



# The Lower Manhattan Development Corporation, New York, NY

## Community Development Block Grant Disaster Recovery Funds



**To:** Stanley A. Gimont, Acting Deputy Assistant Secretary for Grant Programs, DG

**From:** //signed//  
Kimberly S. Dahl, 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, 2015, through March 31, 2016. 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 \$6.57 million of the \$10.15 million disbursed for the two 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 website. 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: 2017-NY-1009**

**Date: June 13, 2017**

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

## Highlights

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### What We Audited and Why

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We performed the 21st 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 and final action plans for the (1) Parks & Open Spaces and (2) Transportation Improvements programs. Specifically, we reviewed \$6.57 million of the \$10.15 million disbursed for the two programs selected for review.

### What We Found

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LMDC generally disbursed CDBG Disaster Recovery funds in accordance with the guidelines established under the HUD-approved partial and final action plans and applicable laws and regulations for the (1) Parks & Open Spaces and (2) Transportation Improvements programs.

### What We Recommend

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There are no recommendations.

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# Background and Objective

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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. An eight-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 billion<sup>1</sup> of the \$3.483 billion<sup>2</sup> 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, 2016, 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:

Parks & Open Spaces program: As of March 31, 2016, HUD had approved approximately \$46.98 million for this program to rehabilitate parks and open spaces that were closed or damaged after September 11, 2001, and to create new parks and open spaces to further serve workers, tourists, and the growing residential population. This program consisted of two phases. Phase one of the program involved parks and open spaces throughout Lower Manhattan that were best suited to provide initial and dramatic improvements for Lower Manhattan residents and workers. Phase two of the program involved creating parks and revitalizing existing open spaces throughout Lower Manhattan, including the Financial District, Two Bridges, Chinatown, Lower East Side, and Tribeca. The proposed enhancements would focus on reconstructing sitting areas, public plazas, and playgrounds. The plan would also create new public spaces and enhance pedestrian corridors with flowering trees, shrubs, benches, lighting, decorative paving, and other improvements.

Transportation Improvements program: As of March 31, 2016, HUD had approved \$15.83 million to address transportation improvements to benefit commuters, businesses, residents, and pedestrians in Lower Manhattan. For example, the funds would be used for projects within Lower Manhattan to improve connectivity between Lower Manhattan, the rest of New York City, and the region;

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

<sup>2</sup> The Empire State Development administers the remaining \$700 million.

improve conditions for pedestrians and bicyclists; support traffic management and emergency response; and ease the impact of construction on residents, businesses, and tourists.

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 and final action plans for the (1) Parks & Open Spaces and (2) Transportation Improvements programs.

# Results of Audit

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## **Finding: LMDC Generally Disbursed CDBG Disaster Recovery Funds in Accordance With HUD Regulations**

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LMDC officials generally disbursed CDBG Disaster Recovery funds in accordance with the guidelines established under the HUD-approved partial and final action plans, subrecipient agreements, and applicable laws and regulations for the Parks & Open Spaces and Transportation Improvements 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 and final action plans, subrecipient agreements, and applicable laws and regulations. We tested approximately \$6.57 million of the \$10.15 million disbursed under the Parks & Open Spaces and Transportation Improvements programs. We found no material deficiencies.

Specifically, for the items tested, LMDC disbursed funds to the subrecipients for eligible, reasonable, and necessary expenses that were adequately supported and complied with the HUD-approved partial and final action plans, subrecipient 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 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 and final action plans, subrecipient agreements, and applicable laws and regulations for the Parks & Open Spaces and Transportation Improvements programs.

### **Recommendations**

There are no recommendations.

# Scope and Methodology

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We conducted our audit from December 2016 through February 2017 at the LMDC office located in Lower Manhattan and the LMDC parent company, Empire State Development, located in Midtown Manhattan. The audit covered the period April 2015 through March 2016.

To accomplish our audit objective, we

- Reviewed applicable laws, regulations, and program requirements.
- Reviewed LMDC’s policies, procedures, and internal controls.
- Reviewed audited financial statements for the years ending March 31, 2015 and 2016.
- Reviewed HUD-approved partial and final action plans and amendments.
- Reviewed Empire State Development and LMDC records and subrecipient agreements applicable to the disbursements.
- Reviewed prior Office of Inspector General (OIG) reports and audit work papers.
- Reviewed HUD monitoring reports and quarterly performance reports.
- Interviewed LMDC officials.

During the audit period, LMDC disbursed approximately \$35.85 million and recaptured approximately \$30.06<sup>3</sup> million, for a net amount disbursed of approximately \$5.79 million, of the \$2.783 billion in CDBG Disaster Recovery funds appropriated for activities related to the rebuilding and revitalization of Lower Manhattan. Appendix B shows the net amounts disbursed for each program.

We selected two programs to gain a general understanding of LMDC’s internal controls. LMDC disbursed \$10.15 million for these two programs during the audit period. We reviewed the largest dollar amount drawn down and disbursed for each program, for a total of \$6.57 million.

Program	Amount tested (in millions)	Amount disbursed from April 1, 2015, through March 31, 2016 (in millions)
Parks & Open Spaces	\$4.74	\$ 5.03
Transportation Improvements	1.83	5.12
<b>Total</b>	<b>6.57</b>	<b>10.15</b>

<sup>3</sup> In 2015, LMDC reached a \$40 million settlement agreement with Lend Lease Construction LMB, Inc., formerly known as Bovis Lend Lease. LMDC received \$30 million from the settlement during our audit period and received the remaining \$10 million after our audit period. During our audit period, LMDC also recaptured \$21,750 and \$33,400 from the Business Recovery and Job Creation & Attraction programs, respectively. As a result, the total recaptured amount during our audit period was approximately \$30.06 million (\$30,000,000 + \$21,750 + \$33,400 = \$30,055,150).



Although this approach did not allow us to make a projection to the entire population of \$10.15 million disbursed during our audit period, it was sufficient to meet our objective and allowed us to review 64.75 percent of the amount disbursed for the two programs selected.

During the audit, we obtained and used data from HUD's Disaster Recovery Grant Reporting (DRGR) system<sup>4</sup> for information purposes. Our assessment of the reliability of these data was limited to reconciling the data recorded in DRGR during our audit period to LMDC records. Therefore, we did not assess the reliability of this system.

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.

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<sup>4</sup> 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.

# Internal Controls

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

# Appendixes

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## Appendix A

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### Auditee Comments



**LMDC**

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May 18, 2017

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

Dear Ms. Dahl:

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 or about May 5, 2017 covering the period from April 2015 through March 2016. We recognize the importance of this audit and the previous 20 congressionally mandated audits your office has performed; we appreciate the effort you and your staff have put forth.

We are pleased that this report reflects our ongoing efforts to effectively disburse "CDBG Disaster Recovery funds in accordance with the guidelines established under the HUD-approved partial and final action plans 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 funds are disbursed in accordance with approved partial and final action plans and only for eligible HUD approved expenses.

Respectfully,

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

Daniel A. Ciniello  
Senior Vice President/CFO  
Lower Manhattan Development Corporation

## Appendix B

### Schedule of Disbursements as of March 31, 2016

Program	Budget as of Mar. 31, 2016	Audit period disbursement Apr. 1, 2015 – Mar. 31, 2016 <sup>5</sup>	Cumulative disbursement as of Mar. 31, 2016	Balance remaining as of Mar. 31, 2016
Business Recovery Program	\$218,946,000	(\$21,750)	\$218,728,643	\$217,357
Job Creation & Attraction Program	143,000,000	(33,400)	106,598,401	36,401,599
Small Firm Attraction & Retention	29,000,000	0	27,625,391	1,374,609
Residential Grant Program	236,180,809	0	236,057,064	123,745
Employment Training Assistance	346,000	0	337,771	8,229
Interim Memorial	309,969	0	309,969	0
Columbus Park Pavilion	998,571	0	767,406	231,165
History & Heritage Marketing	4,612,619	0	4,612,619	0
Downtown Alliance Streetscape	4,000,000	0	4,000,000	0
New York Stock Exchange Security Improvements	25,255,000	1,736,959	24,891,703	363,297
Parks & Open Spaces	46,981,689	5,029,084	33,655,044	13,326,645
Hudson River Park Improvement	72,600,000	0	72,600,000	0
West Street Pedestrian Connection	22,955,811	869,381.00	22,361,533	594,278
LM (Lower Manhattan) Communication Outreach	1,000,000	0	1,000,000	0
Chinatown Tourism Marketing	1,160,000	0	1,160,000	0
Lower Manhattan Info	2,570,000	0	2,548,556	21,444
WTC (World Trade Center) Site	717,053,783	(27,230,892) <sup>6</sup>	635,971,265	81,082,518
Lower Manhattan Tourism Programs	3,950,000	0	3,950,000	0
East River Waterfront	163,000,000	6,212,267	124,514,215	38,485,785
Lower Manhattan Street Management	9,000,000	633,567	\$8,957,942	42,058
East Side K-8 School	23,000,000	0	23,000,000	0
Fiterman Hall	15,000,000	0	15,000,000	0
Chinatown LDC (Local Development Corporation)	7,000,000	788,149	6,155,543	844,457
Lower Manhattan Business Expansion	4,000,000	770,000	2,430,000	1,570,000
Lower Manhattan Housing	54,000,000	196,185	35,206,200	18,793,800
Lower Manhattan Public Service Programs	7,857,921	296,900	\$7,857,920	1
Planning & Administration	115,247,005	1,952,185	109,486,519	5,760,486
Community & Cultural Enhancements	85,789,823	3,738,002	76,452,582	9,337,241
Drawing Center	2,000,000	0	2,000,000	0
Fulton Corridor	35,000,000	1,770,291	28,487,747	6,512,253
Economic Development	6,775,000	163,405	5,061,270	1,713,730
Transportation Improvements	15,835,000	5,119,129	5,281,397	10,553,603
Education – Other	3,000,000	0	3,000,000	0
Utility Restoration and Infrastructure Rebuilding	483,382,087	0	483,382,087	0
Disproportionate Loss	33,000,000	0	33,000,000	0
Other World Trade Center Area Improvements	189,192,913	3,805,329	40,427,470	148,765,443
<b>Total</b>	<b>2,783,000,000</b>	<b>5,794,791</b>	<b>2,406,876,257</b>	<b>376,123,743</b>

<sup>5</sup> Negative amounts represent net recoveries to the program.

<sup>6</sup> For the WTC Site program, LMDC received \$30 million as a result of a settlement and disbursed \$2.8 million, for a net disbursement of \$27.2 million during our audit period (\$30,000,000 - \$2,769,108 = \$27,230,892).