



Memorandum



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To: Hon. Carlos A. Gimenez, Mayor, Miami-Dade County
Hon. Rebeca Sosa, Chairperson
and Members, Board of County Commissioners

From: Christopher Mazzella, Inspector General

Date: January 8, 2013

Subject: Transmittal and Abstract of the OIG's Final Report *Audit of the Building Better Communities General Obligation Bond Program Not-for-profit Community Organization Capital Fund – Project 223*; Ref. IG11-54

Attached please find the above-captioned final audit report issued by the Office of the Inspector General (OIG). This audit focused on the Miami-Dade County Building Better Communities (BBC) General Obligation Bond Program (GOB) Not-for-profit Community Organization Capital Fund – Project 223. Specifically, this report addresses eight not-for-profit entities that were awarded grants under this project. The remaining grant awards will be addressed by the OIG in subsequent audits. This report, or a portion thereof, as a draft, was provided to all of the not-for-profit (NFP) entities reviewed and to the Miami-Dade County Office of Management and Budget (OMB) and to the Department of Cultural Affairs (CUA), for their discretionary written responses. Both OMB and CUA provided written responses, which are attached to the final report as Appendix A and Appendix B, respectively. One NFP grant recipient provided a response, which is attached as Appendix C.

OMB, without addressing any of the report's three findings, addressed each of our seven recommendations. While not disagreeing with the recommendations, OMB's responses appear to accept the recommendations and/or provide explanations that the issue is settled or moot. We stand by our findings and the recommendations we made to address them. CUA, in its response, provided what it believes to be needed additional information "to ensure the accuracy of the report." The OIG updated the report to reflect CUA's comments. Because our main findings and recommendations relate to one entity in particular, we will be addressing our concerns in a separate memoranda and will follow-up directly with OMB on this unresolved issue.

Lastly, the OIG would like to thank OMB and CUA's personnel for making themselves and their records available to us in a timely manner and for the courtesies extended to the OIG during the course of its review. Moreover, we would like to thank the NFP entities for making available their records and their time for our visit. For reading convenience, a one-page abstract of the report follows.

Attachment

cc: Ed Marquez, Deputy Mayor
Lisa M. Martinez, Senior Advisor to the Mayor
Jennifer Moon, Director, Office of Management and Budget
Michael Spring, Director, Department of Cultural Affairs
Cathy Jackson, Director, Audit and Management Services Department
Charles Anderson, Commission Auditor
All NFP entities previously provided with a copy of the draft report

ABSTRACT — FINAL AUDIT REPORT IG11-54

Miami-Dade County's Building Better Communities (BBC) General Obligation Bond Program (GOB) for the not-for-profit (NFP) community included grants to 37 NFPs totaling \$30 million. The purpose of the grants was to fund NFP capital needs, such as paying down mortgages, acquiring land/properties, constructing new buildings or renovating current buildings, all to improve the NFP's ability to provide services to their identified constituencies. This audit examines the NFPs receipt and uses of GOB funds. To facilitate our audit, we divided the 37 NFPs into three groups.

- Group 1—the subject of this report—consists of grants totaling \$5,160,124 to eight NFPs to be used to pay down mortgages, or to purchase properties or equipment.
- Group 2 consists of grants totaling \$6,710,133 to 14 NFPs to be used to renovate existing properties.
- Group 3 consists of grants totaling \$18,129,743 to 15 NFPs to be used to construct facilities. Our audit results of Group 2 and Group 3 will be presented separately in later-issued reports.

This OIG final audit report contains three findings and seven recommendations that address issues that we noted during our review of the subject NFPs to determine whether their usage of the BBC GOB funds was in accordance with the terms of the GOB's Administrative Rules and their individual grant agreements. Five of the eight audited NFPs have completed their projects and were compliant with their respective criteria. These five are: the Association for the Development of the Exceptional, Inc.; the Bascomb Memorial Broadcasting Foundation, Inc.; the Citizens for a Better South Florida, Inc.; the Daily Bread Food Bank, Inc. (now Feeding South Florida); and the Miami Children's Museum, Inc. The sixth NFP—the Miami Hispanic Ballet Corp.—who received a \$500,000 grant to purchase properties is (since the OIG's draft report) compliant with its grant obligations and the project is now completed.

One entity—the World Literacy Crusade of Florida, Inc. (awardee of a \$485,000 grant)—has not yet signed a grant agreement due to its inability to identify a property to purchase and to obtain the additional funding it needs to proceed with its project.

The last entity in our Group 1 is Galata, Inc. Galata received \$500,000 of BBC GOB funds to help pay down an existing \$531,000 mortgage¹ on a building that it uses as an intergenerational recreational community center located in Homestead. We observed that Galata did not use all of its BBC GOB funds as intended but, instead, Galata used \$99,000 of these funds for purposes not authorized by its grant agreement. Galata used most of these funds to pay off IRS tax liens valued at \$89,711. While Galata did use \$400,000 to pay down existing debt (\$331,000 as principal reduction and \$69,000 in attorney fees, interest, late charges and pre-payment penalties), it shortly thereafter re-mortgaged the property for \$355,000. Galata then used these proceeds to pay off two previously undisclosed mortgages, and the remaining balance on the one known mortgage. As a result, Galata, in reality, did not reduce its mortgage balance to a minimal amount (as of June 2012, Galata's current mortgage balance totaled \$318,033).

¹ Galata was to provide, on its own, the remaining \$31,000 of funds that were needed to completely pay-off the mortgage, leaving it with a mortgage-free facility.

Miami-Dade County

Office of the Inspector General



Final Audit Report

**Audit of the Building Better Communities General Obligation
Bond Program Not-for-profit Community Organization
Capital Fund – Project 223**

IG11-54

January 8, 2013

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I. INTRODUCTION

The Miami-Dade County Office of the Inspector General (OIG) conducted an audit of the Building Better Communities (BBC) General Obligation Bonds (GOB) Program for the Not-for-profit (NFP) Community Organization Capital Fund – Project 223. The NFP Fund, authorized in 2007 pursuant to Resolution No. 884-07, awarded \$30 million to 37 NFP entities. The objective of the BBC GOB Program is to fund capital projects throughout Miami-Dade County. The objective of the NFP Fund (Fund) is to provide funding to local NFPs for their capital needs, such as acquiring properties, paying-down mortgages, renovating existing properties and constructing new or extended facilities, all to improve the services that they provide to local residents.

The OIG's oversight of the NFP Fund began with the review of the first grant under the Fund that was closed out. Our review revealed some discrepancies (reported in later sections of this report) and we determined that prudence required us to review all 37 grants issued under the BBC NFP Fund. This report is the first of three reports and it addresses grants awarded to eight of the NFPs that were to use the funds to purchase properties, equipment, and/or to pay-down mortgages. Report 2 will address the renovation of existing properties and Report 3 will address construction to existing properties. Essentially, the OIG's audit analyzes the NFP's usage of the grant funds and whether such usages were in accordance with the terms of the GOB Program Administrative Rules (Administrative Rules) and their grant agreements.

II. TERMS USED IN THIS REPORT

BBC	Building Better Communities
BCC	Miami-Dade County Board of County Commissioners
CUA	Miami-Dade County Department of Cultural Affairs
GOB	General Obligation Bonds
NFP	Not-for-profit
IRS	Internal Revenue Service
OCI	Miami-Dade County Office of Capital Improvements
OIG	Miami-Dade County Office of the Inspector General
OMB	Miami-Dade County Office of Management and Budget
MHBC	Miami Hispanic Ballet Corp, Inc.
RFP	Request for Proposal
WLCF	World Literacy Crusade of Florida, Inc.

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III. OIG JURISDICTIONAL AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs; audit, inspect and review past, present and proposed County programs, accounts, records, contracts, and transactions; conduct reviews and audits of County departments, offices, agencies, and boards; and require reports from County officials and employees, including the Mayor, regarding any matter within the jurisdiction of the Inspector General.

In accordance with the BBC Administrative Rules, grant recipients are notified that the County, or any of its authorized representatives, shall have the right to access any pertinent books, documents, papers or other records to conduct such audits. Specifically, the Administrative Rules identify the OIG as an authorized authority to conduct audits and reviews of these grants, request records for copying and inspection, and report on the performance of the grantee.

IV. RESULTS SUMMARY

Six of the eight entities, whose grants were for the purchase of properties and/or equipment or to pay-off/pay-down mortgages, complied with the terms of the Administrative Rules, as well as with their individual grant agreements. The six compliant entities are:

- *Association for the Development of the Exceptional, Inc.*
- *Bascomb Memorial Broadcasting Foundation, Inc.*
- *Citizens for a Better South Florida, Inc.*
- *Daily Bread Food Bank, Inc. (now Feeding South Florida, Inc.)*
- *Miami Children's Museum, Inc.*
- *Miami Hispanic Ballet Corp. (MHBC)¹*

The OIG also determined that one of the NFP's use of the funds was not compliant with its grant agreement and the Administrative Rules. Galata Inc. (Galata) was awarded \$500,000 to pay down an outstanding mortgage balance of \$531,000, and through its own efforts pay off the remaining \$31,000 balance.

¹ The draft audit report contained OIG observations concerning MHBC, namely that it had not provided the OIG with its mortgage balance information relative to one of the properties purchased with the help of GOB funds. Moreover, the OIG expressed concern that renovations on the property may not be completed by the required deadline of November 23, 2012. Since the issuance of the draft report, MHBC officials have provided OIG auditors with the requested financial information and MHBC officially opened its doors on December 21, 2012, marked by a ribbon cutting ceremony. As such, the observations made in the draft report are now moot.

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However, Galata used only \$400,000 of the grant funds to pay down its mortgage and used the remaining \$99,000 for purposes not authorized by its grant agreement or the Administrative Rules. Moreover, to give the appearance of satisfying the terms of the grant agreement, Galata provided the County with a satisfaction of mortgage on the property. However, the OIG has determined that the satisfaction of mortgage was obtained after Galata refinanced the subject property with a new \$355,000 mortgage, less than two months after receiving the grant.

Finally, the World Literacy Crusade of Florida, Inc. (WLCF), which was approved to receive \$485,000 of BBC NFP funds, has not yet signed a grant agreement with the County due to its inability to identify a property for purchase and to obtain additional funding to proceed with the project.

V. AUDITEE RESPONSES AND OIG REJOINDERS

This draft report (or parts thereof) was provided to each of the NFP entities addressed herein and to the County's Office of Management and Budget (OMB) and the Department of Cultural Affairs (CUA) for comment. Responses were received from both OMB and CUA and they are attached to this final report as Appendix A and Appendix B, respectively. A response was also received from Galata, and it is included as Appendix C.

Office of Management and Budget Response

OMB responded to all seven OIG recommendations. Among its responses, OMB states that Galata has provided the appropriate documentation eligible for reimbursement of its grant award and that post closure grantee activities (e.g., Galata) are outside of its purview for further punitive action. In addition, OMB mentioned that it and user departments already have procedures for performing due diligence reviews prior to executing grants agreements.

OIG Rejoinder

The OIG's appreciates OMB's initiatives and its proactive approach to overseeing the grant program; however, the OIG takes issue with respect to Item 4 in OMB's response, wherein OMB states, "Galata has provided the appropriate documentation in order to be eligible for reimbursement." Subsequent to receiving this response, the OIG requested from OMB the "appropriate documentation" that it referred to in its response. We made this request to determine whether OMB had obtained additional documentation from Galata regarding its expenditure of grant funds that was not part of its records that it provided to the OIG during the audit. OMB informed us that it did not have

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additional documentation. Instead, the “appropriate documentation” referred to was the same documentation already reviewed by OIG auditors and determined to be insufficient support. As such, we reaffirm our finding that Galata did not use \$99,000 of GOB funds for authorized purposes meaning that Galata did not comply with its grant agreement and the Administrative Rules.

Additionally, the OIG respectfully disagrees with Item 5 in OMB’s response, whereby it states that “Financial decisions made by the Not-for-profit organization [i.e., Galata] after the grant agreement was closed, we believe, are out of our purview for further punitive action.” As detailed in our audit, Galata obtained its BBC GOB funding in April 2008. In May 2008, Galata paid down its \$531,000 mortgage (using \$400,000 of BBC GOB funds). In June 2008, Galata obtained another mortgage totaling \$355,000. In April 2009, as part of the grant close-out process, Galata submitted to the County evidence of its \$400,000 payment and a mortgage satisfaction on the subject \$531,000 mortgage. At that time, Galata did not disclose to the County, that it had remortgaged the property ten months earlier. Thus, even before this grant was formally closed out, Galata was already seriously compromised on its ability to achieve its grant objective—to reduce its mortgage balance to a minimal amount of \$31,000.

The OIG believes that any financial decisions made by a not-for-profit organization, such as a re-mortgage that increases the indebtedness of a property, that may jeopardize the County’s interest should be within the County’s purview, regardless of the date of the transaction, as long as there is a County vested interest in the grantee’s continuing operations. We note that all of the BBC grants, by virtue of Section 21 of the Administrative Rules require, in part, that “The Grantee agrees ... to maintain the Project for a minimum of twenty-five (25) years ... [and] keep the Project open safely and properly maintained for all Miami-Dade County residents ...” This requirement does not prevent the grantee from re-mortgaging its property nor does it require prior County approval in order to re-mortgaging the property. However, this provision asserts the County’s continuing interest in the grantee’s ability to provide services and provides a basis for making reasonable inquiry of the grantee about its financial condition, especially when grantee actions occur prior to the grant’s close out that may have a material effect on its [financial stability] operations.

In addition, this due diligence requirement is noted in Article III Section 2(B) of the Administrative Rules that state, in part, “Any land, facilities, or equipment acquired with Building Better Communities General Obligation Bond funds may not be sold or transferred without the written consent of the County and may require an equitable reimbursement of bond funding based on residual value. All projects ... shall be managed in a safe and attractive manner appropriate for public use.”

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Although not a part of the Galata grant agreement, the protection of the County's interest in a grantee's continuing post award financial condition is specifically recognized in the restrictive covenants attached to the Bascomb Memorial Broadcasting, Citizens for Better South Florida, and MHBC grants. These covenants require that the grantee will not further encumber the property after its purchase without the expressed written consent of Miami-Dade County. Regardless of the presence of a stated covenant, the OIG believes that OMB should take reasonable steps to monitor the grantee's financial condition and operations related to its ability to provide continuing services.

Department of Cultural Affairs Response

CUA is of the opinion that the OIG's report lacked certain facts and accuracy. CUA stated that MHBC renovations should be completed ahead of its restrictive covenant deadline of November 23, 2012. Additionally, CUA advised that BCC waived the requirement for a restrictive covenant for Miami Children's Museum, since the land on which the facility is located is owned by the City of Miami and that its sublease agreement already has operational restrictions.

OIG Rejoinder

The OIG thanks CUA for providing clarity and updates to the OIG's concerns noted in the draft audit report. With respect to CUA's comment that the MHBC facility is substantially completed, we currently note that MHBC had its official opening on December 21, 2012, and that this is now a moot point. Moreover, since the OIG's draft audit report was issued, MHBC has now provided the OIG with the requested financial information pertaining to its mortgage balances.

With respect to the Miami Children's Museum, the OIG reviewed BBC Resolution R-1081-11 that authorized rescission of the requirement for a County declaration of restrictive covenant due to a more extensive requirement by the landowner, the City of Miami. As such, OIG Table 1, located on page 24 of the OIG final audit report, has been revised.

Galata's Response

Galata provided the OIG with a copy of its 2009 letter to the County that lists over \$160,000 in "pre-agreement" expenses, which it argues are eligible uses for GOB grant funding. The listed amounts are for down payments and closing costs.

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OIG Rejoinder

The OIG had previously reviewed the letter and documents attached thereto and determined that the listed expenses do not meet the criteria for eligible pre-agreement expenses—namely because they were not funded as part of the funding allocation. The funding allocation was very clear. All the money was to be used to pay off the existing mortgage. None of it was to be used to pay off existing IRS payroll liens.

VI. BACKGROUND

Building Better Communities General Obligation Bond Fund

On July 20, 2004, the County's Board of County Commissioners (BCC) adopted Resolution R-917-04 authorizing a Special Election regarding the issuance of \$255 million in GOB funds to construct and improve public service outreach facilities. This resolution was one of eight companion resolutions authorizing special elections for the issuance of bonds that collectively totaled \$2.9 billion and is collectively known as the Building Better Communities General Obligation Bond Fund.² Included in the Public Service Facilities Resolution (R-917-04) was a designated \$30 million line item for the NFP Community Organization Capital Fund. On November 2, 2004, the electorate of Miami-Dade County approved all eight of the proposed components of the BBC program.

Not-For-Profit Community Organization Capital Fund – Project 223

On July 28, 2006, the County's Office of Capital Improvements (OCI)³ advertised Request for Proposal (RFP) NFP 0607 inviting County-based NFP organizations to submit proposals consistent with the objectives of the BBC program. During November and December 2006, all proposals received by the County were reviewed by the County's RFP Review Committee, which later made its recommendations to the BCC. On July 24, 2007, the BCC adopted Resolution No. R-884-07 awarding \$30 million to 37 NFP entities. The bond proceeds were to be used for capital purposes, including the acquisition of properties, the renovation of existing properties, and construction to existing properties.

² The eight companion resolutions are: R-912-04; R-913-04; R-914-04; R-915-04; R-916-04; R-917-04; R-918-04; and, R919-04.

³ The GOB program was originally managed by the Office of Capital Improvements; however, the entire function was transferred to the OMB during October 2011, as part of the County Mayor's Reorganization Plan. For purposes of this report, the OIG will reference the current Program administration of OMB; however, attribution for past events are made to OCI.

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To facilitate the review of the 37 entities, the OIG categorized the entities' usage of funds into three groups: 1) purchase of property and/or pay-down of an existing mortgage; 2) renovation of an existing facility; and 3) construction to an existing facility. Based on the described usages of grant funds, Group 1 consists of eight entities; Group 2 consists of 14 entities, and Group 3 consists of 15 entities. As of September 17, 2012, 32 of 37 grant agreements have been executed (five grants are without executed agreements) and 25 projects have been completed.

At present, the County's OMB is the primary manager of these projects (see footnote 3); the County's CUA also manages some projects. Additionally, all projects' financial information is maintained in the County's Financial Accounting Management Information System (FAMIS) and later entered manually into the County's Capital Improvements Information System (CIIS) and GOB website. Project data maintained in CIIS and the GOB website include GOB site (project) number, project title, description, start and end dates, as well as project summary notes. The NFPs receive the grant disbursements either as an advance or as a reimbursement, both of which required supporting documentation that is reviewed and approved by OMB and/or CUA personnel.

With respect to any project approved for funding but for which a grant agreement has not been signed—World Literacy Crusade of Florida, Inc. (WLCF)—OMB explained that the County can recapture and reallocate those funds, with BCC approval, provided that the County gives the grantee six months' notice. In September 2012, OMB obtained reassurances from the WLCF that it is working with another organization to assist it with the development of this project and that grant funds, when obtained, will be used to purchase a land parcel, as stated in its grant application.

VII. OBJECTIVES, SCOPE AND METHODOLOGY

We evaluated whether BBC grant funds were expended in accordance with the terms and requirements of the grant agreements and the accompanying Administrative Rules, whether the funds were used for the purpose intended, and whether the County/public got the value of what the funds were intended for. We also evaluated whether supporting documentation for reimbursement requests was submitted and reviewed in accordance with the Administrative Rules and grant agreements terms.

The audit scope encompasses the period beginning July 2004 through present, which includes the NFP advertisement, the award of funds, the execution of the grant agreements, the usage/reimbursement of funds, and the completion and closeout of projects.

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We reviewed grant records maintained by OMB and CUA including, but not limited to the NFP grant advertisements, NFPs submittal packages, County resolutions, GOB Administrative Rules and grant agreements, as well as the entities' public records available via the Internet (e.g. Miami-Dade County Clerk of the Courts, State of Florida Division of Corporations, and Miami-Dade County Property Appraiser). We verified the IRS 501(c)3 community based not-for-profit organization status for the eight organizations in Group 1.⁴

We also conducted site visits to the NFP project locations, and requested to review their bank records to verify the usage of funds. We met with County project managers from both CUA and OMB and we interviewed representatives from each of the NFPs reviewed.

This audit was conducted in accordance with the Principles and Standards for Offices of Inspector General promulgated by the Association of Inspector General. The AIG Principles and Standard are in conformity with the Government Auditing Standards issued by the Comptroller General of the United States (December 2011 Revision).

VIII. GROUP 1 – PROJECT SUMMARIES

Association for the Development of the Exceptional, Inc. (GOB Code 74988)

The Association for the Development of the Exceptional, Inc. received an award of \$290,000 from the BBC NFP Fund to help pay-down its \$600,000 mortgage balance on a building located at 25 East 4th Street, Hialeah. A grant agreement was executed on September 24, 2008. Grant funds were disbursed to the grantee and we verified that they were used by the grantee to pay down its mortgage. The project was closed on January 20, 2009. As of May 2012, the mortgage balance was \$268,599 and there were no liens on the property.

On June 5, 2012, OIG audit staff conducted a site visit to the project's location. Overall, the facility appears to be well kept and the program staff was actively engaged with clients. The grant award appears to have met the Fund's prime objective—investing in public service outreach facilities to improve the delivery of services provided by the NFP to the local community.

⁴ The remaining 29 organizations statuses will be verified during the next phases of the audit.

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Bascomb Memorial Broadcasting Foundation, Inc. (GOB Code 73199)

Bascomb Memorial Broadcasting Foundation, Inc. received an award of \$352,384 from the BBC NFP Fund to purchase (satisfy a second-mortgage), renovate, and furnish a recently acquired property located at 2921 Coral Way, Miami, from where it operates its community public radio station. A grant agreement was executed on March 6, 2008. Of the \$352,384 received, \$263,000 was used to pay-off the second mortgage on the property and the remaining funds were used for renovation of the property. A satisfaction of mortgage was filed with the Miami-Dade County Clerk of the Courts (Clerk of the Courts) on April 9, 2008.

The BBC GOB Funds were supplemented by an additional \$500,000 from the Department of Cultural Affairs (CUA) Capital Acquisition Grants Program for the purchase of the property. All funds have been disbursed to the grantee and the project was closed on September 1, 2009. The current balance on the first mortgage is \$1.29 million and there are no liens on the property.

On June 6, 2012, OIG audit staff conducted a site visit to the project's location. Overall, the building appears to be well kept and the program staff was actively engaged in broadcasting. The grant award appears to have met the Fund's prime objective—investing in public service outreach facilities to improve the delivery of services provided by the NFP to the local community.

Citizens for a Better South Florida, Inc. (GOB Code 75306)

Citizens for a Better South Florida, Inc. received an award of \$459,900 from the BBC NFP Fund to purchase a building at 138 NW 16th Avenue, Miami, to be used as its headquarters. A grant agreement was executed on January 20, 2010. The full amount of the award was used for the purchase of the property and no mortgage was obtained. All funds have been disbursed to the grantee and the project was closed on February 18, 2010. Currently, there is no mortgage or lien on the property.

On May 24, 2012, OIG audit staff conducted a site visit to the project's location. The building appears to be kept in good condition and the program staff was engaged in programmatic operations. The grant award appears to have met the Fund's prime objective—investing in public service outreach facilities to improve the delivery of services provided by the NFP to the local community.

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Daily Bread Food Bank, Inc. (GOB Code 73241)

The Daily Bread Food Bank, Inc. (now known as Feeding South Florida, Inc.) received an award of \$134,440 from the BBC NFP Fund to purchase a new refrigeration system for food storage at its warehouse located at 5850 NW 32nd Avenue, Miami. A grant agreement was executed on April 8, 2008, and the full award amount was used for the purchase and installation of the refrigeration system. The project was closed on September 30, 2008.

On May 31, 2012, OIG audit staff conducted a site visit to the project's location. The equipment appeared to be in good condition with no visible signs of deterioration. There was a significant amount of perishable food products stored in both the cold room and the freezer room. The grant award appears to have met the Fund's prime objective—investing in public service outreach facilities to improve the delivery of services provided by the NFP to the local community.

Galata, Inc. (GOB Code 73198) – further discussed in the Findings section

Galata, Inc. (Galata) received an award of \$500,000 from the BBC NFP Fund to help pay-down its \$531,000 mortgage balance on a building that it uses as an intergenerational recreational community center, located at 916 North Flagler Ave, Homestead. A grant agreement was executed on March 6, 2008. Grant funds were disbursed to the grantee and the project was closed on May 4, 2009. As of June 2012, the mortgage balance is \$318,033 and there are several federal payroll tax liens on the property.

On June 13, 2012, OIG staff conducted a site visit to the project's location. OIG audit staff observed that, while services were being offered at this location, approximately 50% of the building was non-functional, since it was in the process of being renovated. The condition of the occupied portion was dusty, but the outside façade was clean.

Miami Children's Museum, Inc. (GOB Code 75304)

The Miami Children's Museum, Inc. received an award of \$2,438,400 from the BBC NFP Fund to satisfy the outstanding construction mortgage balance on its main facility located at 980 MacArthur Causeway, Miami. A grant agreement was executed on December 20, 2011. The full amount of the award was used to pay-off the mortgage balance and a satisfaction of mortgage was filed with the Clerk of the Courts on January 23, 2012. The project was closed on March 16, 2012. Currently, there is no mortgage or lien on the property.

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On May 30, 2012, OIG audit staff conducted a site visit to the project's location. The facility appears to be well maintained and actively providing educational and recreational services to attending visitors. The grant award appears to have met the Fund's prime objective—investing in public service outreach facilities to improve the delivery of services provided by the NFP to the local community.

Miami Hispanic Ballet Corp, Inc. (GOB Code 75307)

The Miami Hispanic Ballet Corp, Inc. (MHBC) received an award of \$500,000 from the BBC NFP Fund to purchase three properties for the purpose of developing a multidisciplinary Hispanic cultural center. A grant agreement was executed on October 20, 2009. These funds were supplemented by an additional \$500,000 from CUA's Capital Acquisition Grants Program that was also used towards the purchase of the properties. The three properties are located at 111 SW 5th Avenue, Miami (Warner House); 129 SW 5th Avenue, Miami (adjacent paved parking lot); and 459 SW 2nd Street, Miami (vacant lot behind parking lot).

The combined grants, along with a mortgage of \$100,000, were used for the purchase of the three properties. All funds have been disbursed to the grantee and the project was closed on September 7, 2010. Two of the parcels (Warner House and the paved parking lot) are without mortgages or other liens. For the vacant lot located at 459 SW 2nd Street, Miami, MHBC has a balloon mortgage of \$100,000 through a private lender with a maturity date of November 2014; monthly payments are approximately \$600.

OIG audit staff conducted several site visits to assess the project's renovations and its impending completion, with the last visit on November 28, 2012. The facility was officially opened on December 21, 2012. Programs and classes will be offered starting in January 2013.

World Literacy Crusade of Florida, Inc. (WLCF) (GOB Code 75299)

WLCF was awarded \$485,000 from the BBC NFP Fund as part of a multi-funded project to purchase a parcel of land. However, WLCF has neither identified a parcel of land nor has it secured additional funding that would be necessary to complete the project. As a result, a grant agreement has not been signed.

OMB has maintained on-going communications with WLCF regarding the status of the project. Recently, OMB advised WLCF to provide a written response

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on its intent to complete the project. WLCF informed OMB, in an e-mail dated September 13, 2012, that it is currently working with an organization to assist with the development of the project. WLCF confirmed that the BBC funds will be used for the purchase of the property while Community Redevelopment Agency funds will be used for the development of the site. We are encouraged by this recent development but are concerned about the time that it has taken to get this far. Over five years have passed and this project is not just unfinished but, for practical purposes, unstated. OMB and WLCF should develop a timetable that establishes accountable milestones, including a project completion deadline that will ensure that BBC GOB funds are timely spent, as originally authorized—or reallocated to other worthwhile projects. (See OIG Recommendation No. 3.)

IX. FINDINGS AND RECOMMENDATIONS

Finding No. 1: Galata spent \$99,000 of BBC GOB funds for purposes not authorized by the grant agreement.

Galata’s grant objective was to assist it in obtaining a fully paid-for facility that it would use as an intergenerational recreational community center (see Exhibit 1). Galata received \$500,000 of BBC funds that it was supposed to use to reduce its facility’s existing mortgage balance of \$531,000, leaving only a \$31,000 balance.

OIG Exhibit 1: Description Contained in Galata’s Grant Agreement

Project Narrative/Description
Purchase and renovation of a 5,515 square foot commercial building located at 916 N Flagler Ave, Homestead. The building was purchased December 2006 for \$591,000 and renovations will include; handicap accessible restrooms, recreation room, kitchen, administrative offices, private meeting rooms, technology center and multipurpose room.
GOB Total Funding Allocation Narrative/Description
GOB total funding allocation of \$500,000 is for the payment of an outstanding mortgage of \$531,000. GOB funding will not be used for any renovations.
GOB 2007-08 Funding Allocation Narrative/Description
GOB total funding allocation of \$500,000 is for the payment of an outstanding mortgage of \$531,000 and \$31,000 balance will be paid by GALATA. GOB funding will not be used for any renovations.

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On April 18, 2008, the County released check #00118929, dated April 17, 2008 for \$499,000⁵ payable to Galata. Our examination of Galata's bank records revealed that Galata commingled these funds with its own operational funds, and later used \$99,000 of GOB funds for unallowable operational expenses, including satisfying IRS tax liens with recorded values of \$89,711.

OIG Exhibit 2 shows that on April 21, 2008, Galata deposited the County's check into its Washington Mutual checking account, and later moved \$50,000 in BBC funds into its 1st National Bank account (see OIG Exhibit 3). Exhibit 2 further illustrates that the Washington Mutual account had an opening balance of \$3,970; other deposits of \$6,956 (not including the \$499,000 County check); net withdrawals of \$59,574, including the \$50,000 transferred out; and an ending balance of \$450,351. It is clear that most, if not all, of the \$50,000 transferred to the 1st National Bank account were BBC funds, since the beginning balance and other deposits only amounted to \$10,925 and checks paid for the month totaled \$9,618.39. The main source of funds available in the Washington Mutual account was the County's GOB funds.

OIG Exhibit 2: Galata's Washington Mutual Bank Account Activity for April 2008

Account Summary			
Beginning Balance	\$3,969.81		
Deposits	+505,955.59		
Electronic & Misc. Deposits	0.00		
Card Purchases/ATM Withdrawals	0.00		
Electronic & Misc. Withdrawals	-49,956.00		Total amount for Electronic & Misc. Withdrawals and Checks Paid exceeds the Beginning Balance
Checks Paid	-9,618.39		
Service Fees	0.00		
Ending Balance	\$450,351.01		

Deposits			
Date	Amount	Description	
04/08	579.59	Customer Deposit	
04/11	4,000.00	Customer Deposit	
04/21	499,000.00	Customer Deposit	Deposit of \$499,000 BBC funds
04/22	2,376.00	Customer Deposit	
4 Items	\$505,955.59		

Electronic & Miscellaneous Withdrawals			
Date	Amount	Description	
04/21	+64.00	Refund Non Sufficient Funds Charge	
04/30	25,000.00	Customer Withdrawal	Transfer-Out of \$50,000 to Galata's account at 1st National Bank of South Florida
04/30	25,000.00	DOMESTIC OUTGOING WIRE	
04/30	20.00	FEE: OUTGOING DOMESTIC WIRE	
4 Items	\$49,956.00		

⁵ From the \$500,000 GOB funds, Galata received an initial award of \$499,000. The County retained \$1,000 to cover the cost for County signage.

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OIG Exhibit 3: Galata's 1st National Bank Account Activity for April 2008

ACCOUNT #: CK - [REDACTED]			
Galata Inc DBA Galata Haitian Culture Enrichment & Self Empowerment			Enclosures: 85
Beginning Balance as of 04/01/08			19,238.55
Deposits & Other Credits			75,833.00
Checks & Other Debits			51,409.00
Average Balance			7,230.87
Ending Balance as of 04/30/08			43,662.55
Date	Check#	Description	Amount
04/30		Paid Overdraft Item Charge	30.00-
04/30		Paid Overdraft Item Charge	30.00-
04/30		Paid Overdraft Item Charge	30.00-
04/30		Paid Overdraft Item Charge	30.00-
04/30		Wire Transfer Incoming	10.00-
04/30		Deposit	25,000.00
04/30		Incoming Wire/Galata Inc	\$50,000 Transfer-In 25,000.00
04/30		ACH Withdrawal CHECK CHGS, MAIN STREET CHKS	35.40-
04/30		Per Check Fee	3.00-
04/30		Maintenance Fee	3.00-

As illustrated above in OIG Exhibit 3, the \$50,000 withdrawn from the Washington Mutual account was deposited in Galata's 1st National Bank account on the last day of the month, when the account was in a deficit. Exhibit 3 shows the 1st National Bank account with an ending balance of \$43,663, which is less than the \$50,000 deposited. Therefore, \$50,000 of BBC funds was used to cover what would have been an account deficit of \$6,337 (\$50,000 - \$43,663).

At the end of the following month (May 2008), Galata's accounts have ending balances of \$15,366 (OIG Exhibit 4) and \$1,595 (OIG Exhibit 5), thus, indicating that Galata used more GOB funds towards its operational expenses that were not authorized by the grant agreement.

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OIG Exhibit 4: Galata's Washington Mutual Bank Account Activity for May 2008

Free Business Checking Detail Information		
GALATA, INC Account Number: [REDACTED] Washington Mutual Bank, FA		
Account Summary		
Beginning Balance	\$450,351.01	
Deposits	+54,422.22	
Electronic & Misc. Deposits	+22,610.00	
Card Purchases/ATM Withdrawals	0.00	
Electronic & Misc. Withdrawals	-400,357.56	
Checks Paid	-111,659.96	
Service Fees	0.00	
Ending Balance	\$15,365.71	
Electronic & Miscellaneous Withdrawals		
Date	Amount	Description
05/23	357.56	Customer Withdrawal
05/23	400,000.00	Customer Withdrawal
2 items	\$400,357.56	Withdrawal of \$400,000 to purchase cashier's check

OIG Exhibit 5: Galata's 1st National Bank Account Activity for May 2008

Beginning Balance as of 05/01/08	43,662.55
Deposits & Other Credits	12,715.00
Checks & Other Debits	54,782.16
Average Balance	9,850.94
Ending Balance as of 05/31/08	1,595.39

Further review of both bank accounts' records for May 2008 reveals that 12 Galata checks, totaling \$77,307, were remitted to the IRS to satisfy payroll tax liens. The 1st National Bank checks (amounting to \$21,711) were all debited from the account on May 1, 2008, just one day after the \$50,000 was transferred into the account. Two weeks later, on May 16, 2008, the remaining IRS checks, amounting to \$55,596, were debited from the Washington Mutual account. A public records search identified that on May 21, 2008, the IRS recorded certificates of releases against two tax liens, valued at \$89,711, for unpaid payroll taxes from the years 2005 through 2007.⁶ These liens were filed in October and November 2007.

⁶ The releases of liens did not identify the actual amounts paid. As of July 2012, there remain several new IRS tax liens against Galata amounting to \$112,116. These liens were recorded with

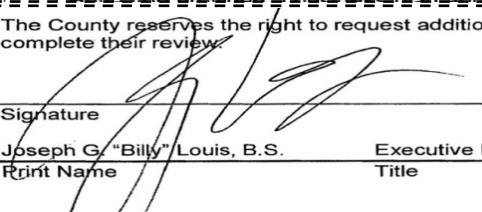
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During our public records search, the OIG also identified that Galata had taken on two second mortgages totaling \$150,000 (\$120,000 in December 2006 and \$30,000 in May 2007). Galata disclosed neither the tax liens nor the additional mortgages to the County prior to executing its grant agreement with the County in March 2008. Both of these items are relevant and material to Galata's financial status and its ability to have used its BBC GOB funds pursuant to, what at that time, was its prospective grant agreement. In fact, Galata, prior to executing its grant agreement, provided a written disclaimer in August 2007 to the County (see OIG Exhibit 6) that it did not "have any financial or legal liabilities and outstanding judgments."

OIG Exhibit 6: Excerpts from BBC GOB Program Grant Agreement Checklist

		YES	NO
25	Have you read and understood the Building Better Communities Bond Program's administrative rules and standard grant agreement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
26	Does your organization have any financial or legal liabilities and outstanding judgments? If yes, explain. (use additional sheets as necessary)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
27	Does Miami-Dade County have any outstanding claims with your organization? Does your organization owe the County any funds or is the County in litigation with your organization? If yes, explain. (use additional sheets as necessary)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
28	Have you provided a letter requesting pre-agreement expenses as described in the Administrative Rules? If Applicable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The County reserves the right to request additional documents and information as necessary to complete their review.

Signature: 

Joseph G. "Billy" Louis, B.S. Executive Director August 31, 2007
Print Name Title Date

Pre Grant Agreement Checklist Page 3 of 3 August 20, 2007

The OIG also reviewed the June 2008 bank statements for both accounts and noted that there was no cash inflow to replace the \$99,000 in GOB funds expended for Galata's operating expenses. Subsequently, during an interview with OIG audit staff, Galata's Executive Director, Mr. Joseph Louis, admitted to

the County's Clerk of the Courts from October 28, 2009 through June 20, 2012. According to Galata's executive director, they are currently negotiating a settlement with the IRS.

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using BBC grant funds to satisfy its IRS tax liens. Mr. Louis could not recall the exact amount used.

Soon after meeting with Mr. Louis, the OIG received a copy of a letter from Galata, addressed to the County, notifying the County of its intent to submit pre-agreement expenses for reimbursement. Attached to the letter were copies of cancelled checks totaling \$163,010 for monies used for down-payment and closing costs for the purchase of the property. However, these expenses do not meet the criteria of a pre-agreement expense.⁷ These payments were to secure the purchase of the subject property, while the intended use of BBC funds (per the grant agreement) was to reduce its mortgage balance. Indeed, the full \$499,000 was intended to be used to pay-down the mortgage and leave Galata with only a \$31,000 mortgage balance.

It is clear that Galata used \$99,000 of the \$499,000 of BBC GOB funds it received to pay various operating expenses, most notably its IRS tax liens. Galata's use of BBC GOB funds in this manner was clearly unauthorized by its grant agreement. There is no doubt that Galata was fully aware of what it was doing and that such actions would not be consistent with the Administrative Rules and its grant agreement.

Finding No. 2: Galata's use of the \$500,000 BBC GOB grant award has not achieved the objective set forth by the grant agreement.

The grant's objective was to assist Galata in obtaining a fully paid-for facility to be used as its intergenerational recreational community center. In other words, the grant funds were to be used to substantially pay-down its mortgage. Pursuant to its proposal submitted in response to the County's RFP and the terms of the resulting grant agreement, Galata was to use the entire grant award to pay-down its existing \$531,000 mortgage, with Galata committed to paying off the remaining \$31,000 balance. Less than two months after receiving the \$499,000 check, Galata's property, located at 916 North Flagler Ave, Homestead, was encumbered with a new \$355,000 mortgage. At present, the mortgage balance is \$318,033—much more than the \$31,000 balance that was supposed to be the objective of the grant award.

However, as described in Finding 1, Galata only used \$400,000 of the \$499,000 that it received in GOB funds for paying down its mortgage.

⁷ Article III Section 1(B) of the Administrative Rules states, in part, that a recipient may be reimbursed for pre-agreement expenses provided that the costs and activities are funded as part of the funding allocation award and are in compliance with the requirements of the Ordinance and the Administrative Rules.

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Additionally, out of the \$400,000 cashier check made payable to the Business Loan Conduit No. 2 (the mortgagee), \$69,000 went to pay attorney's fees, late-charges, and pre-payment penalties. The remaining funds, approximately \$330,000 were used to pay down the balance of its \$531,000 mortgage, leaving an unpaid mortgage balance of \$201,000.

Concurrently, Galata applied for and obtained another mortgage on the said property for \$355,000 (see event activity listing below), which it used to pay off two previously undisclosed mortgages and the balance of the mortgage referenced above. On or about April 20, 2009, Galata submitted to the County a copy of its \$400,000 cashier's check made payable to Business Loan Conduit No. 2 and a copy of the Satisfaction of Mortgage. Notably, \$99,000 was not accounted for.

As of June 2012, the property has a mortgage balance of \$318,033. Overall, the mortgage on the property has only been reduced by \$207,805⁸—not by \$500,000 as originally intended by the grant agreement.

Listed below are activities and events related to Galata's mortgage liabilities, the award of BBC GOB funds, and Galata's post grant agreement activities.

<u>Date</u>	<u>Activity/Event</u>
10/05/2006	Galata grant submittal package stated that it was pre-qualified for a mortgage with 1st National Bank of South Florida (1st National Bank) for \$625,000, and a purchase contract on the property was pending.
12/14/2006	Galata obtained a balloon mortgage on the property (although not owned) for \$120,000 from Mr. Gil Valme with an implied interest rate of 36%. ⁹ The OIG believes that these proceeds were used towards the purchase of the property, since the 1st National Bank mortgage was signed 15 days later, as noted below. This

⁸ On April 18, 2008, when Galata received the GOB funds from the County, the existing mortgage (Business Loan Conduit No. 2) principal balance was \$525,838. As of June 14, 2012, the new mortgage (Regions Bank) principal balance was \$318,033. Thus, the prior mortgage balance (\$525,838) less the new mortgage balance (\$318,033) equates to \$207,805 in reduction.

⁹ The promissory note stated a principal sum of \$120,000 with interest at a rate of \$3,600 per month for twelve months, at which time the remaining principal balance together with any accrued but unpaid interest is due. This interest rate may be considered usurious since it exceeds the maximum allowable rate of 18% permitted under Florida Statutes 687.02 *Interest and Usury; Lending Practices, Usurious contracts*.

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indebtedness and prior encumbrance on the property were not disclosed to the County. The mortgage was not recorded with the Clerk of the Courts until January 15, 2008, 13 months after the mortgage date and four months before Galata received the \$400,000 from the County. A satisfaction of mortgage is dated June 5, 2008.

- 12/28/2006 Corporate Warranty Deed issued by Zeelandia Music, Inc. to Galata, Inc. for sale of the property. This deed was registered with the Clerk of the Courts on January 26, 2007.
- 12/29/2006 Galata obtained a \$442,230 mortgage from 1st National Bank to finance the purchase of the subject property. A satisfaction of mortgage is dated April 19, 2007.
- 03/21/2007 Galata obtained a \$531,000 mortgage from Community Development Transportation Lending Services (CDTLS). (CDTLS previously accepted a commitment letter, signed December 15, 2006, from Community Reinvestment Fund, Inc., on behalf of Business Loan Conduit No. 2, for the said amount). Galata listed this mortgage amount on *Exhibit 1* of its grant agreement. A satisfaction of mortgage is dated May 28, 2008.
- 05/25/2007 Galata obtained a \$30,000 balloon mortgage on the property from Florida Community Loan Fund, Inc., which was paid in full on June 3, 2008.¹⁰ A satisfaction of mortgage is not recorded with the Clerk of Courts.
- 03/06/2008 Galata's grant agreement with the County is executed.
- 04/18/2008 Galata received check #00118929, dated April 17, 2008, for \$499,000 from the County representing its BBC NFP grant award. Galata deposited said check in its Washington Mutual Bank account on or about April 21, 2008.
- 05/23/2008 Galata withdrew \$400,000 to purchase a cashier's check made payable to Business Loan Conduit No. 2. (Payoff documents show that almost \$69,000 in attorney fees, interest, late charges and prepayment penalties were deducted from the \$400,000 payment.)

¹⁰ At the OIG's request, Galata provided us with a letter from Florida Community Loan Fund, Inc., dated June 18, 2012 that stated the loan was paid in full on June 3, 2008.

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- May 2008 Galata paid 12 checks, amounting to \$77,307, from its 1st National Bank and Washington Mutual Bank (Washington Mutual) accounts to the Internal Revenue Services (IRS) for payroll tax liens for periods occurring in 2005 through 2007. A public records search identified two IRS tax liens with a total value of \$89,711. Certificates of releases are recorded on May 21, 2008 (See Finding No. 1).
- 06/02/2008 Galata obtained another mortgage on the subject property for \$355,000 from Regions Bank.¹¹
- 06/05/2008 A Satisfaction of Mortgage from Business Loan Conduit No. 2 is recorded with the County Clerk of Court demonstrating satisfaction and payment of the \$531,000 loan.
- 04/20/2009 Galata submitted its second and final request for reimbursement for the remaining grant funds for \$242.80.¹² Included as support for the reimbursement request was a copy of the cashier's check for \$400,000 paid to Business Loan Conduit No. 2 and a copy of the Satisfaction of Mortgage from Business Loan Conduit No. 2, dated May 28, 2008.
- 04/30/2009 A Project Completion Certificate signed by Galata on April 28, 2009, and signed by the County on April 30, 2009, effectively closed this project. OCI completes a County check request form for \$242.80 payable to Galata, and on May 6, 2009, the County issued this final payment to Galata.
- June 2012 The mortgage balance on Galata's property, located at 916 North Flagler Avenue, Homestead, is \$318,033.

The results of these activities show that over an 18-month period, Galata acquired a series of five different mortgages on the subject property and had three mortgages outstanding at one time (see Footnote No. 11). With the infusion of the BBC funds, Galata was able to pay off its old mortgages, obtain new debt in the form of another mortgage, and pay for operational expenses (see

¹¹ According to the terms of the Regions Bank mortgage, the proceeds were to be used to pay-off the following: 1) the original principal amount of the Gil Valme mortgage (see December 14, 2006); 2) the balance of the Business Loan Conduit No. 2 mortgage (see March 21, 2007 and May 2008); and, 3) the original principal amount of the Florida Community Loan Fund mortgage (see May 25, 2007).

¹² The County retained \$1,000 of the grant award, of which \$757.20 was used for County signage. The remaining balance of \$242.80 was paid to Galata at the close out of the project.

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Finding No. 1). In effect, Galata used BBC funds that were dedicated to paying down a specified mortgage to, instead, provide itself with transitional financing.

OCI's grant personnel¹³ advised the OIG that they considered the project completed and closed because Galata submitted a copy of a \$400,000 cashier's check paid to the mortgage company, along with a satisfaction of mortgage. As presented to OCI, Galata appeared to have satisfied its grant agreement conditions. However, the grant objective was never achieved because there remained a substantial mortgage balance even after Galata expended all of its grant funds. At present, the property carries a mortgage with a balance of \$318,033.

Whether it was poor planning and/or operational deficits, Galata's facility purchase was impacted by questionable financial practices. Our analysis shows that the grant's objective was not achieved, since Galata did not use grant funds to reduce its mortgage to a minimal amount.

FINDING NO. 3 Some grant awards lack adequate protection to safeguard the County's investment in the purchase of property and/or the pay-down of mortgage debt, thus putting the County's investments at risk of loss.

The County's grant agreements for those NFP projects that the OIG categorized in our Group 1 vary in their protections afforded to the County. For similarly situated projects where the grant award was to purchase property and/or pay-down mortgage debt, similarly worded restrictive covenants were not included as a part of all projects. This is of concern to the OIG because without such restrictions, the grant's objectives may be circumvented and the County's sizable investment may be at risk for loss.

As demonstrated in Galata's case, the grant's objective—to pay-down substantially most of Galata's primary mortgage—was circumvented. Instead, Galata used grant funds for inappropriate purposes and then obtained a subsequent mortgage to help it pay off what remained of its primary mortgage—that mortgage that was to have been substantially paid down using grant funds.

Moreover, with regards to another grant award where GOB funds were used to purchase a headquarters building, the grantee (Citizens for a Better South Florida) was required to agree to a "reverter clause." This clause was a restrictive covenant added to the grant agreement that would be operative in the event that the grantee no longer wished or was able to operate the facility as

¹³ At the time of this transaction, the grant program was still being managed by OCI.

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intended. Another restriction requires that the grantee obtain the County's approval before further encumbering the property.¹⁴ Such a restriction affords protection to the County's investment.

As described earlier in this report, some NFP grant awards were administered by the County's Department of Cultural Affairs (CUA). This included three NFPs reviewed in Group 1. For these NFPs, BBC GOB funds were supplemented by other grant awards (under CUA's monitoring). For the six¹⁵ executed grant awards for property purchases and mortgage pay-down reviewed in this report, we note that three contain restrictive covenants, one was not applicable and two do not. Of the three grants overseen by CUA, the restrictive covenant was imposed on two, while it was not applicable to the other. Of the three grants overseen by OCI (later OMB), the restrictive covenant was imposed on only one. Table below shows the variation of restrictions for similar grant types.

OIG Table 1: County Restrictions on Properties (Revised)

Grant Recipient	Primary County Department	BBC Grant Agreement Execution Date	Grant Objective	Declaration of Restrictive Covenant
Association for Development of the Exceptional, Inc.	OCI/OMB	09/24/08	Mortgage pay-down	None
Citizens for a Better South Florida, Inc.	OCI/OMB	01/20/10	Property Purchase	Restrictive Covenant executed 02/18/10
Galata, Inc.	OCI/OMB	03/06/08	Mortgage pay-down	None
Bascomb Memorial Broadcasting Foundation, Inc.	CUA	03/06/08	Mortgage pay-down and renovation	Restrictive Covenant executed 09/18/07 based on CUA grant funds; BBC grant agreement executed after CUA grant.
Miami Children's Museum, Inc.	CUA	12/20/11	Mortgage pay-down	N/A ¹

¹⁴ Section 4(d) of the Citizens for a Better South Florida, Inc.'s Declaration of Restrictive Covenants states, in part, that "*CITIZENS will not further encumber the Property after its purchase without the expressed written consent of Miami-Dade County.*"

¹⁵ Excluded are the grants to the Daily Bread Food Bank (equipment purchase) and to the World Literacy Crusade of South Florida, Inc. (grant agreement not yet executed).

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Grant Recipient	Primary County Department	BBC Grant Agreement Execution Date	Grant Objective	Declaration of Restrictive Covenant
Miami Hispanic Ballet Corp.	CUA	10/20/09	Property purchase	Restrictive Covenant executed 11/23/09 (covers properties purchased with GOB grant funds and other CUA grant funds)
Daily Bread Food Bank, Inc. (Feeding South Florida, Inc.)	OCI/OMB	04/08/08	Equipment purchase	N/A
World Literacy Crusade of Florida, Inc.	OCI/OMB	N/A	Property purchase	Grant agreement not executed

N/A¹: The Miami Children’s Museum facility is located on land owned by the City of Miami, therefore, a County restrictive covenant on the property is not required (revised per CUA response to draft audit report).

Two of the three above-identified restrictive covenants were not part of the original grant award; they were added subsequently. As noted above, some awards were made without restrictions even after it was being required of other grants. At the end of the day, the inconsistent grant requirements may make monitoring the adherence to grant terms more difficult.

All of the BBC grants, by virtue of Section 21 of the Administrative Rules, require that:

The Grantee agrees to a) maintain the Project for a minimum of twenty-five (25) years, b) agrees to govern itself, in regards to the subject Project, in accordance with Article 6 of the County Charter, c) keep the Project open safely and properly maintained for all Miami- Dade County residents, and d) allow all Miami-Dade County residents equal access and use of the project and not discriminate when charging facility admission fees...

Unfortunately, this requirement does not prevent the grantee from re-mortgaging the property nor does it require prior County approval prior to re-mortgaging the property. The OIG is concerned that a new mortgage or any additional liability on the property may threaten the County’s sizable investment.

X. RECOMMENDATIONS

1. OMB should require that MHBC provide information on its existing mortgage balance to verify that it is satisfying the grant's objectives. As it relates to the deadline found in the Declaration of Restrictive Covenants for completion of renovations, OMB should immediately initiate discussions with MHBC to determine what actions, if any, are necessary to avoid default. – ***This recommendation is now moot. MHBC has provided OIG auditors with the requested financial information. Renovations are complete and the facility is officially open and up and running.***
2. OMB should develop procedures to ensure that monitoring and accountability of these projects will continue through the next two decades to assure that the entities are adhering to the grant agreements' requirements regarding continued use and operation of the properties/facilities/equipment.
3. OMB and WLCF should develop a timetable that establishes accountable milestones, including a project completion deadline that will ensure that BBC GOB funds are timely spent, as originally authorized - or reallocated to other worthwhile projects.

While the Galata's agreement may be considered "closed," the OIG believes that certain actions should be taken to protect the County's investment in this project and other similar projects. Actions that should be considered are as follows:

4. OMB should seek to recapture from Galata the \$99,000 in BBC GOB funds that were not spent in accordance with the terms of the grant agreement and the GOB Administrative Rules.
5. OMB and the County Attorney's Office should jointly review the Galata agreement to determine if any actions can be taken to protect the County's \$500,000 investment in the property should Galata not be able to operate the facility as intended, or to prevent the mortgage balance from increasing so as to jeopardize the safety of the County's investment.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL AUDIT REPORT
Building Better Communities General Obligation Bond Program
Not-for-profit Community Organization Capital Fund – Project 223

6. OMB should include protective language in future grant agreements (and amend existing ones) to safeguard the County's investment in property, especially in cases where the grant award is meant to pay-off/pay-down a mortgage or purchase a property free and clear.

7. Prospectively, OMB should include public records searches of grantees using internet-based databases (e.g. Miami-Dade County Clerk of the Courts, State of Florida Division of Corporations, and Miami-Dade County Property Appraiser), as part of its due diligence efforts, prior to executing agreements with the grantee.

* * * * *

The OIG would like to thank OMB and CUA personnel for making themselves and their records available to us in a timely manner and for the courtesies extended to the OIG during the course of its review. The OIG would also like to thank all of the NFPs for their courtesies and facility access extended to OIG auditors.

Miami-Dade County

Office of the Inspector General



Appendix A

Office of Management and Budget Response

**Building Better Communities General Obligation
Bond Program Not-for-profit Community Organization
Capital Fund – Project 223**

IG11-54



miamidade.gov

MDC-OFFICE OF THE
INSPECTOR GENERAL

2012 OCT -9 PM 3: 59

Management and Budget
111 NW 1st Street • 22nd Floor
Miami, Florida 33128-1926
T 305-375-5143 F 305-375-5168

October 4, 2012

Christopher Mazzella
Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, Florida 33130

Dear Mr. Mazzella,

Thank you for the opportunity to provide a response to the Office of the Inspector General's Draft Report IG11-54 regarding the review of the Building Better Communities (BBC) General Obligation Bond Program for the Non-for-profit Community Organization Capital Fund – Project No. 223. The Office of Management and Budget (OMB) has thoroughly reviewed the draft report and listed below is corresponding information related to 'Section X, Recommendations':

1. OMB has already initiated discussions with the Miami Hispanic Ballet Corp. in order to ensure that the grant objectives are met.
2. As we have discussed, restrictive covenants are included as a condition of grant agreements in order to ensure the continued use and operation of the properties/facilities/equipment as well as any other appropriate language necessary to protect Miami-Dade County's interests.
3. World Literacy Crusade of Florida, Inc. has responded to project status requests and information regarding the feasibility of this project will be provided to the BBC Citizens' Advisory Committee. Further discussion will be held with the organization in order to best utilize the BBC funding available.
4. Galata, Inc. has provided the appropriate documentation in order to be eligible for reimbursement.
5. Financial decisions made by the Not-for-profit organization after the grant agreement was closed, we believe, are out of our purview for further punitive action.
6. Galata, Inc. continues to provide services to the community as we feel Miami-Dade County's investment is safeguarded.
7. User department and OMB staff already have procedures in place for due diligence fact checking prior to executing any grant agreements.

We look forward to working with your office as you move forward with pending Reports 2 and 3. Please feel free to contact me or my staff should you require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Moon".

Jennifer Moon
Director

c: Edward Marquez, Deputy Mayor
Nan A. Markowitz, Bond Program Coordinator

Jgm00313

Miami-Dade County

Office of the Inspector General



Appendix B

Department of Cultural Affairs Response

**Building Better Communities General Obligation
Bond Program Not-for-profit Community Organization
Capital Fund — Project 223**

IG11-54

Memorandum



Date: October 3, 2012

To: Christopher Mazzella
Inspector General

From: Michael Spring, Director
Department of Cultural Affairs (CUA)

Subject: Response to OIG Draft Report, IG11-54

A handwritten signature in black ink, appearing to read "Michael Spring", with a large, stylized flourish extending from the end of the signature.

Thank you for the opportunity to review the Office of Inspector General's (OIG) draft report regarding the OIG's review of the Building Better Communities General Obligation Bond (BBC-GOB) Program for the Not-for-profit Community Organization Capital Fund – Project 223, dated September 19, 2012. We respectfully request that you incorporate the facts and updates below regarding the BBC-GOB projects being managed by the Department of Cultural Affairs to ensure the accuracy of the report.

Miami Hispanic Ballet Company (MHBC): The MHBC facility is substantially complete and scheduled to receive its Certificate of Occupancy in a few weeks, well ahead of the November 23, 2012 restrictive covenant deadline. A “soft opening” of the facility already has taken place on September 22, 2012.

Miami Children's Museum (MCM): Typically grantees who purchase property or pay-off mortgages with BBC-GOB funds own the land on which the structure is built. We have collaborated with the County Attorney's Office to issue a restrictive covenant and record it with the Clerk's Office for property purchase projects such as Bascomb Memorial Broadcasting Foundation, Inc.-WDNA and the Cuban Museum. The Miami Children's Museum project is unique in that its building is located on land owned by the City of Miami and leased by the Miami Sports and Exhibition Authority (MSEA). The sublease between MSEA and the Children's Museum is for a 50-year term and requires that the premises be used solely for the development, construction, management, and operation of a regional children's museum. In light of this already-established restriction, the Board of County Commissioners (BCC) waived the requirement for recording a declaration of restrictive covenants via Resolution R-1081-11.

Page 2 of 24

CUA disagrees with the OIG's opinion that the MHBC will not make the November 23, 2012 deadline. A soft opening already occurred on September 22, 2012 and a Certificate of Occupancy is expected in a few weeks, well before the November 23, 2012 restrictive covenant deadline.

Page 3 of 24

In the footnote of the draft report, the OIG states “The restrictive covenant was made subsequent to the grant agreement; however, it coincides with the purchase of the properties.” This statement may suggest that the restrictive covenant was recorded late. However, please note that a grant agreement must be issued prior to distributing any BBC-GOB funds. For an organization purchasing property, the BBC-GOB funds are used by the organization to purchase the property; the restrictive covenant can only be recorded once the grantee has purchased the property. It is important to emphasize that CUA drafted and provided the restrictive covenant to the MHBC in advance of the property purchase and monitored its filing in order to ensure that this requirement was completed. This is the logical process which has been established and implemented in order to protect the County's interests in regard to the MHBC project.

Page 6 of 24

The OIG states “We met with County project managers from both CUA and OMB and we interviewed representatives from each of the NFPs reviewed.” Other than providing files, it is important to note that CUA did not have detailed discussions with OIG representatives regarding the grantees. Such discussions might have provided the OIG with the observations by the professional staff managing these projects, and, for example, could have addressed/corrected the OIG’s inaccurate conclusions regarding the progress of the MHBC in completing its project.

Page 9 of 24

CUA, as the managing department of the MHBC project, respectfully disagrees with the OIG’s concerns questioning the completion of the project before or by November 23, 2012.

Page 10 of 24

The OIG states “The Covenant further states that in the event that the conditions noted are not met, title to the properties and buildings will *automatically* revert to the County, without the necessity of obtaining a court order, and that MHBC shall deed the properties and building together with all of its contents by warranty deed to the County.” Although this is moot due to the likelihood of a timely completion of the work, it is important to correct the impression left by the OIG regarding the process for addressing issues like this. The restrictive covenant also states that the Board of County Commissioners of Miami-Dade County shall have sole discretion in determining whether the terms of the covenant are not being met by the grantee. In addition, the BBC-GOB administrative rules state that the County must give notice to the grantee whenever it deems that the grantee is in breach of contract and provide a prescribed period for the grantee to cure any deficiencies. In addition, it should be noted that administrative common sense would be exercised and notice to the Board of County Commissioners provided if the grantee were making progress toward completing the project and a reasonable amount of additional time was warranted.

Page 21/22 of 24

CUA continues to work closely with the County Attorney’s Office to draft restrictive covenants as applicable to ensure that the County’s interests are preserved regarding its investment exposure. In the case of the Miami Children’s Museum, the BCC waived the requirement for the recording of a restrictive covenant because legal instruments already in place restrict the use of the facility.

Page 22 of 24

Please correct the “Declaration of Restrictive Covenant” entry in OIG Table 1 under the Miami Children’s Museum, Inc. to reflect that the City of Miami has placed a 50-year requirement for the use of the premises as a regional children’s museum and that consequently, the BCC waived the need for a County restrictive covenant by Resolution R-1081-11. Please also correct the corresponding statement in the paragraph below the table to reflect these facts.

Page 23 of 24

Regarding recommendation 1: CUA is in agreement and has already contacted the grantee to provide the information on their remaining mortgage and received assurance that the information is forthcoming. CUA continues to work closely with the organization and based on site visits and reporting documents, is confident that the project will be completed within the time frame stipulated in the restrictive covenant.

c: Lisa M. Martinez, Senior Advisor to the Mayor

Miami-Dade County

Office of the Inspector General



Appendix C

Galata's Response

**Building Better Communities General Obligation
Bond Program Not-for-profit Community Organization
Capital Fund — Project 223**

IG11-54



**Intergenerational
Community Resource
Center**

**A 501(C)3 NON PROFIT
COMMUNITY BASED
ORGANIZATION
SERVING ELDERLY,
YOUTH AND FAMILIES**

November 3, 2012

Mrs. Arleen Stanick
Auditor
Miami-Dade County Inspector General Office
19 West Flagler Street, Suite 220
Miami, Florida 33130

Re: Galata Inc.

Per our conversation on the phone, I have attached a copy of a letter that was submitted to Mr. Galan on July 24, 2009 outlining how we had to pay out certain expenses in regard to the building purchase as set forth in the "pre-agreement" expense section of the contract.

We appreciate your patience in this issue, if you have any questions please feel free to contact us.

Submitted.

Luis A. Dilan
GALATA Inc.

916 North Flagler Avenue
Homestead, Florida 33030

P.O. Box 901872
Homestead, FL 33090-1872

Office: (305) 242-7060
Fax: (305) 242-8040

www.galatainc.org

AN EQUAL OPPORTUNITY EMPLOYER FUNDED IN PART BY





**Intergenerational
Community Resource
Center**

**A 501(C)3 NON PROFIT
COMMUNITY BASED
ORGANIZATION
SERVING ELDERLY,
YOUTH AND FAMILIES**

July 24, 2009

Office of Capital Improvements

Attn: Mr. Jose Galan, Chief Program Legislation

111 NW 1st Street, Suite 2130 Miami, Fl. 33128

RE: Revised final report

Dear, Mr. Jose Galan

Please accept the attached revised report for GALATA, Inc. In the initial report, we failed to provide you with documentation of eligible "**pre-agreement**" expenses in addition to the \$400,000 that was paid out to **Business Loan Conduit** to pay down our mortgage liens. These additional expenses included down payments and closing costs for the following amounts totaling: \$ 163,009.81

1. \$125,334.51 to Girard Title for down Payment
2. \$ 1,450.82 to Girard Title for closing cost
3. \$20,000 to Keyes Company Realtors for own Payment
4. \$10,000 to Keyes Company for down Payment
7. \$6,224.48 to Weisburg, Eisen & Possenti, PA- Trust Account ,down Payment-closing cost

As you will find, GALATA has paid out more that \$500,000 solely for the purchase of the building, with out taking into consideration funds that went toward regular monthly payment and interest, currently we are making monthly payments of \$2,688.75 per month to Regions Bank for the balance of our mortgage.

Funding from Building Better Communities has not only afforded GALATA the ability to more than double the amount of clients served on a daily basis, but has opened the door for us to receive additional funds for the renovations of our building. To date, GALATA has raised \$255,000 (\$230,000 from OCED-CDBG and \$25,000 from the City of Homestead) towards renovations that will cost us an estimated \$600,000 to complete.

Respectfully Submitted,


Joseph G Louis, BS Executive Director

916 North Flagler Avenue
Homestead, Florida 33030

P.O.Box 901872
Homestead, FL. 33090-1872

Office: (305) 242-7060
Fax: (305) 242-8040

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