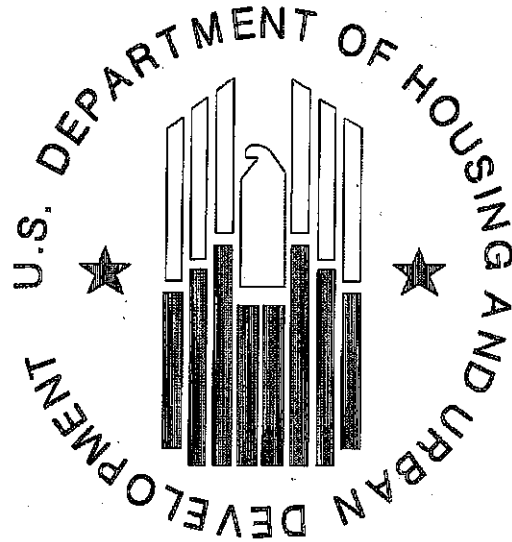


**U.S. Department of Housing & Urban Development
Buffalo, New York Office**



Monitoring Report
Community Development Block Grant Program

City of Dunkirk, New York

Monitoring Dates:

June 13, 2013

July 24, 2013

August 8, 2013

INTRODUCTION

Monitoring is the principal means by which HUD ensures that programs and technical areas are carried out efficiently, effectively, and that the programs comply with applicable laws and regulations. It assists grantees in improving their performance, developing or increasing capacity and augmenting their management and technical skills. Also, it provides the means for staying abreast of the efficacy of CPD-administered programs and technical areas within the communities HUD programs serve. Monitoring is not limited to a one-time review but is meant to be an ongoing process that assesses the quality of a grantee's performance over a period of time involving continuous communication and evaluation. Specifics relating to this evaluation are as follows:

Date Monitoring Conducted: June 13, July 24, and August 8, 2013

Type of Monitoring: On-Site

HUD Reviewers: Community Planning & Development Representatives:
Lambros Touris and Jill Casey

Entrance Conference:

Date: June 13, 2013

Participants: Steven Neratko, Dunkirk Community Development
Director

Timothy Gornikiewicz, Dunkirk Program Administrator

Stephanie Kiyak, Dunkirk City Council Member

Nicole Waite, Dunkirk Community Development

Ron Szot, Dunkirk City Attorney

Jill Casey, HUD Representative

Lambros Touris, HUD Representative

Exit Conference:

Date: September 26, 2013

Participants: Joan Spilman, HUD Field Office Director
William O'Connell, HUD Community Planning & Development
Director

Peggy Meinel, HUD CPD Program Manager

Jill Casey, HUD CPD Representative

Lambros Touris, HUD CPD Representative

Kenneth Naples, HUD Financial Analyst

Karen Kist, HUD CPD Representative

The Honorable A.J. Dolce, Mayor, City of Dunkirk

Steven Neratko, Dunkirk Community Development
Director

Stephanie Kiyak, Dunkirk City Council Member

Nicole Waite, Dunkirk CDBG Program Manager

Contact Information for Further Information and Follow-Up:

Lambros Touris, CPD Representative 716-551-5755, extension 5810 or
lambros.j.touris@hud.gov.

SCOPE OF REVIEW

In determining which grantees will be monitored, the Department uses a risk-based approach to rate grantees, programs and functions, including assessing the Department's exposure to fraud, waste and mismanagement. This process not only assists the Department in determining which grantees to monitor, but also identifies which programs and functions will be reviewed. As a result of our analysis of your program(s), the following areas were identified for review:

Overall Management

Administration of the CDBG program for the following areas:

- Public Improvements & Facilities Projects
- Economic Development Projects
- Financial Management Procedures

BACKGROUND

As a result of previous HUD monitorings in Dunkirk (March 2009 and August 2011), the City has ten (10) open findings and one (1) unaddressed concern. All open issues require follow up corrective action by Dunkirk in order to address compliance and ensure on-going capacity to administer the CDBG program. These are listed below.

While the City provided a response to some of the findings on February 27, 2012, it was not sufficient to correct all of the issues and all but one of the findings remains open. This report re-issues the findings.

The City's CDBG program was also monitored in 2012 by the State of New York Office of the State Comptroller. The report (issued November 2012) found that City Officials from the prior administration (which ended December 31, 2011) severely mismanaged the CDBG program and put public funds at risk. This report confirmed the findings of the aforementioned HUD monitoring reports.

The previously cited HUD findings and concerns are:

2009 Report

Finding Number One: Inadequate CAPER reporting.

Finding Number Two: Inadequate monitoring system for subrecipients.

Finding Number Three: Inadequate subrecipient agreements.

Finding Number Four: Inadequate documentation of the affirmative steps taken to ensure minority business and women business enterprise (MBE/WBE) opportunity to participate in government contracting. (pending closure)

2011 Report

Finding Number One: Inadequate CAPER Reporting.

Finding Number Two: Inadequate Monitoring of Subrecipients.

Finding Number Three: Inadequate Subrecipients Agreements.

Finding Number Four: Inadequate documentation of the affirmative steps taken to ensure minority business and women business enterprise (MBE/WBE) in government contracting. The finding is closed with this report, the FY 2013 MBE report was received October, 24, 2013.

Finding Number Five: Reporting and accounting of program income and internal controls over loan repayments.

Finding Number Six: Insufficient oversight and documentation of national objective for economic development activities and individual loans are not reported in IDIS.

SUMMARY OF RESULTS AND CONCLUSIONS

Areas reviewed may result in the identification of findings, concerns or exemplary practices. A finding is identified as a deficiency in program performance based on a statutory, regulatory or program requirement. It is a condition that is not in compliance with a statute, regulation or handbook. A concern is a deficiency in performance that is not based on a regulatory or statutory requirement but is brought to the grantee's attention. If a finding or concern is noted, it will include a recommendation to change or provide further information on current practices.

This report contains seven new findings. A summary of results, including findings and/or concerns are identified below under the area reviewed section of the report. The enclosed Exhibits were used in formulating the basis for this report. You may find this information useful in responding to any findings or concerns or in further developing your program(s).

Your HUD representative is available to discuss the monitoring results and provide technical assistance. If you disagree with any of HUD's determinations or conclusions, please address the issues in writing to the Department within 30 days from the date of this report. Your written communication should explain the reasons why you disagree and include supporting evidence and documentation. All communications should be forwarded to:

U. S. Department of Housing and Urban Development, Buffalo Office
Community Planning and Development Division
465 Main St.
Buffalo, NY 14203-1780

AREAS REVIEWED

CDBG funds allow communities such as Dunkirk, New York to undertake community development activities directed toward revitalizing neighborhoods, creating economic opportunities, and providing improved community facilities and services, principally for low- and moderate-income persons. An activity that receives CDBG funds must meet one of three national objectives:

- Benefit low and moderate-income families,
- Aid in the prevention or elimination of slums or blight, or
- Meet community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and when other financial resources are not available.

Communities must develop a clear strategy of investment for CDBG funds based on local needs and priorities. This is done through the five-year Consolidated Planning process and an Annual Action Plan. Projects and activities selected for funding must be consistent with the five-year Plan and included in the Annual Action plan which is presented to the community for comment.

HUD considers any activity funded by CDBG that fails to meet one or more of the applicable tests, as non-compliant under CDBG Regulations. It is a grantee's responsibility to establish how any activity assisted with CDBG funds is eligible under Program Regulations and to identify the CDBG National Objective that will be met. These compliance tests must be completed prior to expending CDBG funds. In addition, grantees are required to maintain source documentation establishing eligibility and verifying that the particular national objective was indeed achieved.

The methodology HUD deployed for this monitoring was to test individual projects and activities for eligibility and compliance. This allowed HUD to evaluate Dunkirk's selection, implementation and documentation of CDBG requirements. HUD selected a sample of activities based on the previously cited reports, IDIS data, information reported by the City in the CAPERs report and activities that pointed to potential questions.

Due to the fact that monitoring findings pertaining to overall management and financial oversight still remain open, as well as the deficiencies identified in the State Comptroller's report, it was determined the 2013 review would focus on how the City administered its economic development activities as well its activities pertaining to low-mod area benefit.

The review of the selected projects consisted of the following:

- Review of files
- Interviews with City staff
- Review of written Agreements with developers and beneficiaries
- Site visits
- Review of vouchers
- Review of reports

Overall Management of CDBG Program

FINDING NUMBER ONE: Dunkirk's Community Development team lacked CDBG program knowledge sufficient to ensure compliance.

Condition	<p>Based on interviews with staff and reviews of projects, CDBG related documents, reports and previous monitoring it was determined the program knowledge, capacity for oversight and implementation of the CDBG program by the City was not sufficient to ensure compliance with the program regulations.</p> <p>A CDBG recipient is responsible for ensuring that funds are used in accordance with all program requirements. The various stages of the grants management cycle were not observed. Persons responsible for the oversight of the CDBG program, including the Community Development staff, financial staff, boards of directors and authorizing officials did not exercise due diligence to ensure compliance.</p> <p>This is illustrated by the following:</p> <ul style="list-style-type: none"> • Historically, the projects selected do not appear to have been clearly consistent with local needs and priorities. • Projects lack clear eligibility determinations or supporting documentation to evidence compliance. • Record keeping and financial management systems were not maintained. • There has been a lack of written agreements to enforce the program requirements.
Criteria	24 CFR 570.501(b) Responsibility for grants administration.
Cause(s)	<ul style="list-style-type: none"> • Frequent turn-over of key Community Development staff. • Minimal participation in HUD sponsored programmatic training in the past. • Poor management and oversight by City leadership.
Effect(s)	<ul style="list-style-type: none"> • Possible lack of efficient and effective use of funds to achieve local objectives, including targeted household and neighborhoods not actually benefiting. • Payback of CDBG funds due to non-compliance with regulations.

Corrective Action(s)	<ul style="list-style-type: none"> • City of Dunkirk staff has recently taken a more proactive approach to attending training and seeking HUD feedback. HUD requires the City to continue participating in all training and technical assistance designated by HUD for the coming year. This includes webinars, training sessions, classes, workshops, conferences, reading manuals and direct technical assistance provided by HUD or its designees. Attendance or participation by Dunkirk staff should be documented and reported to the local HUD Office. • HUD Buffalo will coordinate with City leadership to provide training through a HUD contracted Technical Assistance (TA) contractor, HUD staff directly or a combination of the two. This TA will be designed to address local capacity and key program requirements. The City must comply with the recommendations of the TA provider. • The City of Dunkirk has made staffing changes to better administer the CDBG program and should continue to evaluate performance and program oversight. An administrative or operational plan should be developed and adopted by Dunkirk to ensure on-going program compliance and sustainability. This plan must be submitted to HUD Buffalo within six months of this report.
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FINDING NUMBER TWO: Dunkirk has historically disregarded CDBG procedural requirements.

Condition	Based on interviews with staff and review of project files there was insufficient or no documentation of compliance with requirements such as: Environmental Review Records, procurement, labor standards, and reporting including accurate and complete IDIS data.
Criteria	<p>24 CFR 570.502 - Applicability of uniform administrative requirements.</p> <p>24 CFR 570.506 - Records to be maintained.</p> <p>24 CFR 570.501 - Responsibility for grants administration.</p>
Cause(s)	<ul style="list-style-type: none"> • Dunkirk was unaware, chose not to adhere to federal requirements and did not take the responsibility for ensuring compliance. • Lack of checks and balances in the internal management system.
Effect(s)	<ul style="list-style-type: none"> • Non-compliance with program requirements. • Possible violations of environment standards and labor standards.

	<ul style="list-style-type: none"> • Poor quality data to evaluate program effectiveness. • Lack of accountability. • Possible payback of CDBG funds due to non-compliance with regulations.
Corrective Action(s)	<p>In order to clear this finding, the City of Dunkirk must:</p> <ul style="list-style-type: none"> • As noted in Finding #1, continue to engage in training and technical assistance as required by HUD. Dunkirk must commit to continued dialogue with HUD Staff and HUD designated Technical Assistance providers to ensure program knowledge in order to ensure compliance for the future. • Establish a written policy and procedure manual which governs the administration of the CDBG program. If such policies and procedures manual exist, it should be reviewed for thoroughness and consistency with HUD standards. Dunkirk must then follow the written policies and procedures. This document should be forwarded to HUD Buffalo for review within 60 days of the date of this report. • All project files currently open should be reviewed for required compliance documentation. If deficient, necessary information must be included and available for review. Dunkirk must confirm this status, in writing, to HUD within thirty days.

FINDING NUMBER THREE: Lack of clear distinction between City and Dunkirk Local Development Corporation (DLDC) roles and responsibilities.

Condition	<p>The DLDC is a significant City partner and there is not a clear agreement to define roles and responsibilities for the administration of economic development and community events being funded under the auspices of the DLDC. Funding has been provided to the DLDC and other entities in the name of the DLDC without sub-recipient agreements or contracts to define the scope of work, specific budgets, reporting requirements, etc.</p> <p>As previously cited in findings, the City does not have adequate documentation in place regarding the funds allocated to the DLDC nor has the City properly overseen the DLDC administration and project implementation. Despite previous findings cited to address the relationship between the City and the DLDC, there is no evidence or documentation that agreements have been formalized, program or operational monitoring has occurred, or that program compliance has been reported.</p>
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	There is not a clear arm's length relationship between the City and the DLDC as dictated by program rules. It appears actions were taken and funds expended by DLDC without either proper City or DLDC Board authorization. This conclusion is based on several files which lacked DLDC minutes to approve actions and expenditures.
Criteria	24 CFR 570.501 – Responsibility for grant administration. 24 CFR 570.503 – Agreements with sub-recipients.
Cause(s)	<ul style="list-style-type: none"> • The City administers the DLDC without a clear separation of roles and responsibilities. • The DLDC Board of Directors appears to have abdicated responsibilities in project selection and authorization.
Effect(s)	<ul style="list-style-type: none"> • HUD funds were filtered by the City through the DLDC without meeting HUD standards and may have been used on activities or projects that were imprudent and possibly ineligible and requiring repayment to the federal government.
Corrective Action(s)	<ul style="list-style-type: none"> • The City shall not issue any additional CDBG funds to the DLDC without a clear written agreement that includes a scope of work, budget, expectations of use and outcomes, and reporting requirements. • The portfolio of all funds and assets currently held by the DLDC should be accounted for within sixty days and reported to the City and to HUD. The DLDC must demonstrate the source of funds and assets to verify their origin. If not specifically designated, all funds will be determined by HUD as CDBG in nature and must be accounted for as such. • All previously cited corrective actions related to the DLDC-generated program income must be accounted for and reported to HUD within sixty days of this report. (Finding #5 in 2011 Report)

Public Services and Low-to-Moderate Income Areas

Dunkirk elected to provide small amounts of public services funding to various organizations for uses that were not clearly defined or well documented. These are noted as benefiting low-to-moderate income clientele, however did not include the requisite statistics or documentation to verify that the targeted audience was served. The City also selected several projects using a justification that 50 percent of the community is defined as Low/Moderate Income. The HUD standard for this determination is actually 51 percent and was misunderstood or disregarded by Dunkirk Community Development staff.

As a result of reviewing the following activities, HUD has two key conclusions: some activities did not meet a national objective or did not have sufficient records to justify the CDBG expenditures. Other activities may be eligible and may have met a National Objective but did not have adequate documentation of the eligibility, costs and beneficiaries and require additional information be submitted to HUD for review.

Attached to this report is a spreadsheet detailing each of the activities reviewed and they are noted below. This spreadsheet notes the anticipated accomplishments compared to the actual, reported accomplishments.

Review Sample:

- 2008 & 2009 Movies in the Park IDIS. # 471, 492
- 2009, 2010 & 2011 National Night Out IDIS # 493, 510, 525
- 2008 & 2011 Library Improvements IDIS. # 477, 540
- 2009 & 2010 Dunkirk Little League IDIS# 488, 506
- 2011 Historical Society Improvements IDIS # 538
- 2011 Adams Art Gallery IDIS #536
- 2011 Disabled Vets of America capacity building. IDIS # 537
- 2011 Lighthouse Improvements. IDIS # 541
- 2011 Vietnam Vets Scholarship IDIS# 542

FINDING NUMBER FOUR: Questionable CDBG eligibility, questioned costs and insufficient documentation.

Condition	<p>The City expended CDBG funds on activities that may meet one of the HUD National Objectives but the records reviewed by HUD lacked required documentation to evidence beneficiary data, cost documentation and results. Questioned activities include:</p> <ul style="list-style-type: none"> • 2011 Vietnam Vets Scholarship IDIS# 542 (\$875) • 2009, 2010, 2011 National Night Out IDIS # 493, 510, 525 (\$10,500) • 2009, 2010 Dunkirk Little League IDIS# 488, 506 (\$1,500) • 2011 Historical Society Improvements IDIS # 538 (\$3,750) • 2011 Adams Art Gallery IDIS #536 (\$875)
Criteria	<p>24 CFR 570.201 – Basic Eligible Activities 24 CFR 570.506 – Records to be maintained</p>
Cause(s)	<ul style="list-style-type: none"> • Lack of program knowledge and/or disregard of program requirements. • Insufficient records maintenance. • Lack of checks and balances, quality control, oversight and poor or minimal management of program administration.
Effect	<ul style="list-style-type: none"> • CDBG funds may have been expended on ineligible activities and would require repayment. • Intended objectives may not have been achieved. • Poor quality data may result in inability to evaluate effectiveness.
Corrective Action	<p>Within thirty days of this report, the City must provide supporting documentation to the HUD Buffalo Office demonstrating the following for each of the referenced activities:</p> <ol style="list-style-type: none"> 1. Confirmation of the reported national objective achieved. 2. Confirmation of the eligibility citation, and eligibility data (i.e. – if LMA evidence of data from service area).

	<ol style="list-style-type: none"> 3. Who was served (beneficiary(s) and confirmation of eligibility with low/mod income standards at the time of assistance/programming? 4. Attendance roster if a group activity with income survey/verification instrument utilized. 5. Use of funds and costs documentation for the activity. 6. Accomplishment data. <p>If the City cannot provide the above information and activities are determined to be ineligible or a national objective was not met based on HUD's review, the City must make arrangements to repay the CDBG program with non-federal funds for each unsupported activity.</p>
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FINDING NUMBER FIVE: Projects/Activities did not meet a National Objective and/or were not eligible and CDBG expenditures were therefore not justified.

Condition	<p>Based on the information reported in IDIS and provided by the City, the following activities were undertaken and CDBG funds expended without documentation of a National Objective or verification of eligibility of intended beneficiaries.</p> <p>In these cases, there was no documentation of project scope, specific costs or beneficiaries</p> <ul style="list-style-type: none"> • 2008 & 2009 Movies in the Park. IDIS # 471, 492 (\$14,500) • 2008 & 2011 Library Improvements. IDIS # 477, 540 (\$26,774.67) • 2011 Disabled Vets of America capacity building. IDIS # 537 (\$875) • 2011 Lighthouse Improvements. IDIS # 541 (\$3,250)
Criteria	<p>24 CFR 570.208 – Criteria for National Objectives 24 CFR 570.506 - Records to be maintained</p>
Cause	<ul style="list-style-type: none"> • The City staff authorized the activities without confirming they met a national objective.
Effect	<ul style="list-style-type: none"> • CDBG funds were expended on ineligible activities resulting in required payback to the federal government.
Corrective Action	<ul style="list-style-type: none"> • The City must make arrangements acceptable to the Buffalo Office to repay the CDBG program with non-federal funds in the amount of \$45,400.

Economic Development Programming

Dunkirk prioritized the creation of jobs for low and moderate income persons during the period reviewed (2008 – 2012). The key strategies used by the City included direct assistance to small businesses (loans and façade grants) and the acquisition/development of real estate. In order to justify the use/expenditure of CDBG funds for Economic Development, it is the City's responsibility to require assisted businesses to create new jobs, a percentage of which would be made available to low to moderate-income persons. The chart below lists the projects reviewed during monitoring. Key observations during the monitoring included:

- The DLDC/Planning department did not administer its economic development activities consistent with recognized HUD guidelines and procedures.
- Most files reviewed lacked basic project analysis to determine need, impact or viability.
- The economic development files were poorly documented, and those reviewed included insufficient documentation to convey grants or loans to the businesses assisted.
- Assistance to businesses did not appear to include any reporting requirements or a format for job reporting and as a result, the files reviewed contained no information regarding what jobs were created and who was hired to fill them. The job creation data that was available for review was so general in nature that it could not substantiate who was hired, and whether they were low-mod income.

IDIS #	CDBG Economic Development Activity	CDBG Funds Invested	Jobs Goal	Jobs Documented on Site
435	Dunkirk Boardwalk Market	\$ 200,000.00	13	17
446	Dunkirk Boardwalk Market	\$ 100,000.00		
481	Dunkirk Boardwalk Market	\$ 100,000.00		
598	Dunkirk Boardwalk Market	\$ 1,000.00		
594	Dunkirk Boardwalk Market	\$ 1,166.60		
423, 564, 586	DLDC - Rookies	\$ 11,600.00	3.5 fte	13 pt
554, 567	Remtronics	\$ 110,000.00	5 fte	18 fte
474	Peyin's Deli	\$ 10,000.00	?	4
583	Papaya Arts	\$ 2,450.00	?	2 pt
587	Chautauqua Woods	\$ 20,000.00	13	4 fte retained
504, 550	Dunkirk Flavors - façade & loan	\$ 22,500.00		2 fte *
475 & 588	Flickinger Building	\$ 66,000.00		0
600	Bertges Bldg/Site - DLDC RLF	\$ 46,827.76	2 jobs	0
487	Bertges Bldg/Site	\$ 60,000.00	2 jobs	
584	Bertges Bldg/Site	\$ 120,000.00	2 jobs	
526	Bertges Bldg/Site - building demo	\$ 29,500.00	2 jobs	
601	Bertges Bldg/Site	\$ 52,366.00	2 jobs	
565	Bertges Bldg/Site	\$ 52,678.32	1 job	
535	Tourism Development	\$ 30,000.00	30	
563, 574, 591	Medicor	\$ 30,000.00	?	0
436	G&E Tents - façade	\$ 10,000.00	?	0
489, 579	NAPA Building / 59-61 LSDE	\$ 15,000.00	?	0
566, 573	P&G Foods	\$ 7,148.57	?	0
596	Flowers By Anthony - façade	\$ 4,631.70	?	0
581	Elks Club - façade	\$ 5,395.00	?	0
549	Carriage House	\$ 40,000.00	?	0

589	Nutri-perx	\$ 2,783.40	?	0
578	Selling Hive	\$ 30,000.00	?	0
577	Henlie	\$ 15,000.00	?	0
595	Palmer Bryant - façade	\$ 1,689.50	?	0
585	Dunkirk Metal	\$ 69,442.38	?	0
582	Graf Building - façade	\$ 17,904.39	?	0

Of the projects reviewed, thirteen (13) lacked evidence of jobs created or retained and therefore no CDBG National Objective was met. Despite the monitors attempts to obtain any information from City staff that could justify these CDBG expenses, City staff was unable to provide acceptable written verification and confirmation that national objective was met, jobs were created, or that due diligence was taken. The same records lacked complete documentation of underwriting/determination of credit-worthiness, financials such as sources and uses of funds, or clear records authorizing expenditures by the DLDC Board or the City.

By way of example, Dunkirk Metals records reviewed indicated DLDC provided more funding than was actually reflected in IDIS and the agreements did not include any requirements regarding job retention or creation. There was no evidence of underwriting or loans being securitized. During the course of monitoring, it was noted repayments were not being received, the company ownership was transferred, and the company was moving to a location outside the City. Interviews with staff involved at the time the loans were made and still involved in program operations indicated a lack of awareness of the business status or any effort to pursue collection of unpaid debts.

A second example is the Bertges Site. The City purchased a building and site from a private owner without an appraisal, environmental review, market analysis or clear end-use development plan. Costs were incurred for demolition and debt service and "other expenses" that were not clearly documented. The site is vacant and is being used for ad-hoc parking. While a re-development plan is now being developed by the current administration, there is no evidence this project was well conceived or that there were efforts to ensure compliance.

Other examples include small businesses in the SUNY Fredonia incubator - Henlie and Selling Hive. While the City indicated support for the Incubator and described a project to finance the startup businesses, there were no formalized program protocols to outline this specific initiative. The records did not include any financial analysis or agreements related to the terms and conditions of the deferred loans to the reviewed business. There was little or no evidence of due diligence to collect performance information related to business operations or jobs. HUD monitors went on site and determined the businesses were not located in the Incubator and again, as previously noted, Dunkirk staff was unaware of the status or pursuing follow up on debt collections.

These examples reflect a lack of attention in undertaking solid economic development deal-making and failure to execute the responsibilities of portfolio management. The monitoring determined that Dunkirk has not administered its CDBG funded economic development programs in accordance with applicable HUD requirements. Specifically, it did not comply with HUD requirements in meeting national objectives. It is HUD's conclusion that this condition

primarily occurred because the City lacked effective management controls and oversight of the Economic Development and Façade Programs. This confirms Finding Number One regarding capacity and results in the following findings.

FINDING NUMBER SIX: Economic Development Activities have not met a National Objective.

Condition	<p>The following activities had no evidence of job creation or due diligence to verify job creation and therefore compliance with the stated National Objective:</p> <ul style="list-style-type: none"> ○ Bertges Property acquisition ○ Medicor ○ G&E Tents ○ Elks Club ○ Carriage House ○ Nutri-perx ○ Selling Hive ○ Henlie ○ Palmer Bryant ○ Dunkirk Metal ○ Graf Building ○ Napa Building – 59-61 LSDE ○ Tourism Development
Criteria	<p>24 CFR 570.208(a)(4) – Criteria for national objectives - Job creation. 24 CFR 570.209 - Evaluating and selecting economic development projects. 24 CFR 570.506 (b)(1) – Records to be maintained.</p>
Cause	<ul style="list-style-type: none"> ● Lack of program knowledge and/or disregard of program requirements. ● Insufficient records maintenance. ● Lack of quality control, oversight and poor management of program administration.
Effect	<ul style="list-style-type: none"> ● CDBG funds were expended on ineligible activities and did not result in creation of jobs.
Corrective Action	<ul style="list-style-type: none"> ● Within thirty days of this report, the City must make arrangements acceptable to the Buffalo Office to repay the CDBG program with non-federal funds in the amount of \$640,376.02.

One of the projects reviewed was the Flickinger property. The monitoring revealed the DLDC acquired the property using CDBG funds without a developed plan for use. Similar to the Bertges site, protocols were not observed regarding planning, procurement or other HUD requirements. CDBG funds were used for the building acquisition (identified as a Low Moderate Jobs (LMJ) activity) and for the initial environmental testing (identified as a Low Moderate Income Area (LMA) activity). The end use still has not been identified and will be dependent of the scope of the environmental and structural conditions.

A review of the site revealed it is not a primarily residential area, it is a mixed use area bordered by the waterfront, a neighborhood and the downtown business district. Interviews indicated the use is not likely to be a public space or facility for use by area residents. Therefore the LMA thresholds are not met and that is not an eligible classification. The project may be eligible under a different National Objective, Slums and Blight.

FINDING NUMBER SEVEN: Questionable National Objective Met for Economic Development Activities.

Criteria	<p>24 CFR 570.200(a)(2) – General Policies; Determination of eligibility; Compliance with national objectives. 24 CFR 570.201 (a) & (d) – Basic Eligibility; Acquisition; Clearance and Remediation Activities. 24 CFR 570.506(b)(8-11) - Records to be Maintained.</p>
Cause	<ul style="list-style-type: none"> • Key businesses or properties were identified for intervention by the City without regard to how the activity should be structured to be compliant with HUD standards. • Lack of proper documentation standards.
Effect	<ul style="list-style-type: none"> • Improper identification of the National Objective may result in a project not meeting goals and will impact the spending ratios for low-moderate income benefit for each year in which funds are expended. • CDBG funds may have been expended on ineligible activities resulting in repayment.
Corrective Action	<p>The City must provide supporting documentation to the Buffalo Office within thirty days of receipt of this report demonstrating the national objective that was met for each of the activities. If the Buffalo Office determines that national objective has not been met, the City must make arrangements to repay the CDBG program with non-federal funds for each unsupported activity.</p> <ul style="list-style-type: none"> • Specifically, the City of Dunkirk must: <p>For Dunkirk Flavors:</p> <ol style="list-style-type: none"> 1. Determine how many jobs have been created at the facility. 2. Evaluate if the two reported jobs were in fact filled by persons that met income eligibility standards at the time of hiring and secure documentation of such. 3. If any of the jobs created were filled by or made available to persons that were within the eligibility standards. 4. This information should be submitted to HUD for review. If jobs were not in fact created, the \$22,500 expended must be repaid. <p>For the Flickinger Building Project:</p> <ol style="list-style-type: none"> 1. Within 30 days and prior to expending additional CDBG funds on the activity, the City of Dunkirk should submit to HUD the determination of the National Objective. If the goal is simply having a clear and clean site, the determination of Slums & Blight might apply.

	<ol style="list-style-type: none"> 2. Dunkirk must calculate the funds expended on S&B in the applicable program year to ensure the limit will not be exceeded and CAPER accurately reflects the overall low-mod benefit. 3. If S&B is appropriate, project records must be updated to document the building conditions and needed repairs. 4. Dunkirk must update IDIS to reflect the change in National Objective and project narratives, goals and data. 5. If S&B is not an option based on program thresholds, Dunkirk should submit a written plan on the project status and planned actions to ensure a national objective will be met with a reasonable timeframe. <p>Pending the review of the information submitted to HUD, if this project record is not brought into compliance and a national objective met, all funds expended will be required to be repaid.</p>
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Significant Technical Assistance has been provided to Dunkirk by the HUD Buffalo staff prior to and during the monitoring. This included several meetings with key personnel to review program requirements, uses of funds and strategies for investing CDBG going forward. The following is a summary of items for follow up.

- Required reporting for Women/Minority Owned Businesses was reviewed and received for the program year 2012 period.
- Discussions and document reviews for the CDBG-R funding to a local hotel occurred to correct deficiencies noted by the HUD Inspector General. This continues to be a project in progress by the City.
- IDIS data clean up was reviewed and continues to be a project for the City to work on and review with HUD.