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CITY AUDITOR'S OFFICE

TO: CRA Board of Commissioners  
John Szerlag, City Manager  
THRU: Margaret L. Krym, City Auditor *MLK*  
FROM: Oscar B. Claudio, Assistant City Auditor *ABC*  
DATE: March 12, 2013  
SUBJECT: Community Redevelopment Agency (CRA) Transition Audit

Attached is the final report for the Community Redevelopment Agency (CRA) Transition Audit. The audit covered the CRA's operations during fiscal years 2011 and 2012. The objectives and scope of the audit are included in the body of the report.

The audit identified and the report details eleven (11) findings. Management's responses to these findings are incorporated into the body of the report.

We wish to thank John Jacobsen, Helen S. Ramey, Phyllis DeMarco and Virginia Gladick for their cooperation and assistance during the course of our work. In addition, we appreciate the cooperation and assistance extended by City management and staff.

Should you have questions or need clarification, please contact Oscar Claudio 242-3382 or ext. 3382.

C: Mayor and Council Members  
Dolores Menendez, City Attorney  
Rebecca van Deutekom, City Clerk  
Victoria Bateman, Financial Services Director  
Melanie Purcell, Assistant Financial Services Director  
Paul Dickson, Building Official  
Terri Hall, Senior Assistant to the City Manager/Legislative Coordinator  
Audit Committee



CITY AUDITOR'S OFFICE

Community Redevelopment  
Agency (CRA)  
Transition Audit

March 12, 2013

## EXECUTIVE SUMMARY

The City Auditor's Office has conducted and completed the Community Redevelopment Agency (CRA) Transition Audit. The audit was conducted in response to a request from the City Manager and was approved by the CRA Board of Commissioners. The period reviewed during the audit was the Fiscal years 2011 and 2012 which preceded the transition of CRA governance to the City Manager. This audit was performed in accordance with the generally accepted government auditing standards.

The objectives of the audit were to: 1) review selected expenditures and other financial transactions to verify proper authorization, documentation and public purpose; 2) evaluate the effectiveness of internal controls as they relate to the processing of financial transactions including contracts, purchase orders, purchasing card purchases, leases and other commitments; and 3) review various areas of governance requirements such as monthly or quarterly reports, adopted budget resolutions and compliance with Florida State Statutes, City Ordinances, policies and procedures, CRA By-laws and CRA Matching Facade Grant Program guidelines. To achieve these objectives, the audit performed various procedures, which are stated in the Scope and Methodology section of this report.

The audit identified eleven findings and provides recommendations to address them. Although these findings were not material in nature, we believe they warrant management's attention. All eleven were discussed with management and their responses are included. These concerns are as follows:

- One of the seven facade matching grant funds was not secured by a lien against the grantee's property.
- Receipts and invoices supporting grantee expenditures showed no indication of being verified by the CRA as valid payments prior to reimbursement of project costs.
- Several facade grant program project costs reimbursed to grantees were discovered to be ineligible expenditures.
- Some facade grant program grantees did not seek competitive prices or obtain at least three estimates for project costs in excess of \$20,000.
- The CRA has no documentation to evidence that actual inspections to ensure compliance to grant requirements were performed on the completed facade improvement projects.
- Liens against properties owned by facade grant program grantees were not properly recorded in the Lee County Clerk of Circuit Court's Public Records Office.
- Some items paid with a purchasing card were not in compliance with the purchasing card policy and procedures.
- One contract examined did not include evidence of having been reviewed by legal counsel.
- For one of the transactions we examined the CRA Board of Commissioners had delegated their approval authority to the CRA Executive Director.
- A contract for services stipulated payment based on an hourly rate for hours worked (with a weekly maximum amount) but detail of hours worked were not provided on the invoices.
- The Fiscal Year 2011 Consolidated Annual Financial Report (CAFR) did not disclose the September 30, 2011 remaining amount of indebtedness that future CRA revenues were obligated to repay.

## **BACKGROUND**

Florida Statute Chapter 163 Part III, also known as the Community Redevelopment Act of 1969 (the Act), authorizes the creation of redevelopment agencies for the purposes of redeveloping slum and blighted areas, which constitute a serious and growing menace which are injurious to public health, safety, morals and welfare of the residents. The existence of these areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability imposing onerous burdens, which decrease tax base and reduce tax revenues, substantially impairs or arrests sound growth, retards the provision of housing accommodations, aggravates traffic problems and substantially hampers the elimination of traffic hazards and the improvement of traffic facilities. The Act provides requirements that address the manner in which such an agency may be established, the powers of the agency, funding of the agency, expenditure restrictions, and reporting and audit requirements.

Community Redevelopment Agencies (CRAs) are funded through tax increment financing whereby the CRA is to receive annually 95 percent of the difference between the amount of ad valorem taxes levied by each taxing authority (exclusive of amounts derived from debt service millage) on taxable properties within the designated Community Redevelopment Area and the amount of taxes that would have been produced by the millage rates levied by the taxing authorities prior to the effective date of the CRA.

On October 1, 1984, the Cape Coral City Council (City Council), by virtue of Ordinance 60-84, authorized the creation of the Cape Coral Community Redevelopment Agency (CRA). The Cape Coral City Council established CRA's trust fund on April 27, 1987 by passing Ordinance 31-87 and the initial funding provided by the City was \$20,000.

On October 29, 2012, the City Council approved Ordinance 33-12 to amend City Code of Ordinance Chapter 27 Section 27-1. Ordinance 33-12 dissolved the CRA's Board of Commissioners and provide for the City Council to act as the CRA's Board of Commissioners.

On November 7, 2012, the Cape Coral City Manager requested that the City Auditor conduct an audit of the Cape Coral Community Redevelopment Agency (CRA).

## **OBJECTIVES**

The objectives of the audit were to: 1) review selected expenditures and other financial transactions to verify proper authorization, documentation and public purpose; 2) evaluate the effectiveness of internal controls as they relate to the processing of financial transactions including contracts, purchase orders, purchasing card purchases, leases and other commitments; and 3) review various areas of governance requirements such as monthly or quarterly management reports, adopted budget resolutions and compliance with State Statutes, City Ordinances, policies and procedures, CRA By-laws and CRA Matching Facade Grant Program guidelines.

## **SCOPE AND METHODOLOGY**

The audit covered CRA's operations during fiscal years 2011 and 2012. The audit procedures included review of applicable City policy and procedures and ordinances, CRA By-laws and policy and procedures, Florida State Statutes and other regulatory requirements; and review of facade grant contract agreements and facade grant liens. These procedures provided an overview of the required administrative controls in place related to the CRA operations. Also, these procedures were conducted to determine compliance with applicable regulatory requirements.

In addition, the audit tested financial transactions and documents such as invoices, receipts and cost estimates and other activities during fiscal years 2011 and 2012. Judgmental sampling was used to improve the overall efficiency of the audit. Original records of financial reimbursements were reviewed and copies were used as evidence and verified through physical examinations.

Lastly, CRA staff and management and other employees that have affiliation or working knowledge of CRA operations were inquired in order to develop an understanding of relevant internal control structures, obtain sufficient information of its operations and to verify the validity of the gathered data and documents.

This audit was neither designed nor intended to be a detailed study of every relevant system, procedure or transaction. Accordingly, the opportunities for improvement presented in this report may not be all-inclusive of areas where improvement may be needed. Although we exercised due professional care in the performance of this audit, this should not be construed to mean that unreported noncompliance or irregularities do not exist. The deterrence of fraud is the responsibility of management.

## **STATEMENT OF AUDITING STANDARDS**

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to afford a reasonable basis for our judgment and conclusions regarding the organization, program, activity or function under audit. Also, the audit includes assessment of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **RESULTS OF AUDIT**

### **1. One of the seven facade matching grant funds was not secured by a lien against the grantee's property.**

The selection criteria established by the CRA Facade Matching Grant Program guidelines require grant program funds be secured by a lien against the applicant's property. There was no mention of any exceptions in the established selection criteria.

The audit reviewed all of the seven facade fund grants awarded during fiscal years 2011 and 2012. The review disclosed that one of the seven awarded grant funds was not secured by a lien against the Grantee's property because said property had an existing mortgage at the time of application. Instead of a lien, the property owner signed a "Guaranty Agreement" with the CRA Board of Commissioners in an effort to fully comply with all grant terms and conditions including full payment of grant funds and expenses due the CRA. However, this "Guaranty Agreement" was not recorded in the Lee County Clerk of the Circuit Court's Public Records Office.

Without the security of a lien against the property, the CRA loses the protection or security of the Grantee's obligation to complete the facade improvements and comply with the facade grant agreement. The CRA may also run the risk of losing control of the property and grant fund if the Grantee sells the property to another individual.

**Recommendation #1:** Since the facade grant program guidelines make no mention of any exceptions to the requirement for a recorded lien, a lien should be immediately placed against this property as required by the CRA Facade Matching Grant Program guidelines. CRA should also ensure that the lien is recorded in the Lee County Clerk of Circuit Court's Public Records Office. Lastly, management should request the City's Legal Department to review and determine the validity of the "Guaranty Agreement" between the CRA and the property owner.

**Management Response**

*The CRA Executive Director will be recommending to the CRA Board that the facade grant program be discontinued at this time.*

*Finance will ensure that all liens will be placed against the property. The lien will be recorded in the Lee County Clerk of Circuit's Public Records Office.*

*The CRA Executive Director will work with the City Attorney's office to determine the validity of the "Guaranty Agreement".*

**2. Individual Receipts and invoices supporting grantee expenditures showed no indication of being verified by the CRA as valid payments prior to reimbursement of project costs.**

The Facade Matching Grant Program guidelines require the CRA Executive Director or his designee to verify the validity of all grant expenses submitted by facade grant program Grantees for reimbursement of project costs.

Review of individual receipts and invoices submitted by the Grantees for reimbursement of project costs disclosed no indication or evidence of review or verification by the CRA Executive Director or his designee. However, review of the overall facade grant tracking sheet for each grant indicated that the Executive Director's designee did review all paid receipts and invoices pertaining to completed work as indicated by his one – time initials. The audit discovered that several ineligible expenses were paid and reimbursed to facade grant program Grantees suggesting that the individual receipts and invoices were not verified by the Executive Director or his designee prior to reimbursement. In our opinion, such expenses should not have been considered properly authorized for reimbursement.

**Recommendation #2:** Management should require verification of all facade grant expenditures prior to approval of payment of project cost reimbursements in order to avoid or eliminate payment of ineligible expenses. Also, in order to create an adequate audit trail, responsible staff should initial all receipts and invoices to evidence review and approval of the submitted documents for payment. Implementation of these control procedures should provide protection against payment of unauthorized expenditures.

**Management Response**

*Same as #1.*

**3. Facade grant program project costs submitted by the grantees for reimbursement were discovered to be ineligible expenditures.**

The audit disclosed that the CRA approved reimbursement of ineligible project costs submitted by several program grant grantees. These ineligible expenditures were for permitting fees and payments for improvements made prior to application dates. This situation occurred because CRA's responsible staff did not verify the expenditures submitted for reimbursement prior to payment. In addition, there was no evidence of supervisory review or monitoring of the staff's work pertaining to this process.

As a result, approximately \$57,800 of ineligible project costs was reimbursed to several grantees. Majority of the reimbursed ineligible expenditures were for improvements made prior to grant program application dates.

The Facade Matching Grant Program guidelines do not allow payment of ineligible expenditures including permitting fees, improvements made prior to application date and other expenditures listed in the guidelines.

**Recommendation #3:** Management should require mandatory verification of all facade grant expenditures prior to approval of payments of project cost reimbursements in order to avoid or eliminate payment of ineligible expenses. Also, in order to create an adequate audit trail, responsible staff should initial all receipts and invoices to indicate review and approval of all submitted documents for payment. Implementation of these control procedures should provide protection against payment of unauthorized expenditures.

<b>Management Response</b>
Same as #1.

**4. Some facade grant program grantees did not seek competitive prices or obtain at least three estimates for project costs in excess of \$20,000.**

The review revealed that facade grant program grantees did not obtain at least three estimates for project costs in excess of \$20,000. These issues were found in the Papa Joe's Restaurant, Gulf Plaza and Milton Street Plaza facade improvement projects. It appeared that the grantees' lack of knowledge in complying with the requirements of the established procurement procedures caused this condition to happen. Also, there was no evidence of CRA's review or monitoring of the Grantees' work pertaining to this process.

The lack of a sufficient number of bids or project cost estimates could result in not finding the lowest responsive bidders or estimates. In addition, the fewer number of estimates lessened the opportunity to select the best available candidate for the projects.

The procurement procedures established by the Facade Matching Grant Program require grantees to seek competitive prices of at least three estimates for project costs in excess of \$20,000.

**Recommendation #4:** Management should require all facade grant program grantees to comply with the established procurement procedures. Internal controls in this area should be strengthened by requiring the staff responsible for the facade grant program to monitor and review the grantees' procurement processes. Proper oversight procedures provide management with reasonable assurance that functions are performed accordingly.

<b>Management Response</b>
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Same as #1.
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**5. The CRA has no documentation to evidence that actual inspections to ensure compliance to grant requirements were performed on the completed facade improvement projects.**

The facade Matching Grant Program guidelines require grantees to arrange for an on-site inspection of the completed improvement projects. The CRA Executive Director or designee is required to perform this inspection to determine compliance with the terms of the facade grant agreement.

Review of the facade grant tracking sheets indicate that the CRA's Executive Director's designee reviewed the final inspections of completed construction projects as indicated by his one-time initials on the tracking sheets. However, the audit revealed that no inspection reports or any documents exist to evidence that inspections were actually performed. The audit showed that facade grant program grantees were reimbursed for project costs even without this detailed evidence of the inspections of the completed facade improvement construction projects.

Since CRA did not have this evidence of written inspections for the completed projects, it cannot be assured that the terms of the facade grant agreement were honored prior to final reimbursement of project costs. In addition, without written inspection reports, discrepancies may not have been noted and fixed prior to final reimbursement of project costs.

**Recommendation #5:** Management should require inspections of completed improvement projects to be documented in inspection reports to ensure errors, discrepancies and other deficiencies are noted or reported. Any errors, discrepancies or deficiencies should be fixed prior to final reimbursement of project costs. This process should be made a mandatory requirement before grantees are reimbursed with project costs. The inspection reports should serve as a mechanism to define and monitor the progress of correcting deficiencies with established and necessary actions. Implementation of these recommended controls could provide management with reasonable assurance that the terms of the agreements are honored.

<b>Management Response</b>
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Same as #1.
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**6. Liens against properties owned by facade grant program grantees were not properly recorded in the Lee County Clerk of Circuit Court's Public Records Office.**

We observed that six of the seven liens against the Grantees' properties were under the name of Cape Coral Community Redevelopment Agency when recorded in the Lee County Clerk of Circuit Court's Public Records Office. We believe that lack of supervisory review and improper supervision of staff's work and staff's lack of effort to ensure liens were recorded correctly caused this condition.

When the liens against the owners' properties are not properly recorded, the CRA loses a degree of protection and assurance that the owners' will fulfill their obligation to complete and comply with the facade improvements as described in the Facade Grant Agreement. If this is not corrected, the CRA may also run the risk of losing control of the liens if the owners sell their properties to different individuals.

The Facade Grant Agreement requires the Grantees (property owners) to agree to execute a recordable facade grant lien on their properties. According to FS Statute Chapter 317 Section 71, the liens are to be recorded in the Office of the Clerk of Circuit Court wherein such business is conducted.

**Recommendation #6:** The CRA should implement supervisory controls that will ensure staff's performance are monitored and reviewed to avoid this error from happening in the future. More importantly, the CRA should immediately take action to correct the erroneous recording of these liens in the Lee County Clerk of Circuit Court's Public Records Office.

<b><i>Management Response</i></b>
<i>Same as #1. Finance will ensure that the liens are properly recorded at the Lee County Clerk's Office.</i>

**7. Some items paid with a purchasing card were not in compliance with the purchasing card policy and procedures.**

The purchasing card (P-Card) policy and procedures prohibit use of the P-Card to pay for meals, telephone services and other items mentioned in the policy and procedures manual.

The audit disclosed that the P-Card was used to pay for CRA telephone services and meals and other food supplies for CRA Commissioners and staff. Finance staff was motivated to deviate from the policy and procedures because by using the P-Card to pay for telephone services the City receives a percentage refund from the bank. The percentage of refund is based on the volume of telephone use. In addition, since the elimination of the petty cash fund, CRA staff used the P-Card to pay for meals and other food charges for convenience.

It is the audit's opinion that management's governance is undermined when employees' actions are not aligned or not in accordance with established policies and procedures.

**Recommendation # 7:** Management should revise the purchasing card policy and procedures by providing new guidelines that will be applicable to City's current practices. City employees should be informed and trained about these new guidelines.

**Management Response**

*The CRA Executive Director has designated a liaison to the CRA Board. This person will review and approve all purchase card items to ensure compliance with City's financial policies. Any exceptions will be provided to the City's Finance Director for handling. This will allow two reviews of all purchases.*

**8. One contract examined did not include evidence of having been reviewed by legal counsel.**

City procurement policies and procedures require contracts be reviewed by legal counsel prior to their execution. Of the various financial expenditures and transactions we selected for review several were related to contracts. All but one of these included language on the signature page which read, "Reviewed as to form and legal sufficiency" and were signed by legal counsel. One however, the lease for CRA office space, did not contain this evidence. We were assured by CRA staff that the lease was reviewed by counsel; however there is no evidence of that review documented on the lease. Staff advised that the original lease document was provided by the landlord and he had not included the language or place for legal sign off.

**Recommendation #8:** Management should ensure that binding contractual agreements, as required by policy, be reviewed by legal counsel and that this review be evidenced on the document.

**Management Response**

*The CRA Executive Director will ensure that the City Attorney reviews and signs all contracts prior to them going to the CRA Board.*

**9. For one of the transactions we examined the CRA Board of Commissioners had delegated their approval authority to the CRA Executive Director.**

The CRA By-laws and policies and procedures require commitments exceeding \$5,000 be approved by the Board of Commissioners.

Of the 21 test items we examined one was for a contract which committed the CRA to expend up to \$23,000. This contract was approved by the CRA Executive Director. The minutes of the CRA Board of Commissioners meeting state, "that the Board give the authority to the Executive Director to execute the contract..." The minutes did not include specific Board approval of the dollar amount for the expenditure of \$23,000. Although the contract was approved in concept, the approval given by the Board was vague and open-ended.

**Recommendation #9:** We recommend that approval for future financial commitments be in compliance with the policies set forth in the CRA By-laws and/or the Procurement and Payables Policies and Procedures employed by the City. Approval authority should not be delegated unless specifically defined and allowed by the By-laws and policies.

**Management Response**

*All financial transactions are approved by the CRA Executive Director or the Finance Director (designee) for items under \$5k. Items over \$5K are to be approved by the CRA Board.*

**10. A contract for services stipulated payment based on an hourly rate for hours worked (with a weekly maximum amount) but detail of hours worked were not provided on the invoices.**

The contract referred to in item 9 above, stipulated that the party would be paid an hourly rate with a not to exceed weekly cap of \$800. When the contractor invoiced the City the billing was for \$800 for every week with no accounting of the hours worked. Best practice is to ensure that authorization to pay is not granted if invoicing is not in compliance with contract terms. CRA staff stated that it was known to them that the contractor's hours exceeded the maximum cap paid, however without adequate detail on the invoices there is no assurance that the CRA did not overpay for these services.

**Recommendation #10:** We recommend that approval for future financial commitments be withheld if invoices do not provide adequate information to ensure compliance to contract terms.

<b><i>Management Response</i></b>
<i>Agreed. Will implement recommendation ASAP.</i>

**11. The Fiscal Year 2011 Consolidated Annual Financial Report (CAFR) did not disclose the September 30, 2011 remaining amount of indebtedness that future CRA revenues were obligated to repay.**

The audit revealed that the CRA has been complying with Florida State (FS) Statute Chapter 163.387, which requires CRA to have an annual audit of its trust fund and provide a report prepared by an independent certified public accountant (CPA) or firm. The City of Cape Coral has been including the CRA's audit report information in its annual CAFR. However, the CRA's amount of remaining indebtedness was not disclosed in the FY 2011 CAFR. It was learned during the audit that City staff was not aware of the disclosure requirement. City staff believed it was in compliance since the CRA's outstanding indebtedness for September 30, 2011 was a part of the City's overall debt obligation which was disclosed in the CAFR and the CRA's entire debt obligation was to the City.

Since the detail of debt obligation was not disclosed, third parties (banks and others) will not know how much of the CRA revenue is going to be committed or required to repay the outstanding CRA debt.

FS Statute Chapter 163.387 requires CRAs to disclose in its audit reports the trust fund's amount of remaining indebtedness.

**Recommendation #11:** Management should include in the FY 2012 CAFR a footnote to disclose the amount of indebtedness that the CRA revenues are obligated to repay.

<b><i>Management Response</i></b>
<i>Agreed. Will be implemented with the upcoming issuance of the CAFR.</i>