



Memorandum



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To: The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County
The Honorable Rebeca Sosa, Chairwoman
Members of Board of County Commissioners, Miami-Dade County

From:  Christopher Mazzella, Inspector General

Date: April 17, 2013

Subject: Surrender and Guilty Plea of Gisela Hidalgo in Connection with a Surplus County Vehicle Donated to Charities Unlimited, Inc.; Ref. IG12-14 & IG12-16

Gisela Hidalgo (Hidalgo) surrendered in court today to face criminal charges for selling a surplus vehicle that was donated to her by Miami-Dade County (County). In April 2011, Hidalgo, the President and Director of Charities Unlimited, Inc., solicited a 2005 Toyota Prius from the County. In applying for the County donation, she certified that the vehicle would be used for the organization's transportation needs, including "to pick up donations." The Prius was donated to Charities Unlimited in June 2011 and promptly sold by Hidalgo for \$8,200. None of the proceeds were used for the benefit of Charities Unlimited, or the people it was supposed to help. Hidalgo was charged with one count of Prohibited Solicitation of Funds, a third degree felony, for failing to apply the charitable contribution in a manner consistent with her request for the donated car.

Hidalgo pled guilty upon her surrender and was sentenced (through the acceptance of a plea offer) to four years of probation with the special conditions of paying costs of investigation and costs of prosecution. Her sentence includes the dissolution of Charities Unlimited and a prohibition from holding office on the board of any not-for-profit corporation. She will also be prohibited from soliciting contributions on behalf of any charitable organization for 10 years based on her guilty plea to this particular State charge.

In addition to the criminal investigation, the OIG reviewed 45 surplus vehicle donations made by the County to community-based organizations (CBOs) in 2010 and 2011. Our review found that 9 out of 45 vehicles (including the aforementioned 2005 Prius) had been sold or transferred by the receiving entity not long after the donation. Explanations to the OIG included needing to sell the vehicle due to the high cost of repair and upkeep, transferring title to the CBO's director to reduce the cost of insurance, selling the vehicle for scrap due to its unusable condition, and using the vehicle's parts (a Bluebird bus) to fix another Bluebird bus.

The donation to Charities Unlimited and the other donations in the OIG review were made prior to October 2011, when there were no restrictions on the length of time that a CBO had to maintain ownership of the surplus property. The CBO only had to certify the purpose for which the property was to be used, but it did not have to agree for how long it would use the property and/or keep it. In October 2011, the Board of County Commissioners amended Section 2-11.2.1 of the Code of Miami-Dade County, which governs County donations of surplus property. The amendment prohibits a CBO from reselling surplus property at a profit or otherwise transferring such property, without County approval, for three years from the date of receipt of the surplus property. Since passage of the ordinance, the Internal Services Department, with the assistance of the County Attorney's Office, has implemented a Donation Agreement form that expressly states the three-year requirement. The agreement also includes an indemnification clause that protects the County from liability for any damages resulting from the donation of the surplus property.

The OIG's review also confirmed a general lack of awareness and understanding of federal and state requirements by CBOs. For example, some CBOs were not in compliance with their federal IRS tax-exempt status obligations.¹ More importantly, many of the CBOs were failing to register with the Florida Department of Agriculture and Consumer Services (FDACS), a requirement for many charities pursuant to State statute.² The OIG found that 19 of the CBOs that received a vehicle in 2010 – 2011 were not registered with FDACS, explaining that they were simply unaware of this requirement. With the implementation of the new Donation Agreement form, County staff now requires proof of compliance with these requirements as part of the application process.

We believe that the County's new three-year requirement will enhance the donation process and will deter unscrupulous individuals who eye the County's surplus property for their own private gain, as Hidalgo cleverly did. The OIG would like to thank Internal Services Department personnel for their cooperation and assistance during this investigation and review.

cc: Robert A. Cuevas, Jr., County Attorney
Lester Sola, Director, Internal Services Department
Cathy Jackson, Director, Audit and Management Services Department
Charles Anderson, Commission Auditor

¹ An organization exempt under 501(c)(3) that fails to file a 990-N (or Forms 990 or 990-EZ) with the IRS for three consecutive years, will automatically lose its tax-exempt status. Hidalgo failed to file Form 990 for three years in a row and Charities Unlimited lost its tax-exempt status in May 2011, a month before the donation.

² Chapter 496, Florida Statutes, *The Solicitation of Contributions Act* (the Act), requires most charities that solicit donations to register with the State of Florida, Department of Agriculture and Consumer Services. The Act, passed in 1992, is designed to protect the public by requiring that entities publicly disclose, on an annual basis, how contributions are actually used. The Act exempts certain organizations, such as bona fide religious institutions, educational institutions, and government agencies. Violation of the Act, including failure to register, is a third degree felony.