New York State Comptroller
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Empire State Development

COVID-19 Pandemic Small Business Recovery Grant Program (Follow-Up)

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Prepared by the Division of State Government Accountability

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Authority

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 and Article X, Section 5 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of Empire State Development (ESD) to implement the recommendations contained in our initial audit report, *COVID-19 Pandemic Small Business Recovery Grant Program* (Report 2023-S-10).

Background, Objective, and Scope

On March 20, 2020, New York's former Executive signed the "New York State on PAUSE" executive order in response to the COVID-19 pandemic. The order included a directive that all non-essential businesses across the State would need to close, effective March 22, 2020. While the order affected businesses of all sizes, most businesses in New York are small, employing fewer than 100 people. Specifically, 98% of businesses have fewer than 100 employees, and 93% have fewer than 25 employees. According to U.S. Census Bureau data, 77% of small businesses in the State reported declines in revenue and sales at the end of April 2020. The impact remained a year after the pandemic's onset, with 78% reporting an overall negative impact on their business as of the first week of March 2021. To assist the over 400,000 small businesses in the State impacted by the pandemic, the 2021–22 State budget established the COVID-19 Pandemic Small Business Recovery Grant Program (Program), with $800 million in funding. ESD was charged with administering the Program.

The mission of the Program was to support small businesses or for-profit independent arts and cultural organizations impacted by the COVID-19 pandemic that either did not qualify for federal assistance programs or received inadequate federal COVID-19 support. Priority was to be given to socially and economically disadvantaged business owners, including, but not limited to, minority- and women-owned business enterprises, service-disabled veteran-owned businesses, veteran-owned businesses, and businesses located in communities that were economically distressed prior to March 1, 2020, based on U.S. Census data. Program awards allowed New York State small businesses to cover costs such as payroll, rent or mortgage payments, personal protective equipment expenses, utility bills, costs associated with compliance with COVID-19 health and safety protocols, and other documented COVID-19 costs as approved by ESD.

ESD reported receiving over 168,000 applications, with just over 75,200 being fully completed and submitted. ESD awarded the full $760 million allocated to small businesses ($40 million for administrative expenses) to 40,842 applicants, with an average grant of $18,608.

The objectives of our initial audit, issued in May 2025, were to determine whether ESD awarded funds in accordance with Program eligibility requirements and whether ESD established performance measures to assess the impact of the awards. The audit covered the period from April 2021 through January 2023.

The audit found that ESD needed to strengthen controls for monitoring grant recipient eligibility and improve award distribution practices. Specifically, ESD awarded almost $4.1 million to

101 businesses that were ineligible because they had already received federal business assistance exceeding the allowable threshold. ESD did not consider business type, need, or factors established in the Program's original goals when awarding grants, instead favoring a first-come, first-served approach, which left tens of thousands of businesses unfunded and led certain types of businesses, such as sole proprietor transportation businesses without employees, to receive a significant share of the total dollars spent. Additionally, because of this methodology, several women-owned and low- to middle-income businesses did not receive funding, as Program funding was fully disbursed before their applications could be reviewed. These businesses were more prevalent among those that did not receive funding than among those that did. ESD did not establish a process to measure whether the Program achieved its intended goals or its impact on businesses. Therefore, there is limited assurance that the Program met its goals beyond distributing funds to businesses. Furthermore, without any performance review, potential areas for improvement for future emergency relief programs were not identified.

The objective of our follow-up was to assess the extent of implementation, as of June 2026, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

ESD has made little progress in addressing the problems we identified in the initial audit report. None of the three audit recommendations in the initial report have been implemented.

Follow-Up Observations

Recommendation 1 – Develop and implement enhanced application review and award practices for grants administered by ESD. This may include, but not be limited to:

- Utilizing relevant publicly available data sources.
- Working with federal or other applicable government partners to obtain relevant information on eligibility criteria.
- Incorporating relevant elements into award selection methodology, including, but not limited to, areas outlined in the Program's goals.

Status – Not Implemented

Agency Action – ESD did not develop or implement enhanced application review and award practices for the grants it administered. ESD officials contend that the New York State Legislature establishes the parameters governing the review and award of grant applications; therefore, ESD did not have the discretion to incorporate additional criteria or elements into its application review process. Officials further stated that a standardized review process could not be established for grants created to provide specific relief because the requirements for each grant were prescribed in the applicable authorizing legislation. However, while the legislation establishing the Program included eligibility criteria, it also provided ESD with discretion to establish procedures and a time period for businesses to submit applications and supporting documentation, in a manner

prescribed by ESD, to demonstrate hardship and prevent fraud, waste, and abuse. The legislation also allowed ESD to develop guidelines or promulgate regulations to exercise its authority to issue grants and provide technical assistance and outreach to businesses. As such, ESD created Program guidelines that specified qualifications, required documentation, application procedures, and other information. Furthermore, the guidelines indicated that business type, geography, and industry could affect eligibility for funds, and that priority would be given to socially and economically disadvantaged business owners. Ultimately, ESD had discretion to develop processes and procedures, require documentation, and award grants that would have complied with the Program's enabling legislation by prioritizing certain businesses, but, in practice, did not implement the Program in a manner that would support the Program's goals.

Recommendation 2 – Establish a process or practice to measure performance of grants administered by ESD.

Status – Not Implemented

Agency Action – ESD did not establish practices or processes to measure the performance of its grants. ESD officials stated they distinguished eligibility grants from performance-based grants, explaining that the Program grants reviewed in the initial audit were eligibility-based and that the measure of the Program's success was established in law. According to ESD, its responsibility was limited to determining whether applicants met the statutory and grant-disbursement requirements and distributing the funds accordingly. ESD maintained that, unless the authorizing legislation expressly required an assessment of a grant's performance, it had neither the obligation nor the authority to do so. Contrary to ESD's assessment of its authority, the Program's enabling legislation granted ESD the discretion and authority to develop guidelines or legislation for awarding grants. Moreover, both the enabling legislation and ESD's Program guidelines indicated that socially and economically disadvantaged business owners would be a priority. The guidelines also stated that certain factors (e.g., business type or industry) could be used to determine eligibility for funds. Generally, management should not only account for Program funds but also assess Program value and measure accomplishments. As noted in the initial audit report, the lack of a performance assessment limits assurance that programs meet their intended goals and that potential areas for improvement are identified for future and similar grant programs.

Recommendation 3 – Recover Program funds that were awarded to ineligible businesses as appropriate.

Status – Not Implemented

Agency Action – Although ESD officials stated they have taken action to recoup funds, they did not provide sufficient evidence to substantiate these actions or to demonstrate the extent to which the approximately $4.1 million awarded to potentially ineligible businesses had been recovered. According to ESD officials, demand letters were sent to all 101 businesses identified in the initial audit as ineligible recipients of Program funds. ESD also stated that it has entered into repayment agreements with four businesses and has referred the remaining businesses to the Office of the New York State Attorney General (OAG) for recovery or recoupment. However,

ESD did not provide copies or examples of the demand letters or repayment agreements. Instead, ESD provided a tracking spreadsheet that it maintains, based on updates from OAG, which contains referral and repayment status information. ESD also provided a document, which it claims the OAG provided, that identifies 74 cases, of which four are listed as paid in full, and five are noted to have made partial payments. However, there was no evidence that the document originated from or was transmitted by OAG because it lacked identifying information establishing its source, and ESD did not provide evidence of its receipt. Also, ESD's tracking spreadsheet does not match the information ESD said was from OAG, which identifies eight businesses as paid in full, not four. Further, the amounts reflected as recovered differed between the two sources, including $326,150 per ESD's spreadsheet and $258,305 per the provided OAG document—a difference of $67,845. Also, the business names identified as having repaid funds were inconsistent. Lastly, ESD provided two separate screenshots listing only the names of an additional 29 businesses it claims were also referred to OAG. These screenshots contained no balances or repayment amounts. The total number of businesses reflected in the documents provided by ESD does not reconcile with the 101 businesses ESD reported as having been referred to OAG.

ESD officials stated that they are not directly involved in OAG's recovery efforts but maintain a tracking chart based on updates received from OAG. However, officials acknowledged that these updates do not consistently include information for every case. Therefore, although ESD described actions taken to pursue recovery, it could not demonstrate how much of the improperly awarded funds had been recovered or adequately account for the remaining balances. While the documentation ESD provided included information on repayment amounts, it was insufficient to reliably determine which businesses made repayments and the total amounts recovered and outstanding.

Reporting Requirements

ESD officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of Empire State Development for the courtesies and cooperation extended to our auditors during this follow-up.

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