



Memorandum

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To: Honorable Carlos Alvarez, Mayor, Miami-Dade County
Honorable Bruno A. Barreiro, Chairperson
and Members, Miami-Dade Board of County Commissioners

From: Christopher Mazzella, Inspector General

Date: October 10, 2008

Subject: *OIG Final Report Re: Allocation of Miami-Dade County's Building Better Communities General Obligation Bond Funding for Primary Health Care Facilities, Ref. IG08-45*

Attached please find the Office of the Inspector General's (OIG) final report regarding the above-captioned matter. Commissioners Sosa and Souto, as well as the Mayor, requested the OIG's review of this matter.

Earlier, on September 25, 2008, the OIG provided copies of this report, as a draft for comment, to the Office of Countywide Healthcare Planning (OCHP), the Public Health Trust/Jackson Health Systems (PHT/JHS), the County Attorney's Office (CAO), Borinquen Health Care Center, Inc. (Borinquen), and Commissioners Sosa and Souto.

The OIG received written responses from the CAO, OCHP, and Borinquen. These responses are included as Appendix 1, 2, and 3, respectively. The OIG was advised by the offices of Commissioners Souto and Sosa, and by Mr. Marvin O'Quinn, President and CEO of the PHT/JHS, that they would not be providing a written response.

Should you have any further questions, please do not hesitate to contact me.

Attachment

cc: Mr. Robert A. Cuevas, County Attorney
Mr. George Burgess, County Manager
Ms. Alina Hudak, Assistant County Manager
Ms. Janet Perkins, Executive Director, Office of Countywide Healthcare Planning
Mr. Marvin O'Quinn, Pres. & CEO, Public Health Trust/Jackson Health Systems
Mr. Charles Anderson, Commission Auditor
Mr. Robert Linder, President/CEO, Borinquen Health Care Center, Inc.
Clerk of the Board (copy filed)

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INTRODUCTION & SYNOPSIS

On August 1, 2008, the Miami-Dade County Office of the Inspector General (OIG) began this review at the request of Mayor Carlos Alvarez. In his request, Mayor Alvarez referred to a July 31, 2008 memorandum that he received from District 6 Commissioner Rebeca Sosa, wherein Commissioner Sosa described an ongoing dispute concerning the allocation by the Board of County Commissioners (BCC) of Building Better Communities General Obligation Bond Program funds (GOB funds).¹ In her memorandum, Commissioner Sosa also stated that she welcomed our investigation, because she had been unfairly accused of recommending that Borinquen Health Care Center (Borinquen) receive \$1.9 million of the GOB funds to establish a primary health care facility in her district. Specifically, Commissioner Sosa stated that "I am respectfully asking you to request full investigation of the allegations that were made of the administration and my fellow commissioners." (Exhibit A)

As a part of the review, OIG representatives also met with District 10 Commissioner Javier D. Souto. Commissioner Souto expressed his concern that the recipients of \$25 million of GOB funds had not been adequately identified on a ballot submitted for voter approval in November 2004. Commissioner Souto also expressed his concern that representatives of the Miami-Dade Office of Countywide Healthcare Planning (OCHP) had not met with him concerning the proposed allocation of GOB funds to Borinquen.

The Ballot Language Issue

On July 20, 2004, the BCC passed a resolution approving a special election wherein voters would decide whether to authorize the generation and expenditure of a total of approximately \$2.9 billion of GOB funds for various countywide improvement projects. Ballot Question 5, one of the eight ballot questions approved by the Board and, thereafter, submitted to the electorate on the special election ballot, authorized up to \$171,281,000 in funding for projects "[t]o construct and improve emergency healthcare facilities at Jackson Memorial Hospital to promote accessibility to quality healthcare services, described in Resolution 916-04, adopted on July 20, 2004...."² (Exhibit B) The draft ballot language considered by the BCC during its July 20, 2004 session contained the same language about facilities at Jackson Memorial Hospital (JMH), but authorized only up to \$137.5 million in funding. (Exhibit C)

¹ That same memorandum, with one change, was re-issued on August 1, 2008. The revised sentence regards an amendment made by Commissioner Edmonson during the July 17, 2008 BCC meeting. The corrected statement reads: "Commissioner Edmonson made an amendment for \$500,000 of the already allocated \$2.4 million dollars for the Borinquen Health Center to serve an underserved area that the Board approved." The August 1, 2008 revised memo is attached as Exhibit A.

² The ballot question was approved by 71.26% of the voters on November 2, 2004.

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During the course of that session, the BCC considered and approved the inclusion of the extra funding reflected in the final ballot, which included \$25 million for “Primary Health Care Facilities” to “[i]ncrease the number of health care facilities in our community.” (Project Number 305 on Appendix A to Special Item No.5, attached as OIG Exhibit D). Project Number 305 does not identify JMH as the recipient of the extra funding. In addition, the comments made by various commissioners and others during the session manifested the BCC’s intent that the extra funding would be provided to entities other than JMH.³ However, the language of the final version of Ballot Question 5 did not reveal to voters that the extra \$25 million—which constituted almost 15% of the total amount they authorized—would not, in fact, go to JMH.

The Borinquen Selection Issue

On July 17, 2008, Commissioner Sosa seconded a resolution originally moved by District 3 Commissioner Audrey Edmonson, which recommended that \$1.9 million of the remaining Project 305 GOB funds be utilized to establish and operate a community health care center which would primarily serve both Commissioner Sosa’s constituents and those of District 10. Commissioner Sosa has repeatedly stated, before, during, and after the BCC session—including in an interview more fully described below—that her sole motivation was to ensure that a Federally Qualified Healthcare Center (FQHC) be located in the central-southwest area of Miami-Dade County, and that she did not concern herself with which FQHC would ultimately be chosen.

Janet Perkins, the Executive Director of the OCHP, told the OIG that her office, rather than Commissioner Sosa, recommended Borinquen after evaluating criteria, including federally-mandated regulations, known as “census tract” requirements, that limited access to the area in question to either Borinquen or the Helen B. Bentley Family Health Care Center (Bentley). Ms. Perkins further stated that Bentley was offered the funding opportunity first, but declined to participate because of other outstanding commitments.⁴

In short, the OIG concludes that Commissioner Sosa did not advocate for the selection of Borinquen. In addition, the OIG’s review of Borinquen’s financial history and past business practices did not reveal any irregularities or any special relationship with

³ All of the \$25 million has now been allocated, and none of that funding has been devoted to JMH. One of the issues raised at the July 17, 2008 BCC session was the posture of JMH regarding the allocations; some witnesses conjectured about the perspective held by JMH, but no JMH representatives were present. Since then, Marvin O’Quinn, President of the Public Health Trust and CEO of the Jackson Health System, has stated that “[a]t the time this question was posed to voters, I understood that the \$25 million for the expansion of primary care was not intended for Jackson Facilities.”

⁴ Ms. Perkins confirmed, as did Mr. O’Quinn, that JMH was never considered for this—or any—Project 305 funding because JMH is not an FQHC.

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Commissioner Sosa. Our review determined that Borinquen was recommended for receipt of GOB funds in accordance with the normal function of the BCC and the OCHP.

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 and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. The Inspector General is authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions. The Inspector General may exercise any of the powers contained in Section 2-1076, upon his or her own initiative.

The Inspector General shall have the power to require reports from the Mayor, County Commissioners, County Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

BACKGROUND

The General Obligation Bond Program

On November 2, 2004, Miami-Dade County voters approved the generation of \$2.9 billion in Building Better Communities General Obligation Bond Program funds (GOB funds) intended to finance countywide government improvement projects. The long-term bonds are backed by the full faith and credit of the county, which has committed future taxes over the next 40 years to repay them. Ballot Question 5, one of the eight ballot questions approved by the voters, authorized up to \$171,281,000 in funding for projects “[t]o construct and improve emergency healthcare facilities at Jackson Memorial Hospital to promote accessibility to quality healthcare services, described in Resolution 916-04, adopted on July 20, 2004....”

The Office of Countywide Healthcare Planning

The Office of Countywide Healthcare Planning (OCHP) was created by the BCC in 2003 by establishing Section 2-1721 of the Code of Miami-Dade County. The duties and responsibilities of the OCHP include planning and coordinating the delivery of countywide

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healthcare services, including making recommendations to the Board concerning the use of GOB funds.

Federally Qualified Health Care Centers

A Federally Qualified Health Care Center (FQHC) is a non-profit agency, administered through a community-based board, which receives federal core funding and, as such, is considered an agent of the federal government. To date, the BCC has approved the allocation of all \$25 million of GOB funds dedicated through Project 305 to the seven (7) FQHCs which qualified to operate in Miami-Dade County, including \$2.4 million to Borinquen, \$1.9 million of which is intended for the establishment of a community health care center in the Flagami area of District 6.

OIG REVIEW

During the course of this review, OIG Special Agents examined numerous documents including, but not limited to, BCC minutes, agenda items, and resolutions; the draft and final versions of Ballot Question 5; OCHP documents regarding the allocation of GOB funds; and documents illuminating Borinquen's financial history and past business practices. In addition, OIG Special Agents also reviewed videotapes of BCC meetings, including those of July 20, 2004 and July 17, 2008. As part of this review, OIG staff spoke with Commissioner Sosa, Commissioner Souto, Janet Perkins and members of her OCHP staff, Public Health Trust President and CEO Marvin O'Quinn, and Assistant County Manager Alina T. Hudak.

The Drafting of Ballot Question 5

On July 20, 2004, Ballot Question 5, in draft form (Exhibit C), was one of the eight ballot questions considered by the BCC. The draft version of Ballot Question 5 authorized up to \$137.5 million in funding for projects "[t]o construct and improve emergency healthcare facilities at Jackson Memorial Hospital to promote accessibility to quality healthcare services, described in Resolution No. 916-04, adopted on July 20, 2004...." These JMH projects were described in an appendix, which accompanied the proposed resolution authorizing the ballot question.

During the course of the July 20, 2004 session, a number of commissioners expressed their desire that additional GOB funds be expended on community healthcare projects that would not be administered by JMH. Instead, it was intended that the monies would be directed to FQHCs, and, in two instances, specific projects and/or recipients were identified as worthwhile candidates for the funding.

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At the end of the session, in conjunction with several other oral amendments made with regard to other ballot questions, a vote was taken to increase funding for healthcare-related projects—i.e. the Ballot Question 5 projects—by \$25 million. This additional funding, plus additional amounts for the anticipated costs to issue bonds, increased the total allotment of GOB funds for Ballot Question 5 from \$137.5 to approximately \$171.2 million. The projects to be funded by the \$25 million allotment were added to the list of projects described in Appendix A. A new Project Number 305, named “Primary Health Care Facilities” was added to the GOB’s Recommended List of Priorities. It reads: “[i]ncrease the number of health care facilities in our community.” (Exhibit D) The Municipal Project Location is listed as CW (countywide), as too is the BCC District listed as CW. While Project Number 305 is stated in the Appendix A to Ballot Question 5, the language of the ballot question itself does not identify that any of the monies would go to FQHCs. In other words, nothing in the ballot language seen by the voting public indicates any other recipient of healthcare-related funds other than JMH.⁵

During the session, comments made by various commissioners and others manifested the BCC’s intent that the extra funding would be provided to entities other than JMH. At the conclusion of the session, but prior to voting, the BCC empowered the County Attorney’s Office to make any changes to the draft ballot necessary to reflect adjustments that had been incorporated during the session. Although the substantive language was changed in Ballot Questions 1 and 2, the only changes made to the final version of Ballot Question 5 (Exhibit C) were the inclusion of the resolution number, its date of adoption, and the increase in funding from \$137,500,000 to \$171,281,000.

The Subsequent Allocation of Project Number 305 GOB Funds

Between December 2005 and July 2008, the Board approved the allocation of the \$25 million in Project 305 GOB funds to FQHCs in the following manner:

- December 20, 2005—The BCC unanimously approved the allocation of \$8 million to Miami Beach Community Health Center.
- November 6, 2007—The BCC unanimously approved the allocation of \$5 million to Community Health of South Florida.
- May 15, 2008—The BCC Health and Public Safety Committee invoked the three day-rule for committees on Item 3G, so that it could not be heard during that session. Item 3G was a resolution approving the allocation of \$12 million to five (5) primary health care facilities, including a total amount of \$2.4 million to

⁵ As noted above, the amendments to the ballot questions were made orally. At the time of the vote on Ballot Question 5, the commissioners did not have the text of Appendix A (Exhibit D) before them.

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Borinquen for the construction of a new site in District 11.⁶ The resolution also noted that Borinquen currently served the residents of District 3.

- June 17, 2008—The BCC unanimously approved the allocation of \$2 million to Citrus Health Network, which amount was previously included in Item 3G. (May 15, 2008).
- July 17, 2008—The BCC approved the allocation of the remaining \$10 million previously included in Item 3G, in the following manner: \$2.4 million was allocated to Borinquen; \$.6 million was allocated to Camillus Health Concern; \$3 million to was allocated to Bentley; and \$4 million was allocated to the Jessie Trice Community Health Center (Commissioner Souto dissenting).⁷ With regard to the allocation to Borinquen, District 3 Commissioner Audrey Edmonson moved Resolution 9A5, which stated that “Borinquen Health Care Center’s construction of new site is tentatively proposed for either District 6 or District 10, and currently serves the residents of District 3.” A discussion then ensued, wherein Commissioner Sosa observed that District 6 was severely lacking in healthcare service, but that she had no objection to the establishment of a Borinquen facility in either District 6 or District 10. At Commissioner Edmonson’s request, the resolution was orally amended to earmark \$500,000 of the \$2.4 million allocated to Borinquen to a site in the North Miami area, and to earmark the remaining \$1.9 million to establish a new site—not yet designated—in District 6.⁸

Marvin O’Quinn, President of the Public Health Trust and CEO of the Jackson Health System, recently acknowledged in an e-mail that “[a]t the time this question was posed to voters, I understood that the \$25 million for the expansion of primary care was not intended for Jackson Facilities.” (Exhibit E)

Interview of Janet Perkins

Janet Perkins, the Executive Director of the OCHP, and members of her staff, were interviewed as part of the OIG review. Ms. Perkins explained that the OCHP collaborated with both county personnel and the FQHCs to determine the appropriate allocation of the GOB funds. With regards to the allocation to Borinquen, Ms. Perkins stated that her office, rather than Commissioner Sosa, recommended Borinquen after evaluating criteria including federally-mandated regulations, known as “census tract” requirements, which limited access to the area in question. Ms. Perkins stated that according to those criteria, only Borinquen and the Helen B. Bentley Family Health

⁶ The resolution did not describe a specific location within District 11.

⁷ Commissioner Souto voted yes on the December 20, 2005 allocation and was absent/excused for the November 6, 2007 and June 17, 2008 votes.

⁸ As of the date of this report, a final version of the resolution has not been issued.

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Care Center (Bentley) were eligible for selection. Ms. Perkins further stated that Bentley was offered the funding opportunity first, but declined to participate because of other outstanding commitments. Ms. Perkins also confirmed that JMH was never considered for Project 305 funding because it is not an FQHC.⁹

The OIG notes that in her response to the OIG's draft report, Ms. Perkins asks that the below italicized write-up be added to the report in order to clarify the process undertaken. Please see Appendix B for Ms. Perkins' written response to the draft report.

In response to Commissioner Sosa's request that a clinic be located where it is accessible to County residents who live in the "Flagami" area -- OCHP explained that attaining approvals from the federal government for a new FQHC (Federally Qualified Health Center) is a complicated process. That process involves the analysis of census tract data for a combination of related variables including: household incomes, Medicaid enrollment, availability of culturally appropriate healthcare providers and other factors. It is because of this necessary analysis, which still has to be completed, that the allocation was listed as "proposed for District 6 or 10." Once submitted, the data enable the federal government to identify additional census tracts and approve existing FQHCs to establish a new site and receive a new "Access Point Grants" necessary to sustain operations in the new FQHC site. Two FQHCs already have some approved census tracts in the Flagami area -- Borinquen and Helen B. Bentley. Helen B. Bentley already had plans for their allocation. Borinquen indicated its willingness to develop an additional site in the Flagami area dependent on federal approval. Ms. Perkins confirmed that JHS did not request receiving an allocation from Project 305 because it does not currently operate an FQHC.

Interview of Marvin O'Quinn

Marvin O'Quinn, President and C.E.O. of the Jackson Health System, was also contacted as part of the OIG review. Mr. O'Quinn stated that JMH originally requested approximately \$300 million in GOB funds for capital improvements, but was advised by the County Manager's Office that only half that amount would be available for allocation to JMH. With regard to the Project 305 funds, Mr. O'Quinn stated that the additional \$25 million for non-JMH facilities was neither sponsored nor suggested

⁹ Ms. Perkins acknowledged that her office had not met with Commissioner Souto regarding the recommendation of Borinquen, although it had attempted to do so.

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by JMH. Mr. O'Quinn further stated that he had no knowledge of the circumstances surrounding the Project 305 proposal advanced during the July 20, 2004 BCC session. Mr. O'Quinn added that JMH later floated another \$150 million in revenue bonds to make up the shortfall of needed funds.

Interview of Commissioner Rebeca Sosa

District 6 Commissioner Rebeca Sosa was also interviewed as part of the OIG review. Commissioner Sosa stated that during the Board session on July 17, 2008, she suggested that \$1.9 million of the remaining Project 305 GOB funds be utilized to establish and operate a community health care center which would primarily serve both her constituents and those of District 10. Commissioner Sosa explained that her sole motivation was to ensure that an FQHC be located in the central-southwest area of Miami-Dade County, and that she did not concern herself with which FQHC would ultimately be chosen. Commissioner Sosa further explained that the OCHP, and not she, made the recommendation of Borinquen after a thorough analysis of the needs of the area.

The Borinquen Review

The OIG conducted a review of Borinquen's finances and past business practices. The review included an analysis of Borinquen's financial history and disclosure records; consideration of Dun and Bradstreet reports; a public records research; an examination of required corporate filings; and an evaluation of litigation proceedings. The review did not detect any material irregularities in the conduct of Borinquen's affairs, or any special relationship with Commissioner Sosa.

CONCLUSION

The OIG believes that the final version of Ballot Question 5 should have included specific clarifying language informing voters that in addition to JMH, other entities would also receive funds to promote accessibility to quality health care services. The OIG has determined that Commissioner Sosa never advocated for the selection of Borinquen as a recipient of Project 305 GOB funds. Instead, the selection of Borinquen was recommended by the OCHP after the consideration of required program criteria. In addition, the OIG has not discovered any material irregularities in Borinquen's financial history and past business practices, nor the existence of any special relationship with Commissioner Sosa.

Responses to the draft report from the County Attorney's Office, Office of Countywide Health Care Planning, and Borinquen Health Care Center, Inc., are included in this final report as Appendix One, Two, and Three, respectively.