



**LOWER MANHATTAN DEVELOPMENT CORPORATION**  
*in partnership with*  
**EMPIRE STATE DEVELOPMENT CORPORATION**  
*and*  
**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION**

***Revised Partial Action Plan S-2***  
 for  
**Utility Restoration and Infrastructure Rebuilding**

### Overview

The Lower Manhattan Development Corporation (LMDC) has prepared the following amendments to Partial Action Plan S-2 with regard to the \$783 million federal appropriation administered by the United States Department of Housing and Urban Development (HUD) for damaged properties and businesses (including the restoration of utility infrastructure) as well as for economic revitalization related to the terrorist attacks at the World Trade Center.

These changes are needed to ensure the greatest opportunity to achieve all program goals and objectives pertaining to the revitalization of Lower Manhattan, as set forth in Partial Action Plan S-2, in a timely manner. The proposed allocations and timeframes for accomplishments have been revised based upon more than two years of program experience to reflect more closely the desired and expected expenditure requirements going forward. These amendments detail the revised, proposed expenditure of \$750 million in program funds (of the \$783 million appropriation).

The following chart reflects initial and amended allocations to each category.

Category	Purpose	PLAN approved 9/15/03	Amended PLAN
One	Emergency and Temporary Service	\$250,000,000	\$250,000,000
Two	Permanent Restoration & Improvement	330,000,000	360,000,000
Three	Service Interference	60,000,000	60,000,000
Four	Carrier Neutral Lateral Conduit	50,000,000	20,000,000
Five	Redundant Fiber	20,000,000	
Five	Redundant Fiber and Wireless		20,000,000
Six	Mandates/Other Improvements	25,000,000	0
Six	WTC Memorial Telecom and Electric		25,000,000
	Program Administration	15,000,000	15,000,000
	a) Program Management & Monitoring	11,000,000	11,000,000
	b) NYC MOSAICS Permit System	4,000,000	0
	d) NYC Planning and Administration		4,000,000
	<b>TOTAL</b>	<b>\$750,000,000</b>	<b>\$750,000,000</b>

**Category One - Emergency and Temporary Service Response - \$250 million**

There are no changes to Category One. The allocation remains at \$250 million. The filing deadline for Category One closed on March 31, 2004.

**Category Two - Permanent Restoration and Infrastructure Improvements - \$360 million**

Category Two Guidelines has been amended to include the addition of the Southern Site Street Reconfiguration Plan as an eligible project and an increase of \$30 million in funds allocated to cover the Southern Site-related work, for a revised allocation of \$360 million. The Southern Site Project was added to assist redevelopment efforts at the site. It conforms to the permanent restoration purpose of Category Two. The filing deadline for Southern Site work is March 31, 2008.

The filing deadline for all other Category Two work, as set in the original Partial Action Plan, remains December 31, 2004.

**Category Three - Service Interference - \$60 million**

Category Three retains the initial allocation of \$60 million, which will be made jointly available to the utilities and the City or the State to pay for service interference costs directly related to the events of September 11, 2001 and in furtherance of the goals of this plan. Funding for Category Three will be capped at \$60 million.

The revised deadline for cost incurrence under this program is June 30, 2006, with an application deadline of January 31, 2007. The deadline for cost incurrence would extend to December 31, 2007 if/when additional funds from Categories One and Two are reprogrammed to Category Three.

Because anticipated claims for Category Three reimbursements could possibly exceed the allocated funds, eligible claims will be awarded on a pro-rata basis to all participating, eligible applicants to ensure an equitable apportionment of available funds.

**Category Four – Construction of Carrier Neutral Lateral Telecommunications Conduit – \$20 million**

The scope of conduit construction and service remains unchanged from the original Partial Action Plan. However, the Category Four allocation has been reduced from \$50 million to \$20 million, based upon the findings of an independent and comprehensive evaluation of market need, demand, and cost to serve, procured by Empire State Development Corporation through a competitive process, and provided by Appleseed Consulting. The \$20 million allocation is offered as an inducement to invest in the construction, maintenance, ownership and operation of carrier-neutral lateral conduits through designated streets in Lower Manhattan. A provider will be selected through a competitive bid process that will evaluate the amount of private investment leveraged for the use of public funds, the scale and quality of proposed conduit infrastructure and service delivery, and experience and qualifications of the provider to design, construct and operate the system.

**Category Five – Construction of Redundant Fiber Connections to Critical Facilities and Wireless Redundancy Broadband System-- \$20 million**

Category Five has been renamed to include the addition of a Wireless Redundancy System for Lower Manhattan.

The scope of redundant fiber construction remains unchanged from the initial Partial Action Plan. Based upon the findings of an independent and comprehensive evaluation of need and cost to serve, procured by Empire State Development through a competitive process, and provided by Appleseed Consulting, the funding allocation for fiber is now \$10 million. The \$10 million is provided for reimbursement of actual costs incurred to construct the designated fiber connections. A provider will be selected through a competitive bid process that will evaluate the experience and qualifications of the provider to complete the requested construction.

Lower Manhattan has historically been the financial capital of the world, but with emerging technologies Lower Manhattan faces competition to keep that status. Improving the reliability of communications in Lower Manhattan was identified as a high priority by key business sectors and communications groups. This is also a necessity in order to retain businesses in Lower Manhattan.

\$10,000,000.00 will be allocated to upgrade wireless telecommunications infrastructure in Lower Manhattan to further ensure redundant communications pathways. The \$10 million is offered as an inducement to invest in the design, construction and operation of wireless infrastructure in designated areas of Lower Manhattan. A provider will be selected through a competitive bid process that will evaluate the amount of private investment leveraged for the use of public funds, the scale and quality of proposed wireless infrastructure and service delivery, and the experience and qualifications of the provider to design, construct and operate the system.

**Category Six – WTC Memorial Telecom and Electric - \$25 million**

Funding of up to \$25 million has been set aside for the WTC Memorial and Museum including Utilities and electrical and telecommunications systems.

**Program Administration - \$15 million**

Program Administration remains unchanged for the ESDC and LMDC portions of the allocation. The original \$4 million set aside for the NYC MOSAIC Permit System will be reallocated to the City of New York to assist with planning and administration.

**Change in Funding Priorities Among Categories:**

The initial partial action plan established Category One as the highest funding priority, and stipulated that should the initial allocation prove insufficient to cover all eligible claims for reimbursement under Category One, funds would automatically be reprogrammed, starting from the lowest ranked category (Six), and moving upward to Five, then Four, then Three, then Two until all eligible Category One claims were satisfied. Once Category One had been fulfilled, Category Two would become the highest remaining priority, with funds flowing upward from the lowest ranked category with available funds, until all eligible Category Two claims were satisfied.

This plan gave highest priority to cost recovery for the impacted utilities, providing funding contingencies to cover them before the actual extent and eligibility of their claims under Categories One and Two were known. One consequence was that work in the lower priority

categories could not begin until reimbursement for the highest categories was completed. In the intervening years, several things have changed:

1. The audit of utility claims for reimbursement under Categories One and Two has taken longer than anticipated when this funding system was proposed in the initial action plan, delaying implementation of the remaining Categories.
2. The filing deadlines for Categories One and Two (except for the Southern Site work) have closed, and the amount of funds needed to fulfill these categories is well-defined.
3. The infrastructure improvements covered by Categories Four, Five and Six must proceed in order to benefit the overall reconstruction and redevelopment of Lower Manhattan.

This amended plan caps Category One and Two at \$610 million and eliminates the upward flow of funds. Moreover, the amendments allow all six Categories to proceed simultaneously in order to complete the full scope of work of the Partial Action Plan in a timely manner. Should funds remain after all eligible claims in Categories One and Two are fulfilled, the balance of funds from those Categories will be reprogrammed to satisfy unmet eligible claims under Category Three, without further amendment to this partial action plan.

Funds remaining after all categories are completed will be allocated to World Trade Center Site Infrastructure.

#### **Updated Applicant Eligibility**

For Categories One and Two, financial assistance will be provided directly to impacted energy and telecommunications services companies for reimbursement of qualified emergency and temporary restoration costs and permanent restoration.

For Category Three, financial assistance will be made jointly available to the energy and telecommunications services companies as well as the City or the State to pay for service interference costs.

For Categories Four and Five, assistance will be provided to contractors selected through an RFP process which may or may not include the above mentioned service companies. Any firm able to demonstrate its qualifications to perform the work proposed may submit a proposal(s).

For Category Six, a grant shall be made directly to the WTC Memorial Foundation.

#### **Categories**

1. Emergency and Temporary Service Response
2. Permanent Restoration and Infrastructure Improvements
3. Service Interference
4. Construction of Carrier Neutral Lateral Conduit
5. Construction of Redundant Fiber Connections to Critical Facilities and Wireless
6. WTC Memorial Telecom & Electric

Empire State Development will allocate \$735 million among the categories listed above and recognizes that eligible costs incurred by the utility service providers and other eligible parties may exceed the total \$750 million fund. Category One and Two funding will be capped at a maximum of \$610 million (83% of available program funds) which is ample as this estimate reflects actual review and potential expenditures.

### **Reimbursement of Eligible Costs in Categories One, Two and Three**

Uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses.

Uncompensated costs incurred in Category One will be reimbursed up to 100%, once audited and verified.

Uncompensated costs incurred in Category Two will be reimbursed up to 75% (except street-related work coordinated with the City which will be reimbursed at 100%). Uncompensated costs in Category Two specifically for the Southern Site Plan will be reimbursed according to the payment schedule as outlined in the Category Two Southern Site Guidelines.

Funding for Categories One and Two will be capped at \$610 million. In the unlikely event that funding reimbursements exceed the \$610 million allocated, the percentage of payment for claims will be reduced on a pro rata basis.

Uncompensated costs incurred in Category Three directly related to the events of 9/11 will be reimbursed up to 75% (except street-related work coordinated with the City which will be reimbursed at 100%) with the entire Category funding capped at \$60 million.

Should funds remain after all eligible claims in Categories One and Two are fulfilled, the balance of funds from those Categories will be reprogrammed to satisfy unmet eligible claims under Category Three, without further amendment to this partial action plan.

Categories Four and Five will offer funds up to \$20 million and \$20 million respectively as inducements to leverage private investment in new infrastructure construction and operation.

Category Six will be a grant made directly to the WTC Memorial Foundation.

### **Role of Department of Public Service Staff**

At the time the Partial Action Plan S-2 was drafted by Empire State Development (ESD) in 2002, the New York State Department of Public Service (DPS) was expected to be a partner in a cooperative, multi-agency review process for the evaluation and validation of eligible costs and disbursement of URIR Program funds. Under this arrangement, ESD would function as the program administrator and DPS staff would provide technical consultation and perform the audit service of the applications and supporting documentation.

In the period between drafting the Plan and HUD's acceptance, DPS experienced large reductions in its professional staff and DPS could no longer support the audit effort. Accordingly, a team of retired State employees comprised primarily of former DPS accounting and engineering staff were hired by directly by ESD to undertake the validation process. As such, the ESD Audit

Team inherits the validation responsibilities and "The Role of Department of Public Service Staff" specified in the previously approved Partial Action Plan. The DPS has retained its technical consultation partnership in the URIR Program and provides general coordination and peer-review of the ESD Audit Team and its role in the validation process.

**Public Comment to the Amended Partial Action Plan**

The Amended Partial Action Plan continues to allocate funds to programs to restore, rebuild, and revitalize utility infrastructure in Lower Manhattan.

LMDC is accepting public comment on Partial Action Plan S-2 through October 30, 2006. Comments can be submitted:

**Electronically at LMDC's, web site [www.renewnyc.com](http://www.renewnyc.com)** under Funding Initiatives-Partial Action Plans – Comments

**By post to:** Public Comment on LMDC Amended Partial Action Plan S-2  
Lower Manhattan Development Corporation  
1 Liberty Plaza, 20<sup>th</sup> Floor  
New York, NY 10006

The deadline for receipt of public comment is October 30, 2006, 5:00 PM. Comments delivered by fax or telephone cannot be considered.