

# DISTRICT OF COLUMBIA OFFICE OF THE INSPECTOR GENERAL

OIG Project No. 18-I-03EB0

August 2018



## OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

### EVALUATION OF THE DIX STREET REVITALIZATION GRANT



### *Guiding Principles*

*Workforce Engagement \* Stakeholders Engagement \* Process-oriented \* Innovation  
\* Accountability \* Professionalism \* Objectivity and Independence \* Communication \* Collaboration  
\* Diversity \* Measurement \* Continuous Improvement*

## Mission

Our mission is to independently audit, inspect, and investigate matters pertaining to the District of Columbia government in order to:

- prevent and detect corruption, mismanagement, waste, fraud, and abuse;
- promote economy, efficiency, effectiveness, and accountability;
- inform stakeholders about issues relating to District programs and operations; and
- recommend and track the implementation of corrective actions.

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Our vision is to be a world class Office of the Inspector General that is customer-focused, and sets the standard for oversight excellence!

## Core Values

Excellence \* Integrity \* Respect \* Creativity \* Ownership  
\* Transparency \* Empowerment \* Courage \* Passion  
\* Leadership





# OIG

## Why the OIG Did This Evaluation

As part of our Inspection and Evaluation Plan for FY17, the OIG evaluated selected grants for vulnerabilities to corruption, fraud, mismanagement, waste, and abuse. To further this initiative, the OIG evaluated a sole source grant awarded by DMPED.

DMPED is statutorily authorized to issue grants and loans necessary to further the District's economic development goals, which include revitalizing neighborhoods troubled by crime, poverty, and other socio-economic challenges.

Our objectives for this evaluation focused on identifying any grant oversight weaknesses and make recommendations to improve DMPED's grant program effectiveness and administration.

## What the OIG Recommends

This report presents 6 findings and 12 recommendations to strengthen DMPED's grant application, award, and administration processes.

## OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

### Dix Street Revitalization Grant

#### What the OIG Found

The Office of the Inspector General (OIG) Inspections & Evaluations unit (I&E) evaluated a \$465,678 sole source grant awarded in June 2016 by the Office of the Deputy Mayor for Planning and Economic Development (DMPED) to Dix Street Corridor Revitalization Partners, LLC (DSCRCP) for the purpose of constructing five affordable housing units in the Deanwood neighborhood. DMPED awarded this grant, in part because DSCRCP had previously won a 2008 competitive solicitation related to this project. The OIG also reviewed DMPED's oversight throughout the entirety of the project to the extent that the actions affected the current grant.

Prior to the grant award, DSCRCP had a history of unsatisfactory performance, which included missed deadlines and cost overruns, and DMPED did not enforce key terms and conditions of its agreements with DSCRCP. Additionally, DMPED was not able to provide the OIG documentation of actions taken and decisions it made earlier in the project, such as documentation of the 2008 competitive solicitation; subsequent negotiations with and funding commitments to DSCRCP appear to have been poorly documented.

DSCRCP delivered 29 affordable housing units to the District and received \$1,718,968 in initial subsidies and \$1,059,072 in additional grants, but DMPED was unable to articulate whether DSCRCP incurred a loss or earned a profit on the Dix Street development project. Determining whether DSCRCP profited from its development of the affordable housing units will inform DMPED decision making on future development projects, in particular, the extent to which such projects should be subsidized by the District.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Inspector General

Inspector General



August 17, 2018

Brian Kenner  
Deputy Mayor for Planning and Economic Development  
Office of the Deputy Mayor for Planning and Economic Development  
1350 Pennsylvania Avenue, N.W., Suite 317  
Washington, D.C. 20004

Dear Deputy Mayor Kenner:

Enclosed is our final report entitled *Office of the Deputy Mayor for Planning and Economic Development: Evaluation of the Dix Street Revitalization Grant* (OIG Project No. 18-1-03EB0). We conducted this evaluation using quality standards promulgated by the Council of the Inspectors General on Integrity and Efficiency.

We provided DMPED our draft report on May 18, 2018, and received your response on June 11, 2018. DMPED's response is included as Appendix D of this report. DMPED agreed with 7 of the report's 12 recommendations. For several of the recommendations that DMPED did not agree with, the OIG added comments in the body of the final report below your responses. Additionally, as requested in your letter, we have summarized, instead of directly quoting, a DMPED memorandum you identified as being "exempt from disclosure under the District of Columbia Freedom of Information Act under the deliberative process doctrine and the exemption governing commercial or financial information received from outside the government."

With regard to the report's finding that Dix Street Corridor Revitalization Partners, LLC's May 2017 closeout report lacks much of the substantive information required by the grant, you responded that "the close-out process is ongoing." By August 31, 2018, please provide my Office the date by which DMPED expects to finish the close-out process and identify any impediments that preclude completing the process.

If you have any questions about this final report, please contact me or Edward Farley, Assistant Inspector General for Inspections and Evaluations, at (202) 727-2540.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Lucas", is written over the typed name.

Daniel W. Lucas  
Inspector General

DWL/ejf

Enclosure

cc: See Distribution List

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## BACKGROUND

The Office of the Deputy Mayor for Planning and Economic Development's (DMPED) mission is to assist "the Mayor in the coordination, planning, supervision, and execution of economic development efforts in the District of Columbia with the goal of creating and preserving affordable housing, creating jobs, and increasing tax revenue."<sup>1</sup>

In furtherance of its mission, DMPED sponsored the District's New Communities Initiative (NCI) for the purpose of revitalizing "severely distressed subsidized housing and redevelop[ing] neighborhoods into vibrant mixed-income communities."<sup>2</sup> As part of the NCI, DMPED sought to develop properties at the corner of Eastern Avenue and Dix Street, N.E. into affordable housing units for residents of Ward 7's Deanwood community (Dix Street Revitalization Project).

Our evaluation focused on DMPED's awarding of a sole source grant to Dix Street Corridor Revitalization Partners, LLC (DSCRCP) for the purpose of constructing five remaining affordable housing units of the first phase of the Dix Street Revitalization Project.<sup>3</sup> This \$465,678 grant was funded from DMPED's Economic Development Special Account pursuant to D.C. Code § 2-1225.21.<sup>4</sup> The grant agreement was effective June 6, 2016, and expired September 30, 2016.

The DMPED entities responsible for this project were its: (1) Procurement & Grants unit, which administers the pre-award grant process – including issuance of the funding opportunity announcement, preparations of applications for legal review, and coordination with grant applicants; and (2) Real Estate Development unit, which is responsible for the post-award phase – including monitoring the grant project's progress towards completion. DMPED's complete organizational chart can be found in Appendix C.

## TIMELINE OF EVENTS

The scope of our evaluation focused on the sole source grant DMPED awarded to DSCRCP in June 2016. Because DMPED justified its decision to award this sole source grant, in part, on DSCRCP's prior successful development bid during a competitive solicitation process that began in 2008, the team found it necessary to understand the entire history of the Dix Street Revitalization Project. However, as noted in the finding that begins on page 10 of this report, DMPED did not produce many of the documents related to the initial solicitation despite repeated OIG requests. Taking that into account, the following timeline reflects the OIG team's best efforts at summarizing what occurred during the entire development project.

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<sup>1</sup> <https://dmped.dc.gov/page/about-dmped> (last visited Aug. 28, 2017).

<sup>2</sup> <https://dmped.dc.gov/page/new-communities-initiative-nci> (last visited Aug. 25, 2017).

<sup>3</sup> DSCRCP had already completed 24 townhouses at the same location using funding sources including, but not limited to, District subsidies and grants.

<sup>4</sup> D.C. Code § 2-1225.21(d)(1) (Lexis – 2016 District of Columbia Code Archive) authorizes DMPED to utilize monies in the Economic Development Special Account to fund grants and loans necessary to further the economic developmental goals or activities of the District.

**October 2008: DMPED begins competitive bid process for the Dix Street Revitalization Project and issues a Public Solicitation For Offers.**

The District offered to sell four District-owned lots in the Deanwood community of Ward 7<sup>5</sup> (the property) to a development team that would repurpose and revitalize the property into affordable housing units. To that end, DMPED issued a solicitation for development teams with “demonstrated experience in developing mixed-use and mixed-income affordable for-sale housing projects, and organizational and financial capability to plan and develop two District owned sites.”<sup>6</sup>

DMPED offered preference to development teams that afforded the highest value to the District, and the highest and best use of the land. The solicitation required all offerors to submit their applications by December 1, 2008.

**Between October 2008 and early 2009: DMPED evaluates offers and selects DSCRCP as the development team.**

**June 2009: DSCRCP forms as a single purpose entity for the sole purpose of the Dix Street Revitalization Project.**

DSCRCP formed as a limited liability company in the District, effective June 18, 2009, for the sole purpose of developing real estate in the Dix Street Revitalization Project. DSCRCP listed the following entities as members:

Members of DSCRCP		
	Entity	Entity’s Address
(1)	Jacksophie DixEastern, LLC	P.O. Box 15107 Chevy Chase, Maryland 20825
(2)	UrbanMatters Development Partners, LLC	1226 Vermont Ave., N.W., Suite 200 Washington, D.C. 20005
(3)	Beulah Community Improvement Corp.	5820 Dix Street, N.E. Washington, D.C. 20019

**Table 1: List of DSCRCP’s Members**

According to the Department of Consumer and Regulatory Affairs, the DSCRCP entity is still active.

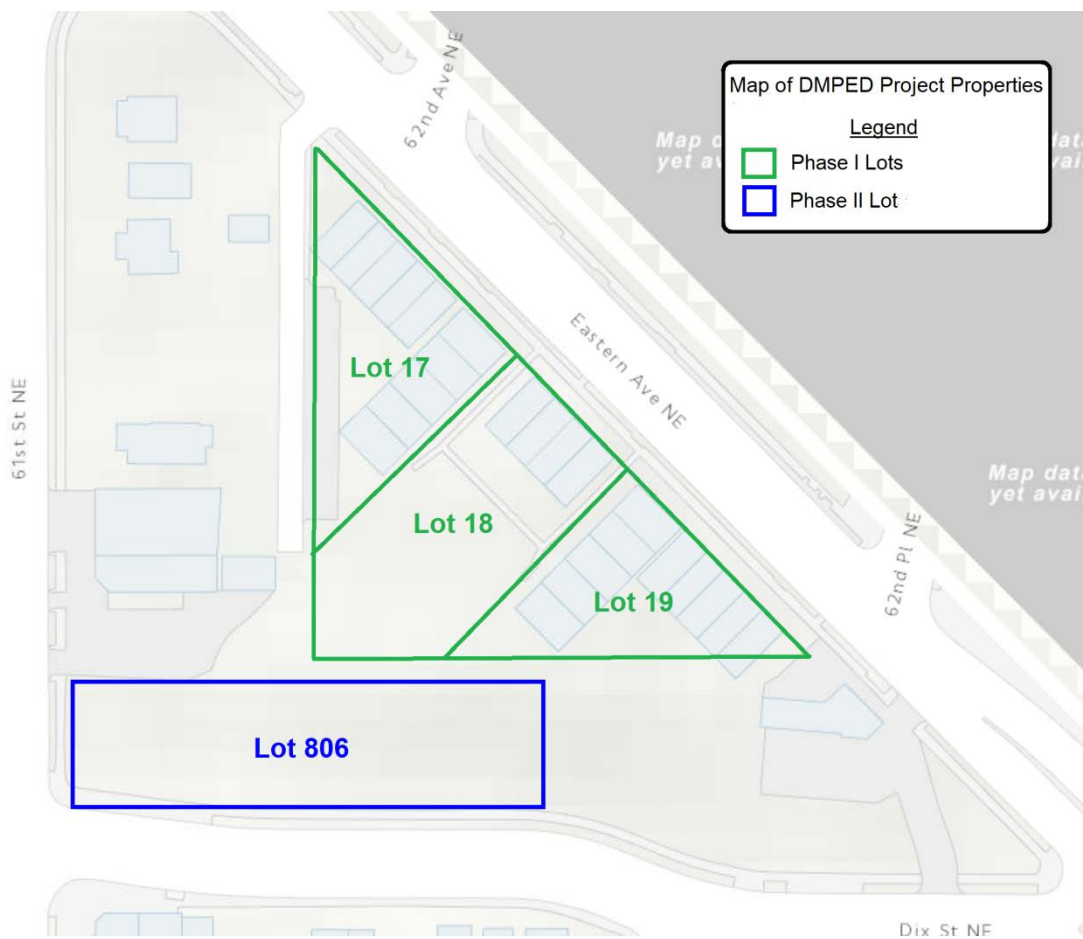
<sup>5</sup> The land included Lots 17, 18, 19, and 806 in Square 5260, located at 400- 414 Eastern Ave., N.E. and land in the 6100 block of Dix Street, N.W., in Washington, D.C.

<sup>6</sup> OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT, SOLICITATION FOR OFFERS FOR THE DEVELOPMENT OF 400-414 EASTERN AVE., NE (SQ. 5260, LOTS 17-19) and DIX ST., NE (SQ. 5260, LOT 806), 3 (undated).



**October 2009: DMPED sells District Property to DSCRCP for Two Dollars (\$2).**

After selecting DSCRCP as the development team for the Dix Street Revitalization Project, DMPED entered into a Land Disposition and Development Agreement (LDDA)<sup>7</sup> with DSCRCP on October 16, 2009, and sold the property to it for \$2. DMPED awarded DSCRCP the rights to redevelop the property and to construct affordable housing units in two phases. Phase I involved constructing housing units on Lots 17, 18, and 19, and Phase II involved constructing housing units on Lot 806. Figure 1 below outlines the lots for Phases I and II of the DMPED Project:<sup>8</sup>



**Figure 1: Dix Street Revitalization Project Lot Map**

<sup>7</sup> D.C. Code § 10-801(a) (Lexis – 2009 District of Columbia Code Archive) authorizes the Mayor, in his/her discretion and for the best interests of the District and with the approval by the Council, to sell or otherwise dispose of real property for community development. To do this, the Mayor must submit a contract called a Land Disposition and Development Agreement between the District and the selected developer authorizing the transfer of government-owned land for development purposes.

<sup>8</sup> The geographic information contained in this map is not drawn to scale and is not to be construed or used as a legal description.

**October 2010: DMPED enters into a Construction and Use Covenant (CUC)<sup>9</sup> and an Affordable Housing Covenant (AHC)<sup>10</sup> with DSCRCP, granting two subsidies: \$368,968 and \$1,350,000.<sup>11</sup>**

DMPED executed a CUC with DSCRCP, effective October 25, 2010, and awarded DSCRCP two subsidies: one for \$368,968 to fund project-related predevelopment activities, and a second for \$1,350,000 to fund construction activities. The CUC indicated that DSCRCP could seek other sources of funding with the limitation that “in no event shall such additional funding be from the District.”

The CUC also established this initial Schedule of Performance:

Phase	Date of Completion (on or before)
Phase I: Substantial Completion of Base Building <sup>12</sup>	December 31, 2011
Phase II: Stabilization <sup>13</sup>	March 31, 2013

**Table 2: 2010 CUC Schedule of Performance**

The AHC set limits as to whom DSCRCP could sell by restricting sales to buyers under a certain income level.

**August 2012: DMPED amends the AHC to change the income restrictions on potential buyers.**

**June 2013: After completing 24 of 29 units, DSCRCP requests an additional subsidy of \$880,000 and relief from some of the requirements on the income of potential buyers.**

Despite having sold 23 of the 24 constructed units and having 2 of the remaining 6 under contract, DSCRCP claimed that sales of the constructed units were slower than it had anticipated, which caused carrying costs to be higher. DSCRCP claimed to need \$411,017 to offset past carrying costs (interest, real estate taxes, utility costs and HOA fees, vandalism and theft,

<sup>9</sup> The Construction and Use Covenant is a contract that ensures the District that the selected developer will “diligently prosecute the development and construction of the Project in accordance with the Approved Plan and Specifications and the Schedule of Performance.”

<sup>10</sup> An Affordable Housing Covenant is a contract in which the Developer agrees to reserve and sell units in accordance with certain affordability requirements.

<sup>11</sup> The exact amount of the larger initial subsidy is not clear. Exhibit D of the CUC, a “Project Budget and Funding Plan” for Phase 1, puts the amount at \$1,361,648. Subsequent documents, such as the 2106 “First Amendment to the Grant Agreement,” cite an amount of \$1,350,000.

<sup>12</sup> “Substantial Completion” means to satisfy a number of items related to aspects of construction described in the CUC.

<sup>13</sup> “Stabilization” means to sell at least 80% of the units to third-party purchasers who are not affiliates of the developer.

insurance, and an on-site porter) and \$474,883 for projected carrying costs for the next year (security patrol and cameras, developer overhead, insurance, real estate taxes.)

**February 2014: DMPED makes a “soft commitment” to provide DSCRCP with \$800,000.**

After several meetings between DSCRCP principals and DMPED representatives, DMPED made what its employees later referred to as a “soft commitment”<sup>14</sup> to fund DSCRCP with an additional \$800,000, to be paid in three installments. DMPED anticipated that \$310,000 of the new money would come from DMPED and \$490,000 would come from the Department of Housing and Community Development (DHCD).

**March 2014: DMPED amends the CUC, extending the deadline to March 2015 for completion of Phase I and to October 2016 to begin Phase II.**

**March 2014: DMPED executes a grant with DSCRCP and issues the first payment of \$315,673 from the \$800,000 commitment.**

When DMPED awarded the first payment of \$315,673 to DSCRCP, it indicated the money should be used for the following expenses:

<b>Cost Description</b>	<b>Costs Incurred</b>
Real Estate Taxes and HOA Management Fees	\$ 5,985
Utility Costs	\$ 10,404
Insurance	\$ 35,554
Developer Overhead	\$ 150,000
General Conditions	\$ 113,730
<b>TOTAL</b>	<b>\$ 315,673</b>

**Table 3: 2014 Grant Agreement Categories of Expenses (Source: DMPED Grant Agreement)**

**August 2014: DHCD executes a grant agreement with DSCRCP and disburses \$277,721 as a second payment toward the \$800,000 commitment.**

To be reimbursed for “additional interest charges” associated with the construction loan for the development of Phase I, DSCRCP enters into a \$277,721 grant agreement with DHCD. DHCD determined that the reimbursement of additional interest charges DSCRCP sought was an eligible expense under Housing Production Trust Fund (HPTF) laws.

**Fall 2014: DMPED is working to fund remaining \$215,679 of \$800,000 commitment to DSCRCP.**

<sup>14</sup> The report will discuss the “soft commitment” more in-depth starting on page 11.

**March 2015: DSCRCP increases its funding request from \$215,679 to \$1,034,277.**

Around this time, EagleBank froze DSCRCP's line of credit. DSCRCP claimed to need an additional subsidy so that EagleBank would open their line of credit, thus enabling DSCRCP to finish Phase I. Citing increased carrying costs, utility and maintenance costs, vandalism, construction cost inflation, and additional overhead all due to slow sales of the units, DSCRCP requested that DMPED increase its remaining subsidy to \$1,034,277. In a March 2, 2015, letter to DMPED, DSCRCP wrote:

We have delivered a successful community to date, but it is difficult and unreasonable to expect our management team and financial partners to continue to develop this project based on the losses to date and very low projected returns anticipated given the subsidy currently under consideration.

DMPED determined it would not grant the entire \$818,598 increase that DSCRCP requested because the money would not fund actual construction, but instead would go directly to DSCRCP's fee and project profits. According to an internal memorandum, DMPED believed that despite the requested increase not being unreasonable for the project, DSCRCP should not receive additional subsidy because it had failed to meet several project milestones. The memorandum also states that DMPED believed that the developer anticipated losing several hundred thousand dollars on the project, and was asking for additional subsidy to cover the loss.

**March 2016: DMPED decides to award DSCRCP \$465,678 using a sole source grant.**

Between March 2015 and March 2016, DMPED determined it would grant DSCRCP \$465,678, which was roughly \$250,000 more than the amount remaining on DMPED's \$800,000 commitment. DMPED considered other options, going so far as to draft a loan agreement for the additional funds, but ultimately decided that granting DSCRCP additional money and monitoring the project more closely would be the most expedient and cost-efficient way forward. DMPED granted the additional \$250,000 to both complete construction of the remaining five units and to provide a "sufficient business incentive," as one interviewee stated, for DSCRCP to complete the project.

DMPED justified use of a sole source grant in a memorandum dated March 21, 2016, stating that DSCRCP is "uniquely qualified to complete" the remaining five "for-sale affordable housing units" because it is "the development entity responsible for constructing and completing Phase I of the Dix Street/Eden Place project," has "already constructed and sold 24 of the proposed 29 for-sale affordable housing units" and "was awarded the development rights to the project through a previously issued competitive solicitation."

The memorandum added:

The team has construction plans and specifications for the remaining units that have been previously approved by the District.

DSCRCP is in need of additional monies to fund the remainder of the construction. The grant funds from the District will be combined with private financing from Eagle Bank to complete the project. Funds are needed to restart the project, which has been stalled for over two years as a result of slow absorption rates, carrying costs incurred, and construction cost increases over time.

**March 2016: D.C. Council unanimously approves the DMPED Special Account Grant-making Clarification Emergency Amendment Act of 2016 (Emergency Amendment Act), which exempted grants of this kind from the \$50,000 limit on sole source awards.**

D.C. Code § 1-328.13(a) and Section II.B.3 of DMPED’s Grant Manual require that grants over \$50,000 be competitively awarded. On March 1, 2016, the D.C. Council voted to approve the Emergency Amendment Act. The Emergency Amendment Act was then enacted on March 23, 2016, which allowed all grants made from the Economic Development Special Account, even those exceeding \$50,000, to be made on a non-competitive basis.<sup>15</sup>

**June 2016: DMPED executes an amendment to its 2014 grant, awards DSCRCP \$465,678, and labels DSCRCP as “high-risk.”**

DMPED awarded DSCRCP a \$465,678 grant in a document entitled “First Amendment to the Grant Agreement Between The District of Columbia and Dix Street Corridor Revitalization Partners, LLC,” (First Amendment) on June 6, 2016. DMPED authorized DSCRCP to receive the funds in two installments – the first installment of \$215,678 upon completion of certain conditions outlined in the First Amendment, and the second installment of \$250,000 after DSCRCP reached other milestones.

In the First Amendment, DMPED also deemed DSCRCP as “high-risk,” as defined in Section 8.4 of the Office of Partnership and Grant Services City-Wide Grants Manual and Sourcebook, due to:

- (1) DSCRCP’s history of unsatisfactory performance;
- (2) DSCRCP’s financial instability; and
- (3) DSCRCP’s failure to conform to the terms and conditions of previous grant awards.

By doing so, DMPED was able to impose a series of heightened monitoring requirements and restrictions, such as requiring DSCRCP to hire a third-party “construction consultant.”

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<sup>15</sup> Although the Council voted to *approve* the emergency legislation (Bill 21-0643) via final reading on March 1, 2016; in accordance with the Home Rule Act, emergency legislation takes effect immediately upon *enactment*, which did not occur until March 23, 2016, after the Mayor approved it. D.C. Code § 1-204.12(a) (Lexis – Statutes current through Dec. 12, 2017).

**July 2016: DMPED releases the first installment of funds.**

The First Amendment required DSCRCP to meet certain conditions before DMPED would release the first installment of funds. DSCRCP met these requirements and DMPED disbursed the funds.

**December 2016: DMPED releases the second installment of funds.**

Interviewees indicated that although DSCRCP may not have entirely reached the construction milestones required to obtain the \$250,000 in funding, its progress was substantial enough to warrant disbursing the second tranche of funds.

**April 2017: DSCRCP completes construction of the last five units of Phase I.**

**May 2017: DSCRCP submits “Progress Report (FINAL)” to DMPED**

DSCRCP submitted a closeout report to DMPED on May 12, 2017.

## FINDINGS AND RECOMMENDATIONS

Our objectives for this evaluation were to assess DMPED’s grant award processes, DSCRCP’s compliance with grant agreement requirements, and DMPED’s administration of the grant to determine compliance with the Citywide Grants Manual and Sourcebook and applicable statutes and regulations.

With respect to DMPED’s administration of grant award processes, we found that DMPED was unable to produce requested documents and information pertaining to decisions made and actions taken on the Dix Street project in the years preceding the 2016 grant award. As discussed in the findings, the OIG team was unable to review documentation of DMPED’s original competitive award process that resulted in the selection of DSCRCP to develop the property. Subsequent negotiations with and District funding commitments made to DSCRCP appear to have been poorly documented. Interviewees also acknowledged that employee turnover caused by changes in mayoral administrations – the Dix Street development project has spanned three administrations – made it difficult to retain information, subject matter expertise, and project-specific knowledge, which required current DMPED employees to expend considerable time and effort to “figure out” decisions and events that preceded them.

With respect to DSCRCP’s compliance with requirements put forth in various covenants and grant agreements, DSCRCP has delivered only 29 (i.e., Phase I) of 64 planned housing units (Phase I and Phase II combined) to the District, despite receiving subsidies and grants totaling nearly \$2,778,040 (or, \$95,793 per completed unit) from District government entities since entering into the 2010 Construction and Use Covenant.

Figure 2 below summarizes and illustrates the duration of the development project, as well as the timing and amounts of sales revenue and District subsidies and grants received by DSCRCP for its development of Phase 1.

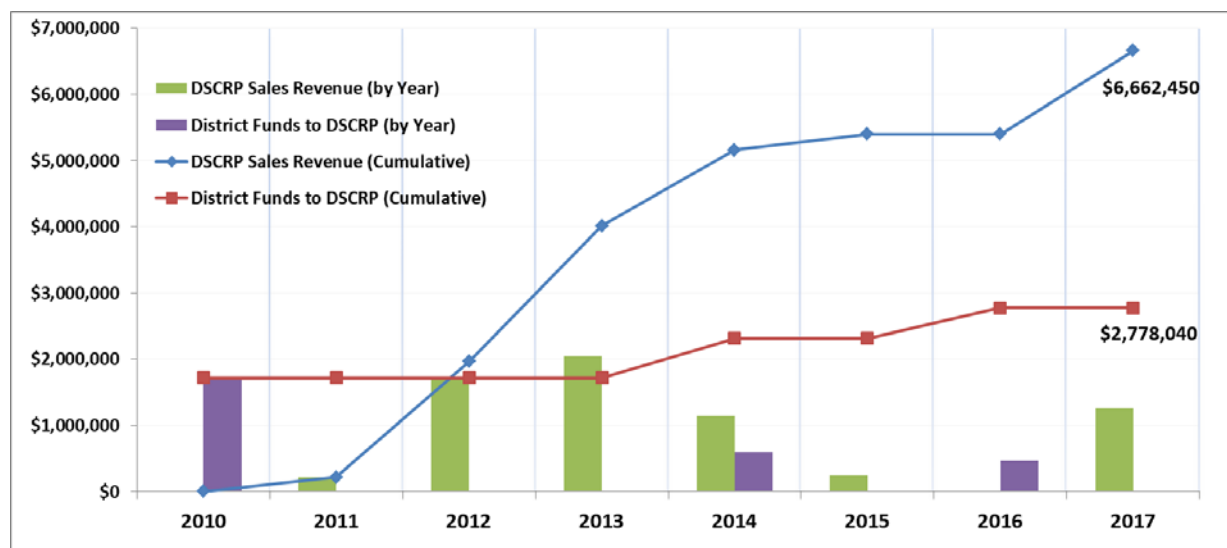


Figure 2: District Funding to DSCRCP, DSCRCP Unit Sales Revenue 2010-2017

As DMPED wrote in June 2016, in the document authorizing DSCRCP an additional \$465,678:

[DSCRCP] has failed to fulfill certain of its obligations, including but not limited to, the timely construction and completion of the Residential Units....

District has determined Grantee to be “high risk” as defined in ... the Office of Partnership and Grant Services City-Wide Grants Manual....

District has designated [DSCRCP] as “high-risk” because District has determined that [DSCRCP] has a history of unsatisfactory performance, is not financially stable, and has not conformed to the terms and conditions of previous grant awards.

With respect to DMPED’s administration of the 2016 sole source grant, DMPED did not complete a Fiscal Sufficiency Certification as required, did not enforce key terms and conditions, and did not require DSCRCP to adhere to grant closeout procedures.

We present 12 recommendations to strengthen DMPED’s grant administration and oversight processes.

**DMPED did not document or retain complete records of the competitive bid process and additional funding commitments.**

**Record Retention** – Despite repeated requests from the OIG, DMPED did not produce many of the requested documents related to the 2008 LDDA competitive bid process that resulted in the selection of DSCRCP as the developer of the Dix Street Revitalization Project. The Office of Partnerships and Grant Services’ *Citywide Grants Manual and Sourcebook*<sup>16</sup> and the D.C. General Records Schedule 3<sup>17</sup> contain general provisions regarding document retention. DMPED’s Grants Manual (Manual) requires grantees to retain “all records for a period of at least five (5) years following final close-out of the grant, if no other period is specified in the grant agreement,”<sup>18</sup> but is silent on grantors’ record retention requirements. Further, language in the 2014 and 2016 grant agreements also required that DSCRCP maintain all records pursuant to the agreements “for a period of not less than five (5) years,” but likewise does not address grantors’ record retention requirements.

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<sup>16</sup> The Citywide Grants Manual requires agencies to “establish the official records of awarded grants or subgrants” and “incorporate into its award files and retain the records of all awarded applications and subsequent reports for the period required by federal and District guidelines for grant records.” CITYWIDE GRANTS MANUAL AND SOURCEBOOK, § 10.1, available at <https://opgs.dc.gov/book/citywide-grants-manual-and-sourcebook/100-award-documentation-requirements> (last visited Jan. 3, 2018).

<sup>17</sup> The D.C. General Records Schedule 3 requires agencies to retain records “relating to receipt, review, award, evaluation, status and monitoring of grants; allocation of funds, and project budgets,” until the agency submits a request for disposition authority to D.C. Archives.

<sup>18</sup> DMPED-OAG GRANTS MANUAL 19, § VII(E)(1).



The fact that DMPED was apparently unable to locate documents the OIG requested suggests that DMPED employees responsible for administering the project since its inception, in particular those who decided to award DSCRCP additional subsidies, may have made such decisions without a complete understanding of the basis and rationale for why DSCRCP was initially selected. Given that DMPED eventually considered DSCRCP to be a “high-risk” grantee, if information provided by DSCRCP during the solicitation process had been available to DMPED when it was considering the award of additional subsidies, DMPED may have determined DSCRCP to be “high-risk” sooner than it did or may have pursued an alternative course of action during the project.

**Documentation of conversations, negotiations with grantees** – DMPED’s Grants Manual requires that its employees “maintain records of all written communications and descriptions of all telephone or face-to-face conversations between DMPED and any District government official or staff” regarding grantee eligibility, selection, and compliance with grant program requirements, but there is no requirement to maintain records of DMPED employees’ communications and negotiations with grantees.<sup>19</sup> This lack of criteria is relevant because of what was later described as the “soft commitment” that DMPED made to DSCRCP following a number of meetings and conversations that occurred over a period of months in 2013.

The only documentation that DMPED provided us regarding DSCRCP’s June 2013 request for an \$880,000 subsidy and negotiations related to the same were: a July 2013 letter from DSCRCP to DMPED; a memo from DSCRCP to DMPED summarizing an August meeting between the two; and an unsigned February 2014 letter, watermarked “draft,” from the Deputy Mayor to DSCRCP discussing what DMPED later described as a “soft commitment.”

The draft letter states:

I writing [sic] this letter to ensure clarity between the parties should District decide to grant your request for \$800,000 of additional funding....

Should District decide to grant Developer’s request...by executing this letter below, Developer...hereby acknowledge[s] that: (1) District has no legal obligation to do so....

If this letter accurately reflects the understanding between the parties, please acknowledge your agreement with the content of this letter by executing it in the space provided below on behalf of the Developer and yourself, as guarantor, for Developer.

A lack of executed, DMPED-authored documents creates difficulties, not only for oversight officials attempting to monitor past decisions and compliance, but also for future administrations attempting to interpret the actions of past administrations. The Dix Street Revitalization Project has spanned three mayoral administrations – with each change in administration resulting in

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<sup>19</sup> DMPED-OAG GRANTS MANUAL 22, § IX(B)(2).

significant turnover within DMPED – which required new administrators to interpret their predecessors’ actions.

Therefore, we recommend that DMPED:

- (1) Adopt a standard process for signing and authorizing documentation to ensure uniformity within grant files;

Agree \_\_\_\_\_  \_\_\_\_\_ Disagree \_\_\_\_\_

***DMPED’s June 2018 Response to Recommendation 1, As Received:**<sup>20</sup> DMPED does have a standardized process for signing and authorizing grants in the construct of a signature form. See attached signature form.*

- (2) Establish a policy in the Grants Manual requiring DMPED to retain the same records it requires its grantees to retain for the same period of time; and

Agree \_\_\_\_\_  \_\_\_\_\_ Disagree \_\_\_\_\_

***DMPED’s June 2018 Response to Recommendation 2, As Received:** DMPED is currently working directly with the Office of Public Records (OPR) to create an agency records retention schedule. OPR’s leadership is working to create a comprehensive records retention schedule for all EOM agencies. DMPED has provided feedback to OPR on the draft retention schedule. OPR is currently reviewing this feedback.*

- (3) Amend its policy to require the maintenance of DMPED-authored documentation for all funding negotiations and commitments, and require such negotiations and commitments be documented on official DMPED letterhead and signed by more than one authorizing official.

Agree \_\_\_\_\_  \_\_\_\_\_ Disagree \_\_\_\_\_

***DMPED’s June 2018 Response to Recommendation 3, As Received:** DMPED will require, in addition to a sole justification, any supporting negotiation documents formatted as an executed DMPED memorandum.*

**DMPED did not enforce the terms and conditions of its agreements with DSCRIP.**

The various agreements DMPED entered into with DSCRIP contained deadlines that DSCRIP was required to but did not meet, as shown in Table 4 on the next page.

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<sup>20</sup> The full text of DMPED’s June 2018 response to the draft report is Appendix D.

Event/ Agreement	Task	Deadline/Projected Completion	Was Obligation Met by DSCR? (y/n)
2009 LDDA	Phase I: Substantial Completion of Base Building	November 2010	N
	Phase II: Stabilization	June 2011	N
2010 CUC	Phase I: Substantial Completion of Base Building	December 31, 2011	N
	Phase II: Stabilization	March 31, 2013	N
2014 Amendment to the CUC	Phase I: Construction Completion	March 2015	N
	Phase II: Commencement of Construction	October 2016	N
	Phase II: Construction Completion	April 2019	TBD
2016 Amendment to 2014 Grant Agreement	Phase I: Expenditure of all 2016 Grant funds	September 30, 2016	N/A <sup>21</sup>

**Table 4: List of Deadlines DSCR Was Contractually Obligated to Meet**

In addition, the CUC required DSCR to “diligently prosecute the development and construction of the Project in accordance with the Approved Plans and Specifications and the Schedule of Performance.”<sup>22</sup> Despite deadlines and CUC requirements, DSCR did not complete any substantial construction of the last five units of Phase 1 for almost 3 years, and did not complete construction of Phase 1 until April 2017.

During this time, DMPED communicated its resolve that it would not contribute additional funds to DSCR, both in the 2010 CUC and in the February 2014 letter to DSCR that stated “District will not entertain any additional request for funds for the completion of the Development should the District choose to move forward with funding the \$800,000 request.”<sup>23</sup>

Despite these limits and DSCR’s continued failure to meet performance milestones, DMPED (and DHCD in conjunction with DMPED) granted DSCR an additional \$1,059,072 after the 2010 CUC was executed.

Although every agreement between DMPED and DSCR included penalties in the event of noncompliance or default, DMPED did not pursue these penalties when noncompliance or a default occurred. In each case, DMPED seemed to view the decision as one between continuing to spend money on the project or stopping construction mid-stream. When DSCR requested additional funds, DMPED had options available to it other than granting DSCR funds, including giving DSCR a loan or cutting ties with DSCR and working directly with another general contractor. Absent strong internal controls related to its grant administration, DMPED risks disbursing funds to under-performing contractors; further, the lack of strong internal

<sup>21</sup> DMPED effectively negated this requirement by not releasing the second disbursement of grant funds to DSCR until December 2016.

<sup>22</sup> CONSTRUCTION AND USE COVENANT, art. Iib, sec. 2b.1.1.

<sup>23</sup> The letter that DMPED provided us was dated February 11, 2014, but was watermarked “DRAFT” and was neither signed by DMPED nor agreed and acknowledged by DSCR.

controls risks the enforceability of its executed agreements and may risk the District's resources going to waste.

Ultimately, DMPED's decision not to enforce the terms of its agreements with DSCRCP prolonged completion of the Dix Street Revitalization Project and cost the District over \$1 million more than originally planned for phase I of the project, and left the District with just 29 of 63 originally planned affordable housing units. The OIG understands that market forces may have contributed to some of these delays and cost overruns. However, DMPED's decision to fund DSCRCP without holding it accountable for some of the delays resulted in the District assuming all of the risk for the project.

Therefore, we recommend that DMPED:

- (4) Coordinate with the Office of the Attorney General (OAG) to review all covenants and agreements pertaining to the Dix Street Revitalization Project to identify and document instances of noncompliance or default, and determine whether corrective action is warranted.

Agree \_\_\_\_\_ Disagree       X      

***DMPED's June 2018 Response to Recommendation 4, As Received:*** *DMPED disagrees with portions of the findings as well as the recommendation. Specifically related to the finding of "DMPED did not enforce the terms and conditions of its agreements with DSCRCP" DMPED disagrees with the statements that DMPED's decision to not enforce the terms of its agreements with DSCRCP prolonged completion of the Dix Street Project. We do not agree that this determination cost the District \$1 million more than originally planned for phase 1 of the project and left the District with just 29 of 63 originally planned affordable housing units. The real estate market was in a significant flux from 2008 until 2012 and caused often detrimental impacts on real estate projects all across the District including time delays and cost issues. Underserved communities, similar to the Deanwood-Dix Street area, were hit particularly hard during this time, and some continue to struggle to rebound even in 2018. Decisions made by DMPED over many administrations were aimed to keep this important affordable homeownership project feasible while many others ended. The severity and impact of the market changes on the Dix Street project are significantly underestimated in this finding.*

*Specifically related to recommendation (4), the legal analysis recommended by OIG has already been completed. The Real Estate Section of OAG (the members of which are now included in DMPED's Office of General Counsel) reviewed the real estate transaction and conducted an analysis of legal remedies and options available to DMPED in the Spring of 2015. At that time, DMPED considered the options and decided it was in the best interests of the District to pursue a different course of action for the project.*

**DMPED did not document its evaluation and scoring of the 2016 sole source award.**

DMPED’s Grants Manual § II(B)(3)(c)<sup>24</sup> requires that sole source grants be internally evaluated and scored using the same criteria applied in a competitive solicitation. DMPED claimed in its sole source justification memorandum, dated March 21, 2016, that it had “internally evaluated and scored the sole source award using the same criteria that would have applied to a competitive solicitation.” DMPED, however, was not able to provide any documentation related to this internal evaluation and scoring when the OIG team requested it.

The lack of evaluation and scoring documentation prevents oversight officials from assessing whether this process took place and whether the evaluation justified granting the award. Being able to evaluate the scoring is especially important given the unlimited discretion DMPED had to give sole source awards valued at more than \$50,000 following the passage of the Emergency Amendment Act.<sup>25</sup> The Act allowed DMPED to make uncompetitive awards of this size more easily by exempting grants of this type from the restrictions of the Grant Administration Act of 2013. Such discretion, if afforded to DMPED again at a future date, may increase the risk that sole source awards could be used to perpetrate fraud, waste, or abuse and thus should require strong monitoring and well documented justification.

Therefore, we recommend that DMPED:

- (5) Provide the OIG with evidence that, as stated in the sole source justification memorandum, DMPED “internally evaluated and scored the sole source award using the same criteria that would have applied to a competitive solicitation.”

Agree \_\_\_\_\_  X  \_\_\_\_\_ Disagree \_\_\_\_\_

***DMPED’s June 2018 Response to Recommendation 5, As Received:** DMPED completed a sole source justification which was provided via email on June 6, 2017. DMPED will ensure that moving forward, documentation supporting sole source justifications is included in the files of both the Project Manager and the grants team.*

**OIG Comment:** The sole source justification that DMPED provided contained no evidence that the sole source award was internally evaluated and scored using the same criteria applied in a competitive solicitation.

- (6) Provide mandatory training to DMPED employees that addresses the need to maintain all grant award and administration documentation, to include the evaluation and scoring of all grant applications.

Agree \_\_\_\_\_  X  \_\_\_\_\_ Disagree \_\_\_\_\_

<sup>24</sup> We note that the subsection numbering on page 5 in the Grants Manual contains sequence errors. See DMPED-OAG GRANTS MANUAL 5, §II(B)(3)(a) - (c).

<sup>25</sup> D.C. Act 21-354, Sec. 2 (March 23, 2016). The emergency act expired on June 21, 2016. Permanent legislation, the Fiscal Year 2018 Budget Support Act of 2017 (L 22-33), effective December 13, 2017, does *not* contain the provision from the emergency act that permitted DMPED unlimited discretion with respect to grants.

*DMPED’s June 2018 Response to Recommendation 6, As Received: DMPED is currently developing an agency Grant Manager’s Technical Representative training module to ensure proper education of the responsibilities for monitoring, documenting, reviewing and approving grant activities. The training will advise of prohibited activities.*

**DMPED did not provide a Fiscal Sufficiency Certification from FY17 to fund the second disbursement of the 2016 grant award.**

D.C. Code § 47-355.02 (in the District’s Anti-deficiency Act) prohibits obligating the District for the payment of money “before a certification of the availability of funds is made, unless authorized by law[.]” DMPED disbursed the 2016 sole source grant funds to DSCRCP in two installments according to the schedule in table 5 below.

Installment #	Amount	Purpose	Date	FY
1	\$215,678	Predevelopment Expenses	July 22, 2016	2016
2	\$250,000	Conditioned on DSCRCP’s completion of set milestones	December 22, 2016	2017

**Table 5: DMPED’s Disbursement of the 2016 Grant Award Funds**

Although DMPED disbursed the first installment in FY16, it did not disburse the second installment until FY17. The District’s Anti-Deficiency Act required DMPED to obtain two Fiscal Sufficiency Certifications: one for FY16 and one for FY17. DMPED provided the OIG with the Fiscal Sufficiency Certification<sup>26</sup> for the FY16 disbursement of June 22, 2016, but did not provide the team with the Fiscal Sufficiency Certification for the FY17 disbursement of December 22, 2016, as requested. If DMPED failed to obtain the Fiscal Sufficiency Certification for the FY17 disbursement, DMPED employees could be subject to adverse personnel actions, including removal if found to have caused an Anti-Deficiency Act violation.<sup>27</sup>

Therefore, we recommend that DMPED:

- (7) Provide the OIG with the Fiscal Sufficiency Certification from the FY17 disbursement to fund the second installment of the 2016 sole source award, or if DMPED lacks such Certification, provide the OIG with an explanation as to why it lacks one; and

Agree \_\_\_\_\_ Disagree       X      

<sup>26</sup> The Fiscal Sufficiency Certification states that the \$465,678 proposed grant was “to be paid within a period between **December 14, 2015 and September 30, 2016**” and that “DMPED has budgeted funds for the Proposed Grant in the current fiscal year[.]”

<sup>27</sup> D.C. Code § 47-355.06 (Lexis - 2016 District of Columbia Archive) states that, “[a]n agency head, deputy agency head, agency fiscal officer, agency budget director, agency controller, manager, or other employee may be subject to adverse personnel action, including removal, for violating any provision in § 47-355.02 [Limitations on expenditures and obligating amounts].”

***DMPED’s June 2018 Response to Recommendation 7, As Received:*** Specifically related to the finding of “DMPED did not provide a Fiscal Sufficiency Certification from FY17 to fund the second disbursement of the 2016 award” DMPED disagrees that the second disbursement did not have a Fiscal Sufficiency Certification as DMPED followed the correct OCFO procedures for disbursement. DMPED had the necessary Fiscal Sufficiency Certification and provided it to the OIG via email on June 6, 2017. The purchase order was established in FY16 in the amount of \$456,678.00. The initial payment of \$215,678.00 was disbursed in FY16, and the remaining amount was accrued, as per OCFO procedures. While it was disbursed in December 2017 [sic], it was charged against the FY16 PO and falls under the certification provided. Therefore, DMPED does not agree with the OIG’s recommendations (7) and (8) as the agency is currently adhering to the established protocols. (See attached funding certification).

**OIG Comment:** The Fiscal Sufficiency Certification provided by DMPED and presented in the back of this report, certified \$465,678 “to be paid within a period between **December 12, 2015 and September 30, 2016**” (emphasis supplied). This would mean that all disbursements were only certified to occur in FY 2016. The rationale provided by DMPED stating that they had properly accrued the remaining disbursement does not comport with OCFO policy. Specifically, as articulated in the OCFO’s *Financial Policies and Procedures Manual* (section 10452000.10), unpaid amounts for obligations where goods and/or services have been received but not paid, may be accrued and carried over into the following fiscal year. As of September 30, 2016, DMPED had not taken delivery/received the remaining five townhomes in the phase I development, therefore accruing the remaining grant funds was not appropriate. The OIG believes DMPED should have obtained a Fiscal Sufficiency Certification for the FY 2017 disbursement.

- (8) Review and revise any internal processes related to obtaining proper and timely funding certification to delineate who is responsible for ensuring that DMPED receives funding certification before disbursing funds.

Agree \_\_\_\_\_ Disagree       X      

***DMPED’s June 2018 Response to Recommendation 8, As Received:*** Please see above. DMPED has strong procedures for fiscal certification to avoid making financial commitments without authorization, or in excess of amounts authorized, and followed them correctly.

**DMPED could not adequately monitor the independent construction consultant required by the 2016 First Amendment to the Grant Agreement.**

The 2016 First Amendment to the Grant Agreement required DSCR to contract with an independent construction consultant to monitor its progress and submit monthly reports to DMPED. Subject to DMPED’s approval, DSCR selected Pantera Management Group (PMG). However, when requested, DMPED was unable to provide documentation explaining its process for approving PMG.

DMPED was responsible for reconciling the information contained within PMG’s reports with the project’s budget, performance schedule, and construction milestones to ensure DSCR’s compliance with the grant agreement. Upon reviewing the reports, the OIG found that they often lacked the necessary details to ensure DSCR’s compliance. Furthermore, DMPED employees were not confident that they had sufficient expertise to verify the accuracy and reasonableness of information in PMG’s reports and doubted the utility of the reports for this reason.

Although DMPED enhanced its monitoring of DSCR through the use of the third-party construction consultant reports, DMPED should have documented its due diligence related to approving the third-party consultant. Without conducting its own due diligence of PMG, DMPED essentially relied on the judgment of a grant recipient, in this case one that it labeled as “high-risk,” to select a construction consultant to monitor its progress. Further, without providing DMPED employees with sufficient resources and training related to construction monitoring and compliance, DMPED nullified the value of the compliance reports by not ensuring its reviewers had the requisite knowledge to be an effective check on the construction process.

Therefore, we recommend that DMPED:

- (9) Implement a mandatory training program with a curriculum that affords DMPED personnel the skills and knowledge necessary to adequately monitor real estate development projects; and

Agree \_\_\_\_\_ Disagree     X    

***DMPED’s June 2018 Response to Recommendation 9, As Received:** Specifically related to the finding “DMPED could not adequately monitor the independent construction consultant required by the 2016 First Amendment to the Grant Agreement” DMPED disagrees and believes it adequately monitored this project. Specifically, DMPED ensured funding tranches were tied to affirmation of milestones laid out in the grant agreement. For example, DMPED advised the recipient it would not disburse the final amount without the final construction report. The consultant, Pantera, was late in delivering the final report, but DMPED worked to ensure it was eventually provided. As an example of further due diligence that DMPED executed, the DMPED project manager visited the site regularly, was in regular touch with the neighborhood Homeowners’ Association, and received regular construction updates with photos from the developer that it assessed in comparison to the disbursement schedule attached to the grant agreement. Even so, DMPED is continuously looking for opportunities to improve the skills and training of its staff and will review opportunities to improve construction monitoring. Therefore, DMPED does not agree with the OIG’s recommendations (9) and (10) as the agency has performed adequate review of the third party documents.*



- (10) Create an internal process for reviewing, evaluating, and approving a grant recipient's selection (or DMPED's selection, when applicable) of a third-party construction consultant.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ **X** \_\_\_\_\_

*DMPED's June 2018 Response to Recommendation 10, As Received: Please see above. DMPED believes it appropriately approved the third party consultant.*

**DMPED failed to require DSCRCP to complete proper grant closeout procedures.**

DSCRCP did not fully comply with the closeout procedures required by the First Amendment to the Grant Agreement or DMPED's Grants Manual.

- a. DSCRCP's closeout report lacks much of the substantive information required by the grant.

Section IV of the First Amendment to the Grant Agreement requires the Grantee to submit a Closeout Report containing the following items:

- (1) a narrative report;
- (2) an expense report;
- (3) a non-expendable equipment inventory report;
- (4) a procurement report; and
- (5) copies of the minutes from any meeting of the Board of Directors that took place from the effective date to the date of the Closeout Report.

DSCRCP's Closeout Report, submitted to DMPED on May 12, 2017, did not include a non-expendable equipment inventory report or a procurement report, and included an outdated narrative report. The narrative report was dated April 7, 2017, and listed tasks with statuses that remained "in progress," instead of "completed."

- b. DSCRCP did not submit an independent, in-depth financial audit.

DMPED classified DSCRCP as a "high-risk" applicant due to its history of unsatisfactory performance, financial instability, and failure to conform to the terms and conditions of previous grant awards. Section VII(D)(3)(d) of DMPED's Grants Manual requires "high-risk" applicants to file an independent, in-depth financial audit and statement equivalent to the "single audit" required by OMB Circular A-133. DSCRCP did not include the required audit with its Closeout Report.

DSCRCP reportedly claimed that it lost money on the Dix Street Revitalization Project. Without an audit, however, DMPED could not verify whether DSCRCP earned a profit or incurred a loss from the project, and ultimately whether DSCRCP needed to return unused District funds in accordance with Section XI of the First Amendment to the Grant Agreements, which required DSCRCP to "transfer any unspent, excess, or surplus funds to the District."



## CONCLUSION

In October 2009, DMPED entered into a Land Disposition and Development Agreement with DSCRCP, which detailed the anticipated construction of 56 townhome units of affordable housing.<sup>28</sup> DSCRCP took more than 7 years to complete only the first of two planned phases of construction. The District ultimately provided DSCRCP with \$2,778,040 in grants and subsidies, which was \$1,059,072 more than the District's intended commitment for Phase I as outlined in the October 2010 Construction and Use Covenant, despite DSCRCP's failure to meet contract milestones and deliverables. Only 46 percent of the planned units (29 of 63) have been constructed.

We found that DMPED was unable to produce requested documents and information pertaining to decisions made and actions taken on the Dix Street project in the years preceding the 2016 grant award to DSCRCP, such as the documenting DMPED's original competitive award process that resulted in the selection of DSCRCP. The Dix Street Revitalization Project has spanned three administrations, which underscores the need for thorough documentation of District employees' decisions and their justifications, so that both decision makers responsible for administering active projects that predate their tenure, as well as oversight entities such as the OIG, have the necessary context, continuity of information, and understanding of all actions taken. Recommendations contained in this report are intended to help DMPED better document and retain information obtained, decisions made, and knowledge gained during its grant-funded projects.

Given the substantial time and resources afforded the Dix Street Revitalization Project, the OIG is concerned that DMPED seems unable to determine whether DSCRCP incurred a loss or earned a profit on the project, and therefore recommends it either request an audit as required by the Grants Manual, or procure an independent, third-party audit of the entire project.

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<sup>28</sup> The 2012 amendment to the affordable housing covenant increased the number of anticipated units to 63.

## **APPENDIX A: OBJECTIVES, SCOPE, METHODOLOGY**

The OIG reviewed the sole source grant DMPED awarded to DSCRCP in FY16 for the Dix Street Revitalization Project.

### **OBJECTIVES:**

The objectives of the evaluation were to assess:

- (1) DMPED’s award of the sole source grant to DSCRCP and DSCRCP’s compliance with the grant agreement requirements; and
- (2) DMPED’s administration of the grant and its compliance with the Citywide Grants Manual and Sourcebook and applicable statutes and regulations.

### **SCOPE:**

The scope of this evaluation included reviewing DMPED’s award and monitoring of the sole source grant awarded to DSCRCP on June 6, 2016, as well as available documentation and information pertaining to DMPED actions and decisions dating back to the inception of the Dix Street Revitalization Project (2008).

### **METHODOLOGY**

From May to August 2017, the team: examined grant file documentation and email communications provided by DMPED; reviewed applicable statutes, regulations, and other criteria; and interviewed five DMPED employees.

The evaluation was conducted in accordance with the standards established by the Council of the Inspectors General on Integrity and Efficiency. As a matter of standard practice, our evaluations pay particular attention to the quality of internal control.<sup>29</sup>

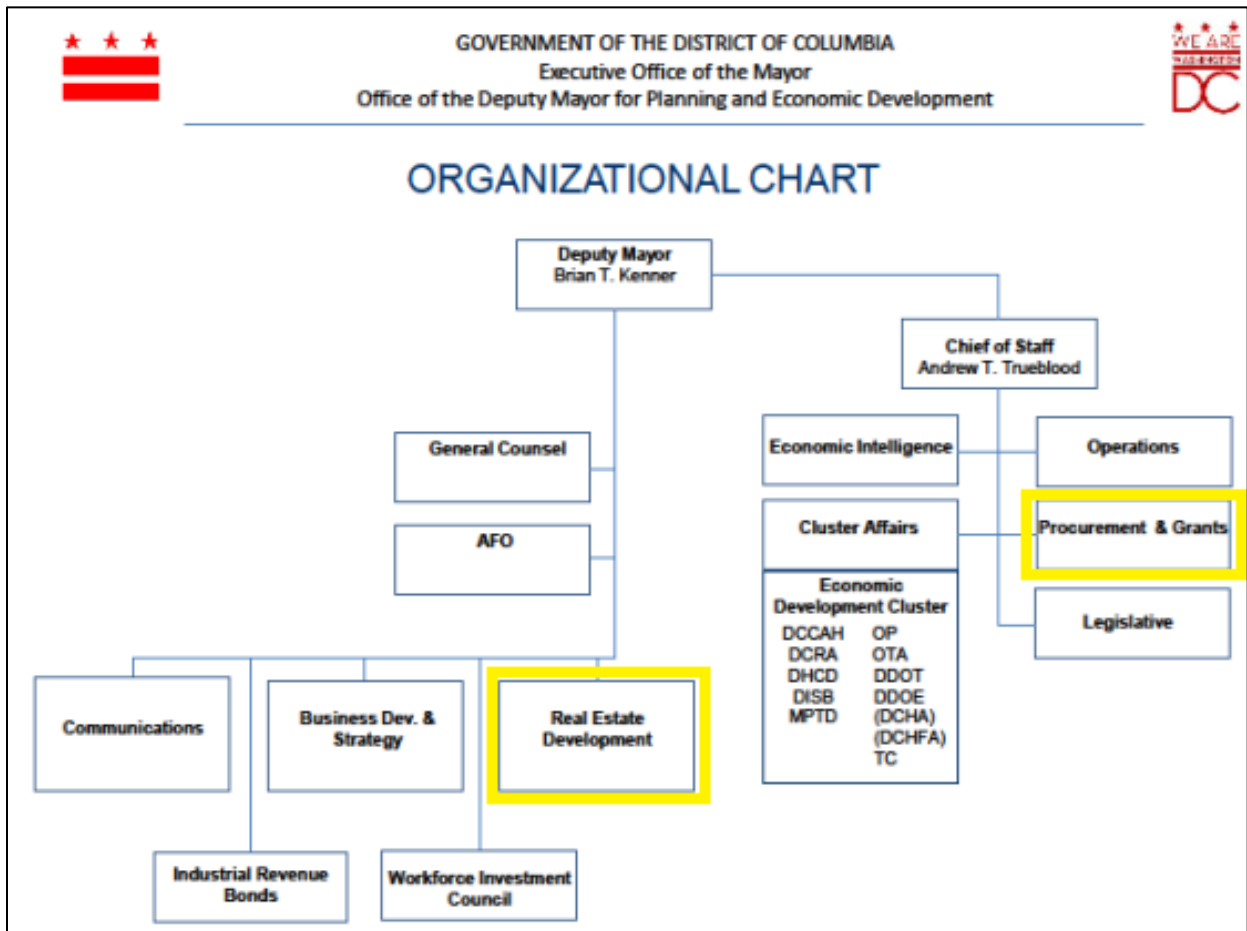
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<sup>29</sup> “Internal control” is defined by the U.S. Government Accountability Office as comprising “the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity” and is not one event, but a series of actions that occur throughout an entity’s operations. Furthermore, internal control is a process that provides reasonable assurance that the objectives of an entity will be achieved, serves as the first line of defense in safeguarding assets, and is an integral part of the operational processes management uses to guide its operations. U.S. GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT 5-6, GAO-14-704G (Sept. 2014).

## **APPENDIX B: ACRONYMS AND ABBREVIATIONS**

<b>AHC</b>	Affordable Housing Covenant
<b>COW</b>	Committee of the Whole
<b>CUC</b>	Construction and Use Covenant
<b>D.C.</b>	District of Columbia
<b>DHCD</b>	Department of Housing and Community Development
<b>DMPED</b>	The Office of Deputy Mayor for Planning and Economic Development
<b>DSCR</b>	Dix Street Corridor Revitalization Partners, LLC
<b>FY</b>	Fiscal Year
<b>HPTF</b>	Housing Production Trust Fund
<b>I&amp;E</b>	Inspections and Evaluations Unit
<b>LDDA</b>	Land Disposition and Development Agreement
<b>NCI</b>	New Communities Initiative
<b>OAG</b>	Office of the Attorney General
<b>OIG</b>	Office of Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PMG</b>	Pantera Management Group

## APPENDIX C: DMPED ORGANIZATIONAL CHART



## APPENDIX D: DMPED'S JUNE 2018 RESPONSE TO DRAFT REPORT



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Executive Office of the Mayor  
Office of the Deputy Mayor for Planning and Economic Development



June 11, 2018

Daniel W. Lucas  
Inspector General  
717 14<sup>th</sup> Street NW  
Washington, DC 20005

*Re: OIG Project No. 18-1-##EBO*

Dear Inspector General Lucas:

This letter is in response to correspondence dated May 18, 2018, informing this office of the results of the Dix Street Revitalization Grant review (OIG Project Number 18-1-##EBO).

We have carefully reviewed the report and submit our response setting forth DMPED's actions. We share the findings and recommendations with which we agree and disagree and outline actions taken or planned, or any alternative recommendations that DMPED believes are more apposite.

In addition, we request the Office of the Inspector General revise some statements included in its draft report. In the "Timeline of Events" section in the paragraph summarizing the March 2015 activities (see page 6), your office has included direct quotations to an "internal memorandum". We have reviewed this "internal memorandum" and believe it would be exempt from disclosure under the District of Columbia Freedom of Information Act under the deliberative process doctrine and the exemption governing commercial or financial information received from outside the government. We are concerned that your direct quotation from this memorandum in your report, which will eventually be part of the public record, could risk a waiver of these exemptions. As such, rather than including direct quotations from the internal memorandum, please consider including only a summary of the statements included in the internal memorandum. Also, please consider removing references to the dollar amount of the developer's projections.

DMPED agrees with some of the report's findings and is actively implementing some of the recommendations while improving upon current practices. Our General Counsel's office is assisting with the management of the implementation process to ensure agency compliance with OAG recommendations and DMPED grants policy, DC Code, and other grant-related regulations.

BRIAN T. KENNER  
DEPUTY MAYOR

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dmped.dc.gov

Daniel W. Lucas, Office of the Inspector General  
 Response Letter Regarding OIG Project No. 18-1-##EBO  
 June 5, 2018

Page 2 of 4

We submit the following responses to the report's findings and recommendations:

1. Adopt a standard process for signing and authorizing documentation to ensure uniformity within grant files;

**DMPED Response:** Agree. DMPED does have a standardized process for signing and authorizing grants in the construct of a signature form. See attached signature form.

2. Establish a policy in the Grants Manual requiring DMPED to retain the same records it requires its grantees to retain for the same period of time; and has adopted a standardized procedure to ensure uniformity with grant files.

**DMPED Response:** Agree. DMPED is currently working directly with the Office of Public Records (OPR) to create an agency records retention schedule. OPR's leadership is working to create a comprehensive records retention schedule for all EOM agencies. DMPED has provided feedback to OPR on the draft retention schedule. OPR is currently reviewing this feedback.

3. Amend its policy to require the maintenance of DMPED-authored documentation for all funding negotiations and commitments, and require such negotiations and commitments be documented on official DMPED letterhead and signed by more than one authorizing official.

**DMPED Response:** Agree. DMPED will require, in addition to a sole justification, any supporting negotiation documents formatted as an executed DMPED memorandum.

4. Coordinate with the Office of the Attorney General (OAG) to review all covenants and agreements pertaining to the Dix Street Revitalization Project to identify and document instances of noncompliance or default, and determine whether corrective action is warranted.

**DMPED's Response:** Disagree. DMPED disagrees with portions of the findings as well as the recommendation. Specifically related to the finding of "DMPED did not enforce the terms and conditions of its agreements with DSCR" DMPED disagrees with the statements that DMPED's decision to not enforce the terms of its agreements with DSCR prolonged completion of the Dix Street Project. We do not agree that this determination cost the District \$1 million more than originally planned for phase 1 of the project and left the District with just 29 of 63 originally planned affordable housing units. The real estate market was in a significant flux from 2008 until 2012 and caused often detrimental impacts on real estate projects all across the District including time delays and cost issues. Underserved communities, similar to the Deanwood-Dix Street area, were hit particularly hard during this time, and some continue to struggle to rebound even in 2018. Decisions made by DMPED over many administrations were aimed to keep this important affordable homeownership project feasible while many others ended. The severity and impact of the market changes on the Dix Street project are significantly underestimated in this finding.

Specifically related to recommendation (4), the legal analysis recommended by OIG has already been completed. The Real Estate Section of OAG (the members of which are now included in DMPED's Office of General Counsel) reviewed the real estate transaction and



Daniel W. Lucas, Office of the Inspector General  
 Response Letter Regarding OIG Project No. I8-1-##EBO  
 June 5, 2018

Page 3 of 4

conducted an analysis of legal remedies and options available to DMPED in the Spring of 2015. At that time, DMPED considered the options and decided it was in the best interests of the District to pursue a different course of action for the project.

5. Provide the OIG with evidence that, as stated in the sole source justification memorandum, DMPED “internally evaluated and scored the sole source award using the same criteria that would have applied to a competitive solicitation.”

**DMPED’s Response:** Agree. DMPED completed a sole source justification which was provided via email on June 6, 2017. DMPED will ensure that moving forward, documentation supporting sole source justifications is included in the files of both the Project Manager and the grants team.

6. Provide mandatory training to DMPED employees that addresses the need to maintain all grant award and administration documentation, to include the evaluation and scoring of all grant applications.

**DMPED’s Response:** Agree. DMPED is currently developing an agency Grant Manager’s Technical Representative training module to ensure proper education of the responsibilities for monitoring, documenting, reviewing and approving grant activities. The training will advise of prohibited activities.

7. Provide the OIG with the Fiscal Sufficiency Certification from the FY17 disbursement to fund the second installment of the 2016 sole source award, or if DMPED lacks such Certification, provide the OIG with an explanation as to why it lacks one; and

**DMPED’s Response:** Disagree. Specifically related to the finding of “DMPED did not provide a Fiscal Sufficiency Certification from FY17 to fund the second disbursement of the 2016 award” DMPED disagrees that the second disbursement did not have a Fiscal Sufficiency Certification as DMPED followed the correct OCFO procedures for disbursement. DMPED had the necessary Fiscal Sufficiency Certification and provided it to the OIG via email on June 6, 2017. The purchase order was established in FY16 in the amount of \$456,678.00. The initial payment of \$215,678.00 was disbursed in FY16, and the remaining amount was accrued, as per OCFO procedures. While it was disbursed in December 2017, it was charged against the FY16 PO and falls under the certification provided. Therefore, DMPED does not agree with the OIG’s recommendations (7) and (8) as the agency is currently adhering to the established protocols. (See attached funding certification)

8. Review and revise any internal processes related to obtaining proper and timely funding certification to delineate who is responsible for ensuring that DMPED receives funding certification before disbursing funds

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**DMPED's Response:** Disagree. Please see above. DMPED has strong procedures for fiscal certification to avoid making financial commitments without authorization, or in excess of amounts authorized, and followed them correctly.

9. Implement a mandatory training program with a curriculum that affords DMPED personnel the skills and knowledge necessary to adequately monitor real estate development projects; and

**DMPED's Response:** Disagree. Specifically related to the finding "DMPED could not adequately monitor the independent construction consultant required by the 2016 First Amendment to the Grant Agreement" DMPED disagrees and believes it adequately monitored this project. Specifically, DMPED ensured funding tranches were tied to affirmation of milestones laid out in the grant agreement. For example, DMPED advised the recipient it would not disburse the final amount without the final construction report. The consultant, Pantera, was late in delivering the final report, but DMPED worked to ensure it was eventually provided. As an example of further due diligence that DMPED executed, the DMPED project manager visited the site regularly, was in regular touch with the neighborhood Homeowners' Association, and received regular construction updates with photos from the developer that it assessed in comparison to the disbursement schedule attached to the grant agreement. Even so, DMPED is continuously looking for opportunities to improve the skills and training of its staff and will review opportunities to improve construction monitoring. Therefore, DMPED does not agree with the OIG's recommendations (9) and (10) as the agency has performed adequate review of the third party documents.

10. Create an internal process for reviewing, evaluating, and approving a grant recipient's selection (or DMPED's selection, when applicable) of a third-party construction consultant.

**DMPED's Response:** Disagree. Please see above. DMPED believes it appropriately approved the third party consultant.

11. Require that DSCRCP revise its Closeout Report to include all of the requirements of the First Amendment to the Grant Agreement and DMPED's Grant Manual, including the submission of an audit equivalent to the one required by OMB Circular A-133; and

**DMPED's Response:** Agree. The close-out process is ongoing. To the extent DMPED determines the Closeout Report does not comply with the grant requirements, DMPED will request a revision of the submitted DSCRCP Closeout Report.

12. Procure an independent, third-party audit of the entire development project in the event DSCRCP does not submit a proper audit.

**DMPED's Response:** Agree. DMPED agrees to request an audit should one not be provided.

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June 5, 2018

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DMPED remains committed to the continued improvement of our grants programs and compliance with the established policies and procedures. We also remain steadfast in establishing reasonable protocols and providing training beneficial to the grant monitoring process. DMPED continuously seeks to ensure the most judicious use of District funds to support the agency's mission of expanding job opportunities, affordable housing, and tax revenue in the city.

Sincerely,



Brian T. Kenner  
Deputy Mayor

BTK/jm

cc: Rashad M. Young, City Administrator, District of Columbia (via email)



Office of the Deputy Mayor for Planning and Economic Development  
Executive Office of the Mayor

**DM SIGNATURE – CLEARANCE MEMO**

(Place Pointer above Field for Instructions)

<b>Today's Date</b>	02/Jun/16	<b>Action Required By:</b>	06/03
<b>Originator's Name</b>	[REDACTED]	<b>DMPED Business Unit</b>	Real Estate
<b>Document Type</b>	Grant	<b>Value of \$\$ Approval, if any</b>	465,678
<b>Project:</b>	Dix Street-Eden Place Phase I		
<b>Subject:</b>	Grant Agreement and Escrow Agreement		
<b>AFO Signoff for Budget Item</b>			
<b>Description of Document (in bullet point form):</b>			
<ul style="list-style-type: none"> <li>• Grant agreement for completing construction of remaining five townhomes in phase I development</li> <li>• Escrow agreement with Eagle Bank, for disbursement of funds</li> <li>•</li> <li>•</li> <li>•</li> </ul>			
Documents have been reviewed and approved for signoff by: <b>**Must have at least one Supervisor signature</b>			
<b>APPROVER</b>	<b>NAME</b>	<b>INITIAL</b>	<b>DATE</b>
Legal Review	[REDACTED]	[REDACTED]	6/2/16
Project Manager	[REDACTED]	[REDACTED]	6/2/16
Supervisor			
Business Unit Director	[REDACTED]	[REDACTED]	6/2/16
Chief of Staff Signoff	[REDACTED]	[REDACTED]	6/2/16
ODMPED Clearance			
<b>COMMENTS/CHANGES: (For ODMPED Use Only)</b>			

Brian T. Kenner  
Deputy Mayor

John A. Wilson Building | 1350 Pennsylvania Ave, NW, Suite 317 | Washington, DC 20004



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
 Executive Office of the Mayor  
 Office of the Deputy Mayor for Planning and Economic Development



**Fiscal Sufficiency Certification**

Based on my review of the proposed Grant Agreement between the Office of the Deputy Mayor for Planning and Economic Development ("DMPED") and **Dix Street Revitalization** for a grant ("Proposed Grant") under Grant Program/RFA **DMPED – Other grant** in the amount of **\$465,678.00** to be paid within a period between **December 14, 2015 and September 30, 2016**.

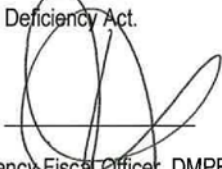
Grant Recipient	Grant ID	Award Amount
Dix Street Corridor Revitalization	EOM-DMPED-016-6712	\$465,678.00

I certify that:

- 1) DMPED has the proper, current, adequate and unencumbered budget authority to pay the grant in the full amount of the Proposed Grant;
- 2) DMPED has budgeted funds for the Proposed Grant in the current fiscal year;
- 3) DMPED has available funds to pay the Proposed Grant in the full amount proposed;
- 4) The source for the Proposed Grant is:

AGY:	AY	Index	PCA	Object	Fund	Amount
EB0	16	10DEV	INV85	0506	0632	\$465,678.00

- 5) The awarding of this Proposed Grant as proposed will not place DMPED in violation of the District's Anti-Deficiency Act.

  
 \_\_\_\_\_  
 Agency Fiscal Officer, DMPED

  
 \_\_\_\_\_  
 Date

BRIAN T. KENNER, DEPUTY MAYOR

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