Issue Date March 23, 2005	
Audit Report Number 2005-NY-1003	

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

FROM: Edgar Moore

Edgar Moore, Regional Inspector General for Audit, 2AGA

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

HIGHLIGHTS

What We Audited and Why

We performed the fourth of our on-going audits of the Lower Manhattan Development Corporation's (the Auditee) administration of the Community Development Block Grant (CDBG) Disaster Assistance funds, which were provided to the State of New York following the September 11, 2001, terrorist attacks on the World Trade Center in New York City. The auditee received $2.783 billion in CDBG Disaster Assistance funds from the U.S. Department of Housing and Urban Development (HUD), and during our audit period April 1, 2004 through September 30, 2004, it disbursed $276.7 million of these funds for activities related to the rebuilding of lower Manhattan.

Our audit objectives were to determine whether the auditee: (1) disbursed CDBG Disaster Assistance Funds to eligible grant applicants in accordance with the guidelines established under the HUD-approved Action Plans, (2) has an adequate procurement system in place for soliciting and awarding contracts and/or sub-recipient agreements, (3) expended CDBG funds for eligible planning and administrative costs under the applicable laws and regulations, (4) has a financial management system in place that adequately safeguards funds, and (5) implemented adequate procedures for monitoring the programs financed with CDBG funds.

What We Found

Our review disclosed that the auditee generally disbursed CDBG Disaster Assistance funds to eligible grant applicants in accordance with the HUD-approved Action Plans, and has an adequate procurement system for soliciting and awarding contracts and/or subrecipient agreements. However, the auditee did not always expend CDBG funds for eligible planning and administrative expenses and its financial management system did not adequately safeguard funds. The auditee implemented procedures for monitoring programs financed with CDBG funds; however, its Project Managers did not always maintain written documentation of their monitoring efforts.

The auditee disbursed $141,347 of its CDBG Disaster Assistance funds for ineligible administrative expenses under the Utility Restoration and Infrastructure Rebuilding Program. The Auditee's Subrecipient (its parent company) drew down CDBG Disaster Assistance funds from HUD, without first submitting its invoices to the auditee for review of the accuracy and eligibility of the costs being billed. In addition, the auditee's Project Managers did not always maintain written documentation demonstrating the monitoring of their respective programs.

What We Recommend

We recommend that HUD's General Deputy Assistant Secretary for Community Planning and Development instruct the auditee and/or its Subrecipient to reimburse to the Utility Restoration and Infrastructure Rebuilding Program, the $141,347 in CDBG Disaster Assistance funds that was drawn down for ineligible salary and fringe benefits costs. This reimbursement should be made from non-federal sources.

In addition, the auditee should be required to maintain written documentation detailing the monitoring efforts performed by its Project Managers.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

The complete text of the Auditee's response, along with our evaluation of that response can be found in appendix C of this report.

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BACKGROUND AND OBJECTIVES

The September 11, 2001, terrorist attacks on the World Trade Center in Lower Manhattan took a devastating toll on New York City. 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 addition, the attacks destroyed the North Bridge, which connected the World Trade Center to the World Financial Center. Following the recovery efforts and round-the-clock clean up at the World Trade Center site since the attacks, there has been a need to enhance the streetscape neighboring the World Trade Center site. In the aftermath of the terrorist attacks, Congress authorized the U.S. Department of Housing and Urban Development (HUD), to provide the State of New York with $3.483 billion of Community Development Block Grant (CDBG) Disaster Assistance. 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] On August 2, 2002, Congress appropriated an additional $783 million of CDBG funding.[3]

The Lower Manhattan Development Corporation (the Auditee) was created in December 2001, as a subsidiary of the Empire State Development Corporation to function as a joint city-state development corporation. The Auditee 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 and August 2002 Emergency Supplemental Acts. The Empire State Development Corporation, the parent company of the Auditee, is administering the remaining $700 million.

The Empire State Development Corporation performs all of the Auditee's accounting functions; including payroll, making wire transfer payments to the Auditee's vendors and drawing down funds from HUD. However, prior to drawing down funds from HUD, the Empire State Development Corporation is supposed to obtain written approval from the Auditee.

A 16-member board of directors, appointed equally by the Governor of New York, and the Mayor of New York City, manages the affairs of the Auditee. The Auditee's Chairman of the Board is Mr. John C. Whitehead, and its President is Mr. Kevin Rampe.

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[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.

As of September 30, 2004, HUD had approved eight of the Auditee's Partial Action Plans, which contained funding of approximately $1.8 billion (see Appendix B for programs and amounts). For the current audit period between April 1, 2004 and September 30, 2004, we concentrated our audit efforts on funds disbursed for the following programs: the Design and Installation of Interim Memorial, the Downtown Alliance Streetscape, the West Street Pedestrian Connections, the World Trade Center Memorial and Cultural, and the Utility Restoration and Infrastructure Rebuilding. We reviewed the Auditee's policies and procedures for monitoring the above-mentioned CDBG Disaster Assistance programs. We also reviewed funds disbursed for administrative expenses related to the Utility Restoration and Infrastructure Rebuilding Program. We did not review funds for any other programs or for general administrative expenses.

For the items tested, related to the above programs, our review disclosed exceptions only under the Utility Restoration and Infrastructure Rebuilding Program.

Utility Restoration and Infrastructure Rebuilding Program

Under Partial Action Plan S-2, approved by HUD on September 15, 2003, the Auditee proposed to provide up to $750 million for the Utility Restoration and Infrastructure Rebuilding (URIR) Program. The URIR Program is to be administered by the Empire State Development Corporation in conjunction with the New York City Economic Development Corporation. The program 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 costs associated with the permanent restoration of the utility infrastructure damaged in the aftermath of the September 11, 2001, terrorist attacks. Additionally, the program seeks to prevent costs borne by the utility service providers from being passed on to the customers. Funding for this program is from the supplemental $783 million appropriation, which Congress authorized on August 2, 2002, under the 2002 Supplemental Appropriations Act for Recovery From and Response to Terrorist Attacks on the United States, Public Law 107-206.

The Auditee executed a subrecipient agreement with its parent company, the Empire State Development Corporation, (referred to as the "Subrecipient"), on October 24, 2003, detailing that the Subrecipient will administer the URIR Program for the Auditee. This includes reviewing the eligibility of Category One costs submitted by program participants.

Our audit objectives were to determine whether the Auditee: (1) disbursed CDBG Disaster Assistance Funds to eligible grant applicants in accordance with the guidelines established under the HUD-approved Action Plans, (2) has an adequate procurement system in place for soliciting and awarding contracts and/or sub-recipient agreements, (3) expended CDBG funds for eligible planning and administrative costs under the applicable laws and regulations, (4) has a financial management system in place that adequately safeguards funds, and (5) implemented adequate procedures for monitoring the programs financed with CDBG funds.

RESULTS OF AUDIT

Finding 1: CDBG Disaster Assistance Funds Were Disbursed for Ineligible Administrative Costs Under the Utility Restoration and Infrastructure Rebuilding Program

Our review disclosed that CDBG Disaster Assistance funds were disbursed for ineligible administrative costs under the Utility Restoration and Infrastructure Rebuilding (URIR) Program. Funds were disbursed for salaries and/or fringe benefits costs that were: (a) in excess of what should have been charged for employees who are retirees from a New York State agency, (b) unrelated to the URIR Program, (c) billed twice for the same pay period, and (d) charged but not incurred by the Subrecipient. These deficiencies occurred because the Auditee's Subrecipient circumvented the procedures by drawing down funds from HUD without submitting its invoices to the Auditee for review and approval, as required by the Subrecipient Agreement. As a result, $141,347 was disbursed for ineligible costs and should be repaid to the program.

The Auditee Disbursed $141,347 for Ineligible Salary and/or Fringe Benefits Costs

We reviewed the $746,163 in CDBG Disaster Assistance Funds drawn down to reimburse the Auditee's Subrecipient for administrative costs related to the URIR Program and identified ineligible costs of $141,347. Our review disclosed that the New York City staff of the Auditee's Subrecipient is responsible for preparing the administrative expense billings and drawing down funds from HUD and that no employee benefited from the ineligible expenses included in the billings. The funds were drawn down for ineligible salary and/or fringe benefits costs as follows:

Fringe Benefits Costs of $78,591 In Excess of What Should Have Been Charged for Retirees from a New York State Agency

Our review disclosed that the Auditee's Subrecipient responsible for administering the URIR Program charged ineligible fringe benefits costs totaling $78,591 to the program. The subrecipient hired recent retirees from the New York State Public Service Commission, to perform an audit or cost validation review of claims submitted by the utility companies applying for assistance under the program. As retirees from a New York State agency, these employees are not entitled to receive all of the fringe benefits included in the Subrecipient's 30 percent fringe benefits rate. Based on discussions with officials of the Subrecipient, we learned that the employer's 7.65 percent share of FICA [4]

[4] FICA stands for "Federal Insurance Contribution Act," the Federal legislation that established the Social Security Payroll Tax. The current FICA rate is 15.3 percent, half of which is paid by the employer and half by the employee.

was the only fringe benefit applicable to these employees. Nevertheless, the Subrecipient applied its 30 percent fringe benefits rate to all salary costs charged to the URIR Program. As a result, we questioned the difference between the fringe benefits costs charged using the 30 percent fringe benefits rate and the allowable fringe benefits costs computed using the 7.65 percent FICA rate. We computed the ineligible fringe benefits costs as follows:

	Charged	Allowable	Questioned
Applicable retirees' salaries (a)	$351,636	$351,636	
Fringe benefits rate (b)	30.0%	7.65%	22.35%
Fringe benefits costs (a) x (b)	$105,491	$26,900	**$78,591**

The Auditee should recover the $78,591 from the Subrecipient and reimburse the URIR Program.

Unrelated Costs Totaling $28,196 Were charged to the URIR Program

Our review disclosed that $28,196 in salary and fringe benefits costs related to the administration of a program other than the URIR Program, was incorrectly charged as administrative expenses to the URIR Program. The Partial Action Plan for the Disproportionate Loss of Workforce (DLW) Program and the Subrecipient Agreement between the Auditee and its Subrecipient for the administration of the DLW Program did not allow any expenses to be charged for program administration activities. However, the Subrecipient established a single assignment in its electronic timekeeping system for both the URIR and DLW Programs. Accordingly, the employees who worked on the DLW Program were included in the Subrecipient's billings to the Auditee for administrative expenses related to the URIR Program. This resulted in the URIR Program being charged a total of $28,196 in unrelated program costs consisting of $21,689 in salaries and $6,507 in associated fringe benefits costs. As a result, the total $28,196 charged for unrelated costs should be returned to the URIR Program.

Funds Were Disbursed To Pay Duplicate Billings Totaling $25,529

Our review disclosed that CDBG Disaster Assistance funds were used to pay $25,529 in duplicate billings of salaries and fringe benefits costs. As of September 30, 2004, the Auditee had made two disbursements to its Subrecipient for administrative expenses related to the URIR Program. In both the first and second disbursements, the Subrecipient billed salaries and fringe benefits costs for the pay period ending

March 31, 2004. The Subrecipient did not submit these billings to the Auditee for review; accordingly, the Auditee was not afforded the opportunity to review the billings and possibly detect the duplication. The total ineligible amount of $25,529, which consisted of $19,638 in salaries and $5,891 in fringe benefits costs, should be returned to the URIR Program.

$9,031 Was Disbursed for Costs Charged but Not Incurred by the Subrecipient

Our review disclosed that CDBG Disaster Assistance funds in the amount of $9,031 were disbursed to the Auditee's Subrecpient for salary and fringe benefits costs in excess of what an employee actually received. We learned that salaried employees on the Subrecipient's staff do not receive compensation for hours worked in excess of the standard 75-hour bi-weekly pay period. However, although one employee worked in excess of 75 hours each bi-weekly pay period and was not compensated for the excess hours, the Subrecipient billed for and was reimbursed for the extra hours worked by the employee. This occurred because the Subrecpient, in calculating the billings for this employee multiplied the employee's standard hourly rate by the number of hours worked on the URIR Program (including the excess hours), when it should have used the employee's effective hourly rate. Accordingly, for each pay period billed, we calculated this employee's effective hourly rate, which is the actual salary received divided by the actual hours worked for the period. We then multiplied the effective hourly rate by the hours charged to the URIR Program for the period to arrive at the billable costs and questioned the difference. We determined $9,031, consisting of $6,947 in salaries and $2,084 in fringe benefits, to be ineligible costs that should not have been billed, and therefore, should be reimbursed to the URIR Program.

The following table summarizes the total ineligible salary and fringe benefits costs charged to the URIR Program.

Description	**Salary Costs**	**Fringe Benefits Costs**	**Total Costs**
Excess fringe benefits charged for retirees	$ 0	$ 78,591	**$ 78,591**
Salaries and fringe benefits unrelated to the URIR Program	$ 21,689	$ 6,507	**$ 28,196**
Duplicate billing	$ 19,638	$ 5,891	**$ 25,529**
Salary and fringe benefits charged but not incurred	$ 6,947	$ 2,084	**$ 9,031**
Total	$ 48,274	$ 93,073	**$141,347**

Lack of Compliance with the Subrecipient Agreement Resulted in the Disbursements for Ineligible Costs

Our review disclosed that the above deficiencies occurred because the Auditee's Subrecipient did not submit its invoices to the Auditee for review and approval before drawing down the funds from HUD as required by the Subrecipient Agreement. Section D, paragraph c, of the Subrecipient Agreement, provides that the Subrecipient will submit to the Auditee, its invoices for administrative expenses related to the URIR Program, and the Auditee will review these invoices and provide approval before funds are drawn down from HUD for reimbursement.

Recommendations

We recommend that HUD's General Deputy Assistant Secretary for Community Planning and Development require the Auditee to:

1A. Instruct its Subrecipient to reimburse to the URIR Program, from non-federal sources, the $141,347 in CDBG Disaster Assistance Funds that was drawn down for the ineligible salary and fringe benefits costs.

1B. Develop procedures that will ensure that all of its Subrecipient's requests for reimbursements are submitted to the Auditee for review, and approval as required by the Subrecipient Agreement.

1C. Establish and implement policies and procedures to ensure that funds are not withdrawn from HUD without the knowledge and approval of Auditee officials.

In addition, HUD should:

1D. Instruct the Auditee's Subrecipient (its parent company) to comply with the draw down procedure of obtaining the Auditee's approval prior to withdrawing funds from HUD.

Finding 2: The Auditee Did Not Maintain Written Documentation Demonstrating the Monitoring Performed by Its Project Managers

Although the Auditee has developed and begun implementation of procedures for monitoring the CDBG Disaster Assistance programs, we found that the Auditee did not maintain sufficient documentation to demonstrate the monitoring that is being performed by its Project Managers. For the Downtown Alliance Streetscape and the West Street Pedestrian Connections Programs, we noted that there was little written evidence documenting the monitoring performed by the Project Managers. This occurred because the Auditee's procedures do not require Project Managers to prepare written documentation to evidence their monitoring of the respective programs. The lack of written documentation of its first level of monitoring may impair HUD's ability to make the required compliance determinations that funded activities are consistent with the approved action plans.

The Auditee's Monitoring Procedures

The Auditee's monitoring procedures consist of three levels of monitoring. Project Managers perform the first level, the Compliance Department performs the second level, and the Internal Audit Department performs the third level. Our review determined that the Auditee's second and third levels of monitoring appear to be supported; however, its first level of monitoring needs to be documented. The Auditee requires each Project Manager to monitor his or her respective program(s) and subrecipient(s); however, the Auditee's General Administration Manual does not require the Project Managers to maintain written evidence to demonstrate the monitoring performed.

Written Documentation Not Maintained in Program Files

We interviewed the Project Managers and reviewed the Auditee's files for the Downtown Alliance Streetscape and West Street Pedestrian Connections programs and determined that the Project Manager's monitoring consisted of reviewing the monthly progress reports submitted by the subrecipients; however, there was insufficient evidence in the programs' files to indicate the Project Managers' review of these monthly progress reports. Accordingly, there was little written documentation in the files to demonstrate the first level of monitoring performed by the Project Managers. The Project Manager for the West Street Pedestrian Connections Program provided us with copies of various emails demonstrating monitoring of the subrecipient; however, these emails were only obtained upon our request. Since these emails were not maintained in the files, the files do not document the full extent of the Project Manager's monitoring efforts. Accordingly, we consider this an inadequate audit trail, because the documentation is not readily available for HUD to review when making the required compliance determinations regarding funds expended. Written documentation of the Project Managers' monitoring of these programs is needed so that the Auditee will be in full compliance with the recordkeeping requirements as described in the alternative procedures published in the Federal Register.

The Auditee's Policies Do Not Require Project Managers to Maintain Written Documentation

Auditee officials stated that the Project Managers have been advised that it is their responsibility to consistently monitor the programs' subrecipients and they have received training from the Compliance Department on monitoring the program's subrecipients. However, the Auditee's General Administration Manual does not require Project Managers to maintain written evidence of their monitoring of their respective programs. Federal Register Docket Number 4732-N-04, dated May 22, 2002, provides that the content of the records maintained by the State should be sufficient to enable HUD to make compliance determinations and show how activities funded are consistent with the action plans. Accordingly, the lack of written documentation of the Project Managers' monitoring efforts, may impair HUD's ability to make the required compliance determinations that funded activities are consistent with the approved action plans.

Recommendations

We recommend that HUD's General Deputy Assistance Secretary for Community Planning and Development:

2A. Require the Auditee to maintain written documentation detailing the monitoring that is performed by its Project Managers of the CDBG Disaster Assistance Programs.

SCOPE AND METHODOLOGY

Lower Manhattan Development Corporation (the Auditee) received $2.783 billion in CDBG Disaster Assistance Funds from HUD. During our audit period April 1, 2004 through September 30, 2004, the Auditee disbursed $276.7 million of these funds for activities related to the rebuilding of lower Manhattan. We tested $146.4 million representing approximately 53 percent of the amount disbursed for the period.

To achieve our audit objectives we reviewed:

- Applicable laws, regulations and program requirements,
- The Auditee's HUD-approved Partial Action Plans, and
- The Auditee's accounting books and records.

We examined and tested the documentation supporting disbursements related to the following programs:

- Design and Installation of the Interim Memorial
- Downtown Alliance Streetscape
- West Street Pedestrian Connections
- World Trade Center Memorial and Cultural
- Utility Restoration and Infrastructure Rebuilding

We reviewed the Auditee's policies and procedures for monitoring the above programs.

In addition, we reviewed the payroll records and timesheets of the Auditee's Subrecipient for the URIR Program. Where appropriate, we interviewed officials of the Auditee and its Subrecipients in charge of administering the various programs.

The audit covered the period from April 1, 2004 through September 30, 2004, and was expanded where necessary to include periods prior and subsequent to these dates. We performed our on-site work at the Auditee's office and the office of its parent company, the Empire State Development Corporation, from October 2004 through January 2005.

We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal controls are an integral component of an organization's management that provides reasonable assurance that the following objectives are achieved:

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

Internal controls relate to management's plans, methods and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

Weaknesses

Based on our review, we believe that the following controls contain reportable weaknesses:

- Program Operations - By not maintaining written documentation of monitoring efforts, the Auditee cannot provide adequate assurance that programs are meeting their objectives (see Finding 2).

- Compliance with laws and regulations – Funds were drawn down for administrative expenses without following the requirements of the Subrecipient Agreement, and monitoring of programs are not in compliance with HUD regulations (see Finding 1 and 2).

- Safeguarding Resources - The procedures for withdrawing CDBG Disaster Assistance funds were circumvented by the Auditee's parent company, thereby allowing funds to be withdrawn for ineligible expenses (see Finding 1).

FOLLOW-UP ON PRIOR AUDITS

Prior Report Number and Date

We issued Audit Report number 2004-NY-1004 on September 15, 2004. The report contained one audit finding with recommendations for corrective action. The finding involved deficiencies in the processing of businesses applications for grants under the Employment Training Assistance Program. The Lower Manhattan Development Corporation has commenced corrective actions to address our cited deficiencies, and HUD's Office of Community Planning and Development established June 30, 2005 as the target date for the Auditee to complete its corrective actions.

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 involve processing deficiencies in the Residential Grant Program, duplicate payments made to grant recipients, and weakness in accounting controls over the recovery of funds. The Auditee has implemented corrective actions to resolve our recommendations, and a final action certification was approved by the program office on July 21, 2004.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation Number	Ineligible 1/
1A	$141,347

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law, contract or Federal, State or local polices or regulations.

Appendix B

SCHEDULE OF PROGRAMS FUNDED AND DISBURSEMENTS AS OF SEPTEMBER 30, 2004

Programs	Budget as of 9/30/2004	Cumulative Disbursements as of 9/30/2004	Balance as of 9/30/2004
Residential Grant	$280, 500,000	$219,715,298	$60,784,702
Employment Training Assistance	$500,000	$226,809	$273,191
Interim Memorial	$350,000	$299,969	$50,031
Columbus Park Renovation	$428,571	$0	$428,571
Marketing History/Heritage Museums	$4,664,000	$459,396	$4,204,604
Downtown Alliance Streetscape	$4,000,000	$2,635,871	$1,364,129
New York Stock Exchange Area Improvements	$10,000,000	$0	$10,000,000
Parks and Open Space	$26,149,189	$0	$26,149,189
Hudson River Park Improvements	$2,600,000	$0	$2,600,000
Millennium High School	$3,000,000	$0	$3,000,000
West Street Pedestrian Crossing	$21,155,811	$11,249,748	$9,906,063
Damaged Building Beautification	$1,500,000	$0	$1,500,000
Lower Manhattan Community Outreach	$1,000,000	$210,700	$789,300
Chinatown Tourism and Marketing	$1,000,000	$222,500	$777,500
Lower Manhattan Information	$1,300,000	$237,611	$1,062,389
Business Recovery Grant	$224,500,000	$214,173,039	$10,326,961
Job Creation and Retention	$150,000,000	$50,577,020	$99,422,980
Small Firm Attraction	$50,000,000	$0	$50,000,000
World Trade Center Memorial and Cultural	$164,077,400	$98,475,943	$65,601,457
Lower Manhattan Tourism	$3,250,000	$0	$3,250,000
Disproportionate Loss of Workforce	$33,000,000	$32,999,997	$3
Utility Restoration & Infrastructure Rebuilding	$735,000,000	$160,313,178	$574,686,822
Administration & Planning	$79,624,838	$38,858,201	$40,766,637
TOTALS	**$1,797,599,809**	**$830,655,280**	**$966,944,529**

Appendix C
AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation **Auditee Comments**

LMDC
Remember Rebuild Renew

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March 14, 2005

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 Office of Inspector General Draft Audit Report that was provided to us on March 11, 2005. 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 responses to the draft Audit Report.

Sincerely,

Kevin M. Rampe
President

Attachment

LMDC Response to HUD IG Audit Report 1

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 April 2004 through September 2004. This review did not disclose any findings or matters requiring attention related to the Design and Installation of the Interim Memorial or the World Trade Center Memorial and Cultural Programs. Therefore, our response only addresses the finding related to the Utility Restoration and Infrastructure Rebuilding Program and the Downtown Alliance Streetscape and West Street Pedestrian Connections documentation issues pertaining to our first level of monitoring.

HUD IG Recommendation 1A: *Instruct its Subrecipient to reimburse, from non-federal sources, the $141,347 in CDBG Disaster Assistance Funds that was drawn down for the ineligible salary and fringe benefits costs.*

Date Started: February 3, 2005
Corrective Action Completed: February 7, 2005

On February 7, 2005 LMDC returned $141,347 to the CDBG Disaster Assistance Fund. This was accomplished by deducting this amount from the drawdown of Voucher #096-000619 which was submitted to HUD on February 3, 2005. We consider this reimbursement complete.

HUD IG Recommendation 1B: *Develop procedures that will ensure that all of its Subrecipient's requests for reimbursements are submitted to the Auditee for review and approval as required by the Subrecipient Agreement.*

HUD IG Recommendation 1C: *Establish and implement policies and procedures to ensure that funds are not withdrawn from HUD without the knowledge and approval of the Auditee officials.*

Date Started: October 13, 2004
Corrective Action Completed: January 27, 2005

Comment 1

Procedures requiring Subrecipients to obtain our approval in advance of drawing down funds were in place but not followed by the Subrecipient. When initially informed of this issue, LMDC immediately notified Subrecipient management of their failure to follow existing procedures and the mistakes made regarding the drawdown in question. Our Subrecipient's Chief Financial Officer has emphasized the existing procedures to Subrecipient management and staff. It must also be noted that LMDC would have identified this unauthorized drawdown had it not been detected by HUD OIG. LMDC's quarterly reconciliation of drawdowns to disbursements would have detected the unauthorized drawdown.

On October 13, 2004, LMDC's CFO spoke to ESDC's Controller and ESDC's CFO about the errors that had been identified by HUD OIG. ESDC was asked to take steps to consistently implement the correct procedures. LMDC concerns were also raised in an email to both the Controller and CFO. On October 26, 2004, the LMDC Project Manager, in consultation with LMDC CFO, submitted a memo to ESDC requesting all invoices and backup materials, noting their failure to submit these invoices for review and approval by LMDC prior to all drawdown requests, as stipulated in the Subrecipient Agreement. The memo further requested that both ESDC Central New York City Finance staff and ESDC Program Officers for the URIR program review and approve all invoices prior to submittal to LMDC.

Since October, ESDC has followed proper procedures for calculating administrative costs and submitting the invoice for LMDC approval prior to drawdown of HUD funds. Two invoices and drawdowns for ESDC Utility Infrastructure Administrative expenses have been processed properly. On December 1, 2004 and January 27, 2005 reimbursement invoices were submitted to LMDC and processed following these procedures. ESDC Central New York City Finance staff and ESDC Program Officers for the URIR program have reviewed and approved these invoices. ESDC's Chief Financial Officer and their Controller have emphasized proper procedures to their staff. The ESDC Controller reviews all drawdowns prior to their execution.

HUD IG Recommendation 2A: *Require the Auditee to maintain written documentation detailing the monitoring that is performed by its Project Managers of the CDBG Disaster Assistance Programs.*

Comment 2

Although we believe sufficient documentation is on file at LMDC and in the Subrecipients' files for LMDC or HUD OIG to make applicable compliance determinations, we have and will continue to encourage LMDC Project Managers to provide further documented evidence of their monitoring efforts. Project Managers have been instructed and will be reminded to document and retain pertinent information related to the Subrecipient relationship in their files.

LMDC Project Managers develop project specific approaches to monitoring based upon the type of project, the Subrecipient's experience, and the level of funding involved. Different tools have been made available to Project Managers to use as guides in developing their approaches but in all cases Project Managers are responsible for understanding the scope, objectives, and status of the projects or programs they are assigned in order to make payment determinations regarding the invoices submitted. Project Managers have and will continue to be responsible for preparing quarterly narratives regarding their projects or programs for the DRGR reports and they provide updates at department staff meetings that are discussed weekly at the Senior Staff meeting. Project Managers review, approve, and provide evidence of this review of Subrecipient invoices in accordance with LMDC Policy (GAM section 4, page 7).

Overall, LMDC relies on a combination of documents and processes to manage and monitor Subrecipient relationships beginning with the Subrecipient Agreements. Technical assistance is given to Project Managers by our Senior Project Manager for Compliance. Our Compliance staffs' primary focus is to monitor Subrecipients' compliance with their respective agreements and to ensure LMDC employees assigned to manage each agreement have effectively assumed their responsibilities. LMDC Internal Audit also conducts audits or reviews to objectively evaluate project and program monitoring performed by Project Managers and Compliance staff.

Although the Project Managers' files cited in this report may not have documented the full extent of the Project Manager's monitoring efforts, we are confident that sufficient monitoring takes place prior to the release of funds. Also, our Subrecipient Agreements provide financial recourse should the recovery of inappropriately released funds be warranted.

OIG Evaluation of Auditee Comments

Comment 1 The auditee agreed with the finding and has implemented corrective action to correct the deficiencies identified in the finding. We recommend that HUD verify the corrective actions taken and ensure the implemented procedures are operating as intended.

Comment 2 The auditee agreed with the finding and will implement corrective action. We recommend that HUD verify the corrective action taken and ensure the implemented procedures are operating as intended.