 1, 2014 – Mar. 31, 2015 ⁵	Cumulative disbursement as of Mar. 31, 2015	Balance remaining as of Mar. 31, 2015
Business Recovery Program	\$218,946,000		\$218,750,393	\$195,607
Job Creation & Attraction Program	143,000,000	(\$27,600)	106,631,801	36,368,199
Small Firm Attraction & Retention	29,000,000		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	231,165
History & Heritage Marketing	4,612,619		4,612,619	0
Downtown Alliance Streetscape	4,000,000		4,000,000	0
NYSE (New York Stock Exchange) Security Improvements	25,255,000	2,890,607	23,154,743	2,100,257
Parks & Open Spaces	46,981,689		28,625,960	18,355,729
Hudson River Park Improvement	72,600,000		72,600,000	0
West Street Pedestrian Connection	22,955,811		21,492,152	1,463,659
LM (Lower Manhattan) Communication Outreach	1,000,000		1,000,000	0
Chinatown Tourism Marketing	1,160,000	165	1,160,000	0
Lower Manhattan Info	2,570,000	36,000	2,548,556	21,444
WTC (World Trade Center) Site	714,953,783	14,032,384	663,202,157	51,751,626
Lower Manhattan Tourism Programs	3,950,000		3,950,000	0
East River Waterfront	163,000,000	12,910,163	118,301,948	44,698,052
Lower Manhattan Street Management	9,000,000		8,324,375	675,625
East Side K-8 School	23,000,000	1,297	23,000,000	0
Fiterman Hall	15,000,000		15,000,000	0
Chinatown LDC (Local Development Corporation)	7,000,000		5,367,394	1,632,606
Lower Manhattan Business Expansion	4,000,000	1,660,000	1,660,000	2,340,000
Lower Manhattan Housing	54,000,000	4,810,015	35,010,015	18,989,985
Lower Manhattan Public Service Programs	7,891,900	158,499	7,561,020	330,880
Planning & Administration	115,247,005	1,858,875	107,534,334	7,712,671
Community & Cultural Enhancements	87,855,844	4,078,808	72,714,579	15,141,265
Drawing Center	2,000,000		2,000,000	0
Fulton Corridor	35,000,000	12,724,414	26,717,456	8,282,544
Economic Development	6,775,000		4,897,866	1,877,134
Transportation Improvements	15,835,000	4,614	162,268	15,672,732
Education – Other	3,000,000		3,000,000	0
Utility Restoration and Infrastructure Rebuilding	483,382,087		483,382,087	0
Disproportionate Loss	33,000,000	3	33,000,000	0
Other World Trade Center Area Improvements	189,192,913	1,660,584	36,622,141	152,570,772
Total	\$2,783,000,000	\$56,798,828	\$2,401,081,465	\$381,918,535

⁵ Negative amounts represent recoveries to the program.