

FINAL REPORT

To: Mr. George Burgess, County Manager

Received by Date

From: Christopher Mazzella, Inspector General

Date: April 14 2004

Re: The Americas Community Center, Inc. and the Miami-Dade County Office of Economic Development contract for Community Development Block Grant funding.

This report was issued in draft form on March 8, 2004 to Mr. Fabio A. Andrade, President and CEO, The Americas Community Center, and Mr. Bryan Finnie, Director, Office of Community and Economic Development. Responses were received by both agencies and are appended to this final report as Appendix 1 and 2, respectively. No changes have been made to the draft as issued except for inclusion of recommendations, which were not included in the draft report.

The OIG requests to be provided with a status report by July 30, 2004, to advise of the progress made by the department in the implementation of these recommendations.

I. INTRODUCTION & SYNOPSIS

On July 17, 2001, The Americas Community Center (ACC), a Florida based non-profit agency, applied for funding from the Miami-Dade County Office of Community and Economic Development (OCED), the department charged with administering funds received from the federally funded Community Development Block Grant Program. Under its proposal, ACC stated that it would provide very low to moderate-income residents of Miami-Dade County (**the County**) with “job search and employability skills, education, and training.” These services could be provided to eligible residents free of charge through the Community Development Block Grant (CDBG) funding. ACC received a total award of \$120,000 for program year 2002, which ran from January 1, 2002 through December 31, 2002.

OCED's monitoring of the ACC contract failed to detect that ACC charged and collected fees from program participants for services that were to be covered by CDBG funds. The terms of the contract for the CDBG funds do not allow ACC to charge or collect fees for any of the services without prior approval from OCED. The ACC's project entitled "*Working Together to Build a Better Future*," charged program participants a fee of \$50.00 for permanent job placement and \$15.00 for temporary job placement. Additionally, ACC charged and collected fees from program participants for seminars ranging from \$5.00 to \$25.00 and charged a fee of \$10.00 to post participant resumes on its website.

II. BACKGROUND

The Americas Community Center, Inc., is an active Florida non-profit corporation that was incorporated on June 14, 2001. The principal office is in Broward County and is located at 2300 N. Commerce Parkway, Suite 106, Weston, Florida 33326. The ACC also has an office in Miami-Dade County located at 15668 SW 72 Street, Miami, Florida 33196. The corporation was organized for the purpose of operating exclusively as a charitable social services and educational organization. Mr. Fabio Andrade is the President, CEO, and Registered Agent for ACC. Mr. Andrade is also a licensed real estate salesperson in the State of Florida. Mr. Andrade is also affiliated with three additional Florida corporations, an active non-profit and two inactive for profit corporations, as Registered Agent, President, Vice President, and/or Director.

The CDBG Program is a federally funded program administered by the U.S. Department of Housing and Urban Development (HUD). The purpose of these funds is to assist with revitalizing and improving low to moderate income communities, families, and/or persons, whose income levels fall within limits set forth by HUD. Under this program, state and local governments submit proposals annually to HUD requesting federal funds to revitalize and improve low to moderate-income areas. The ACC's proposal indicated that its activities were designed to serve low to moderate-income persons that meet the requirements outlined in Title 24, Section 570.208(a) (2) of the CDBG guidelines.

The County's OCED is responsible for administering these funds locally. Once a year, OCED puts out a Request for Application (RFA) to the public for CDBG funds. Organizations that seek to receive funds under the County's CDBG program must submit their proposals to OCED during the submission period. Each application is then reviewed to determine if the proposed activities meet the CDBG funding guidelines outlined in Title 24, Section 570.208(a) (2). OCED staff then makes funding recommendations based upon CDBG activity eligibility, program feasibility, past performance, and community need. OCED recommendations are then forwarded to the County Manager for his review and

recommendations. The County Manager's recommendations are then forwarded to the Board of County Commissioners for the final review and award of funds.

OCED notifies each recipient in writing about the funding award and advises them who to contact to receive their award. OCED is responsible for disbursing CDBG funds to recipients through electronic transfers, direct payments, and/or reimbursements for eligible expenditures that are outlined in the recipient's proposal. Recipients of CDBG funds are required to sign a standard CDBG contract with Miami Dade County for the term of the award period.

III. OIG REVIEW

The Office of the Inspector General (OIG) received an anonymous complaint containing numerous allegations against the ACC. For the purpose of this inquiry, OIG Special Agents focused on the following allegations:

- A. The charging and collecting of fees for program services that were to be covered in the ACC's proposal for funding from the CDBG, including a fee for job placement; and
- B. The use of Miami-Dade County funds to operate a similar program in Broward County.

A. FEES CHARGED BY ACC TO CDBG PROGRAM PARTICIPANTS

In its original proposal (**Exhibit A**), ACC requested a total of \$395,048 from OCED to fund its program in its entirety. OCED recommended an award of \$60,000 to ACC. The funds awarded were to assist ACC in providing the services outlined in its proposal.

On February 20, 2002, the County and ACC entered into an agreement that outlined the duties and responsibilities of ACC as a recipient of CDBG funds (**Exhibit B**). On April 22, 2002, an amendment (**Exhibit C**) to the CDBG contract between the County and ACC was executed. The amendment awarded ACC an additional \$60,000, making its total CDBG funding amount \$120,000.

1. Seminar Fees/User Fees

OIG Special Agents reviewed documents obtained from OCED that contained ACC's budget. The budget outlines items for which OCED funds will be used and items to be paid from other funding sources. The budget identifies the additional funding sources as Washington Mutual, Sun-Sentinel, *nominal user fees*, and various sponsors and donors. According to OCED Contracts Supervisor Felipe Rivero, III, agencies are encouraged to seek additional funding from outside sources, however, the charging of nominal user fees

requires prior approval from OCED. OIG Special Agents spoke with Rickert “Rick” Glasgow, Director, Community Development Division – OCED. Mr. Glasgow stated that charging fees will have an impact on the amount of funding an agency receives, which is why prior approval is required. Agencies that are approved to charge and collect fees would be allowed to utilize this “program generated income” to provide services. OCED would then reduce the cost of operation per proposed individual based upon the approved fees. For example, if the cost is \$10.00 per individual to operate a program and the agency is approved to charge a \$2.00 user fee, then OCED would only fund \$8.00 per individual instead of \$10.00. Mr. Glasgow stated that there were only a few agencies authorized to charge and collect fees. ACC was not one of those agencies.

In or around May 2003, OIG Special Agents met with Mr. Andrade and advised him that the OIG was conducting a review of ACC’s program. At that time, Mr. Andrade voluntarily provided the OIG with ACC’s participant registration forms and seminar sign in sheets for program year 2002. On December 16, 2003, OIG Special Agents interviewed Mr. Andrade and Mr. Daniel Hurtado, C.F.O. of ACC, to discuss the charging of user fees. During the course of the interview, Mr. Andrade was asked several times whether or not the ACC charges participants fees for any of the services offered through his agency. Mr. Andrade stated the agency does not charge fees to Miami-Dade County participants. According to Mr. Andrade, only program participants from Broward County, and/or Miami-Dade County residents who chose to attend activities in Broward County, were charged fees for services. When shown the seminar sign-in sheets (**Exhibit D**) that indicate fees were collected for Miami-Dade seminars, Mr. Andrade changed his response. Mr. Andrade explained that the agency did charge and collect fees for seminars and job placement during program year 2002. Mr. Andrade also stated that the agency charged a \$10.00 fee for resume posting on its website. Mr. Andrade then referred to the “nominal user fees” item in the budget submitted to OCED as the basis for charging the seminar fees.

Income generated by a CDBG funded activity, such as fees collected for seminars, is considered to be “Program Income.” The retention and use of program income must be approved by OCED, and is closely monitored by OCED to ensure compliance with County and Federal rules and regulations. Mr. Andrade argues that OCED’s approval of the budget including the “nominal users fees” item amounted to OCED’s approval of the program income generated by the collection of seminar fees. The contract with OCED requires that ACC obtain the approval of OCED not only to collect and retain program income, but OCED approval is required before ACC may expend program income. ACC also fails to provide an accurate accounting of the fees charged and collected, as well as an accounting of the expenditure of the seminar fees.

ACC provided OIG Special Agents with documents purporting to be sign-in sheets of various seminars and workshops. A review of a random sampling of these documents reveals no consistent system of tracking the program fees used to substantiate the

budget item. ACC is required under the contract with OCED to keep records “that document all actions undertaken to accomplish the ‘Scope of Services’”¹ The sign-in sheets do not consistently record such vital information as: type of seminar, location of seminar, amounts of fees charged per participant, date of seminar and subject matter of seminar.² Some of the sign-in sheets contain some of the information but not all the information that would enable an accurate accounting of the “nominal user fees.”

In a letter to the OIG dated January 15, 2004, Mr. Hurtado, CFO of ACC, specifically points to the sections of the contract with OCED regarding program income, and then points to the budget as the basis for charging “nominal user fees”. In the same letter, Mr. Hurtado then states that ACC “did not charge user fees in any of our Dade County related programs. Any monies received ...have a connotation of being a donation.” This statement is contradicted by ACC records which clearly list fees charged for Miami-Dade seminars. Additionally, the statement contradicts Mr. Andrade’s admission to OIG agents that fees were charged. Clearly, ACC cannot decide whether the seminar fees are donations or user fees. However labeled, ACC is not complying with its duty under the contract to accurately report this program income.

OIG Special Agents also reviewed ACC’s Financial Statements and General Ledger,³ as well as a donation list for 2002 (**Exhibit E**). These documents record amounts of monies associated with seminars. The donation list contains twelve (12) entries with reference to seminars.⁴ Only three (3) of these entries are identified by date and eight (8) reference a topic such as “teacher seminar” but do not record a date. The remaining entry is a notation of “seminar” with no reference to a date or topic. All of these entries are marked as “various donors” with no indication as to the individual who donated the money. The general ledger lists the same information and in the same manner, i.e., it contains no identifying information as to the amounts of fees charged or the individuals charged. The financial statement contains an entry marked “program user service fees” with an amount. A review of the general ledger does not provide any identifying information regarding the “program user fees.” In conclusion, these documents fail to properly record the fees documented by the seminar sign-in sheets. Moreover, no other documentation was

¹ CDBG contract between ACC and the County, § II K 6, p.12.

² The sign-in sheets do not show any consistency in fees charged; some sheets do not show any fees, others list fees for some but not all seminar attendees, and yet others show different fees for the attendees without an explanation as to the varying amount of fees. For example, one sign-in sheet for a Teacher’s seminar held in Miami-Dade (date unknown) indicates that of the nine (9) seminar participants seven (7) were charged \$20.00, one (1) was charged \$10.00 and one (1) had a notation of fee “owed”, but no amount was specified.

³ The Financial Statements and the General Ledger combine the financial information of the Broward office with that of the Miami-Dade ACC office.

⁴ There are additional entries regarding seminars but they appear to be corporate donations for the sponsorship of seminars.

provided by ACC to account for its charging of seminar fees as part of its budgeted “nominal user fees” item.

2. Job Placement Fees (Required “Donations”)

While ACC may claim that the budget item “nominal users fees” encompasses the “fees” charged for seminars by the CDBG funds, it does not account for the “donation” exacted from program participants upon temporary or permanent job placement. During the December 16th, 2003 interview, Mr. Andrade was specifically asked by OIG Special Agents about the fees charged for job placement. Mr. Andrade stated this was not a “fee.” According to Mr. Andrade, program participants were asked to make a “donation” to the agency as a condition of the service contract (**Exhibit F**) all participants are required to complete. Mr. Andrade stated that participants who could not afford the fees were never denied services. Subsequent to the December 16, 2003 interview, Mr. Andrade voluntarily provided OIG Special Agents with two samples of the ACC’s standard Employment Application that all participants complete. At the end of the application is a section marked **Service Contract – Contrato De Servicio**. Item 3 under this section reads:

3. Al obtener el empleo el aplicante **debera** dar una donacion minima a la organizacion de \$50.00 y si el empleo es temporal solo \$15.00 (**Once employment is obtained, the applicant shall give a minimum donation to the organization of \$50.00 or if the employment is temporary only \$15.00.**)
(Emphasis added)

It should be noted that a preliminary condition of job placement through ACC, for which CDBG funds were awarded, is the signing of the contract requiring the “donation” upon successful job placement. The “donation” is thus limited to those participating in the CDBG funded program.

According to Mr. Andrade, some but not all of the participants made the job placement donations. Mr. Andrade stated that no follow up was done to ensure that each participant placed made a donation. According to Mr. Hurtado, CFO of ACC, the agency maintains the names of contributors and donors but does not keep a record of whether or not the contribution/donation was identified for a specific purpose. The ACC’s Financial Statements and General Ledger, and the donation list for 2002 previously referenced, show that the ACC initially maintained the names of the individual contributors/donors, but then began to lump the contributors under the heading “Various Donors” or “Various Vendors.” In fifty-two (52) of the entries there are no notations as to the identity of the contributors, nor are there notations to indicate the purpose of the contributions; the only entry is an amount.

Thus, regarding the amounts collected upon job placement, ACC failed to obtain the

approval of OCED to collect, retain and use this program income. Additionally, there is insufficient documentation of the “donations” or documentation of the expenditure of this program generated income. ACC is required under the contract with OCED to report all program income and the disposition of program income. Additionally, ACC is required to provide OCED with a written explanation and must obtain written approval by OCED for any activities it funds with program income. As with the “seminar fees,” ACC has not maintained accurate documentation to sufficiently and properly explain the fees collected to accomplish the scope of services, i.e. the job placement, and any program income generated by that particular service which is funded with CDBG funds.

3. OCED Contract Monitoring

OIG Special Agents spoke with David W. Sweet, OCED Contracts Officer assigned to the ACC. Mr. Sweet stated that each recipient of CDBG funds is subject to “monitoring,” which is a review conducted by OCED during the course of the award period. Mr. Sweet stated that he conducted a monitoring review of the Americas Community Center on June 19, 2002. Mr. Sweet stated he did not recall any issues or problems with the ACC review. Mr. Sweet stated he did not know the ACC was charging and collecting fees from program participants, and did not recall seeing any documents or any other indicators that suggested fees were being charged.

A review of the monitoring report (**Exhibit G**) shows the following question relating to program income: *“III. FISCAL SECTION, 6. Is the project generating program income? If so, identify the types of program income and describe how they are used in the ‘Comments’ Section.”* Mr. Sweet checked the “NO” column.

Additionally, a review of the four Quarterly Progress Reports (**Exhibit H**) submitted to OCED by ACC shows that the section marked *“PART 9: Activity Status/Accomplishments Information, question 7 “Create Program Income? (Y/N)”* is answered “N” for each report. The Quarterly Reports are signed by ACC staff and submitted to OCED per the contract’s terms. Mr. Sweet explained to the OIG that if an agency has any “program generated income” the funds must be turned in to OCED unless the agency received prior approval to use the funds. The ACC contract with OCED clearly states that ACC shall comply with the provisions in the OCED Contract Compliance Manual regarding Program Income. The OCED Contract Compliance Manual requires prior approval by OCED before the retention of Program Income. Mr. Sweet also stated that approval is required prior to the charging of any fees for CDBG-funded services because it would be considered a double payment because the CDBG recipient is being paid twice for the same service. ACC’s contract with OCED also states that cumulative program income information must be submitted as part of the Quarterly Progress Report. Furthermore, the contract also requires OCED’s approval of any activities to be undertaken with the use of program income. Mr. Sweet also stated that had he known ACC was charging fees for covered services he would

have advised them to cease this practice immediately.

B. THE AMERICAS COMMUNITY CENTER'S USE OF CDBG FUNDS

Anonymous information received by the OIG alleged that ACC used the Miami-Dade County disbursed CDBG funds to operate the ACC office located in Broward County. In order for ACC to use CDBG funds to operate the Broward office, as alleged, ACC would have to have direct control over the awarded funds. OIG Special Agents contacted Calvin Morris of the OCED Fiscal Department regarding the disbursement of the funds awarded to ACC. Mr. Morris stated that OCED does not provide lump sum payments to any CDBG recipient.

OCED maintains control of all CDBG funds and disburses the funds to the recipient through direct payments to the vendor and/or direct payments to the recipient. Mr. Andrade advised the OIG that ACC maintains separate bank accounts for its Miami-Dade and Broward County locations.

OIG Special Agents conducted a review of the requests for reimbursement and requests for direct payments to vendors submitted by ACC to OCED. When requesting direct payments to vendors, ACC submitted copies of invoices to OCED. After a review and approval of the invoices, OCED would pay the vendor directly. Otherwise, ACC submitted to OCED copies of invoices and copies of canceled checks for reimbursement of allowable expenditures. In either case, ACC had to sign a certification stating "I certify that all goods and services have been received, that they fall within the contractual scope of services and budget, and that these costs have not been paid previously by the funding source." Mr. Andrade signed and submitted a payment request on September 30, 2002 for direct payment to a vendor, Office Depot, for the billing period ending 6/12/02, in the amount of \$469.83. On December 10, 2002, ACC submitted to OCED a request for reimbursement with a copy of a check and the same invoice from Office Depot in the amount of \$469.83 previously submitted for direct payment. The check, presented as proof of payment, was issued on ACC's Broward bank account and was negotiated in July 2002. In this instance, it appears that Office Depot was paid twice for the same invoice and that County funds were ultimately used for both of those payments. Not only is this an example of ACC's improper use of the Broward account to fund the Miami-Dade program, but of its poor record keeping.

OIG Special Agents subpoenaed the ACC's bank records and conducted an analysis of all deposits and withdrawals for the Miami-Dade account and the Broward account. The analysis showed that funds from the Broward account were used to subsidize the Miami-Dade account. The OIG found that a check from the Broward account at Union Bank for \$1,000 was deposited into the Miami-Dade account in Union Planters Bank in August 2002. Additionally, there were several checks written out of the Broward Union Bank account that paid ACC's Miami-Dade rent, office supplies, graphics and phone bills.

OIG Special Agents spoke with Mr. Andrade and Mr. Hurtado about the use of Broward funds to subsidize the Miami-Dade office. Mr. Andrade and Mr. Hurtado both stated that this practice was utilized because the reimbursement process for Miami-Dade County is very slow. Both Mr. Andrade and Mr. Hurtado stated that the funds taken from the Broward account were never reimbursed or returned back to the Broward account from the Miami-Dade account. An analysis of the bank accounts confirmed that these funds were never returned or reimbursed to the ACC office in Broward. The use of Broward funds for the Miami-Dade ACC program raises some concerns.

First, ACC is required to notify OCED of any additional funding received for any contracted activity. Second, if the Broward funds are not being returned/reimbursed to the Broward account, then the CDBG funds are not being used as reimbursement of the contracted program expenses, i.e. not reimbursing out of pocket expenses. Third, ACC did not identify the Broward ACC program as one of its funding sources when it entered into the OCED contract. Fourth, the commingling of funds from the Broward account prevents an accurate accounting of the Miami-Dade County program funded by CDBG monies.

Of greater concern are the findings that the final disbursement of CDBG grant funds, check #01466031 in the amount of \$1,122.80 issued on January 14, 2003, was deposited not into the ACC's Miami-Dade bank account but into ACC's Broward account (**Exhibit I**). The CDBG grant is strictly a reimbursement grant to be used to fund social services and community redevelopment in Miami-Dade County. A review of ACC's Miami-Dade accounts through May 31, 2003 reveal that the final disbursement of CDBG funds was not reimbursed or returned to ACC's Miami-Dade account. Furthermore, there was an additional check in the amount of \$1,593.81 from the Miami-Dade ACC account deposited into the Broward ACC account in February 2003.⁵

IV. CONCLUSION

The inquiry conducted into this matter by OIG Special Agents revealed sufficient evidence to support the following:

- 1) The Americas Community Center charged fees for covered services, failed to report the collection of the fees (program income) and affirmatively denied that it was collecting fees/generating income from program activities.

⁵ While this amount was not from the CDBG grant, ACC Miami-Dade had been awarded a Community Based Organization grant from the Miami-Dade County Department of Human Services which began disbursements in February of 2003.

- 2) OCED's monitoring of this contract failed to detect that fees were, in fact, being charged.
- 3) The Americas Community Center charged program clients a fee for posting their resumes on its website.
- 4) The Americas Community Center exacted "donations" from program clients as a condition of receiving CDBG funded services (job placement services).
- 5) The Americas Community Center collected funds from various sources without maintaining sufficient documentation of the donor/contributor.
- 6) The Americas Community Center received funds from OCED as reimbursement for expenses for which the Miami-Dade office was never out-of-pocket, and did not notify OCED of this additional funding.
- 7) The Americas Community Center did divert CDBG funds awarded for a Miami-Dade program to the Americas Community Center in Broward County.

The OIG defers making any recommendations until after reviewing responses to this draft report.

V. RECOMMENDATIONS

The OIG recognizes that OCED, in its response, has indicated that it will implement corrective action. The OIG recommends that OCED follow through with its stated corrective actions of:

1. "Inclusion in the monitoring instrument of an item to specifically confirm that the agency has not been charging fees or acquiring donations from the clientele served through the agency's CDBG grant."
2. "Limited monitoring of activities that have monitoring findings to ensure that the implemented agency has cleared the cited deficiencies."
3. "Consulting with its assigned County Attorney to modify stipulations of future CDBG contracts with Miami-Dade County to impose stronger sanctions, including the possible return of funding awards, on those agencies that fail to meet any of the two conditions" noted by OCED.

4. "Seeking the advice of the County Attorney to determine if the County may recover any funding that may have been improperly used by the agency."

In addition, the OIG recommends:

5. That OCED suspend future grant funding to ACC until the cited deficiencies have been cleared and a pre-grant monitoring/survey of ACC's books, records and operational accounts is completed to ensure that the agency is otherwise compliant with general public grant funding guidelines.
6. That the County Manager's Office identify whether ACC received any other County-distributed funds, and, if so, to conduct a monitoring survey of those funds and the associated program receiving said funds, to ensure that ACC is compliant with funding guidelines.

CC: Mr. Tony Crapp, Assistant County Manager
Mr. Bryan Finnie, Director, Office of Economic Development
Ms. Cathy Jackson, Director, Audit and Management Services Department
Mr. Fabio Andrade, President and CEO, The Americas Community Center

Clerk of the Board (Copy Filed)