# Audit Follow-Up

CITY OF
ALLAHASSEE
OFFICE OF THE CITY AUDITOR

T. Bert Fletcher, CPA, CGMA City Auditor

As of September 30, 2017

# Audit of City Contracts with the Big Bend Community Development Corporation

(Report #1701, Issued December 1, 2016)

**Report #1805** 

**December 28, 2017** 

### **Summary**

This is the second follow-up on the Audit of City Contracts with the Big Bend Community Development Corporation (report #1701. issued December 1, 2016). A total of 18 action plan steps were established to address issues identified in that audit, and all 18 steps were scheduled for completion as of September 30, 2017. A total of 13 of these 18 action plan steps have been successfully completed. Seven were completed this follow-up period while six were completed in the previous follow-up period. Efforts have been initiated and are ongoing to complete four of the five remaining action plan steps. The completion of the remaining step has been temporarily deferred. In a subsequent audit, we will follow up on efforts to complete all remaining action plan steps.

In audit report #1701, Audit of City Contracts with the Big Bend Community Development Corporation (BBCDC), issued December 1, 2016, we determined enhanced oversight was needed by the Community Housing and Human Services Department (Department) for special project loan contracts and annual Community Development Block Grant contracts between the City and the BBCDC. With respect to the loan contracts, our initial audit disclosed that additional oversight will better ensure contract compliance and the protection of City interests. With respect to the grant contracts, we found in our initial audit that in some instances grant funds had been used for unallowable, inappropriate, or unsubstantiated purposes. Our initial audit also indicated that a lack of resources had contributed to the BBCDC's lack of success in providing many of the contracted services. Further, while there was some City monitoring and oversight of the grant contracts, those monitoring and oversight efforts needed to be enhanced. Eighteen action plan steps were developed by management to address the identified issues. Six of these 18 steps were completed as of March 31, 2017, as reported in our initial follow-up engagement (audit report #1712).

In regard to the remaining 12 action plan steps, each of which was scheduled for completion no later than September 30, 2017, we determined that seven were completed, four were in the process of being completed, and the completion of the remaining step had been temporarily deferred.

The seven action plan steps that were completed during this second follow-up period included the following:

- The Department adopted a definition of "special projects" and established the composition of the Special Projects Committee.
- The Department reiterated to staff the importance of the timely collateralization of loans. Further, our audit tests indicated that the Department had timely obtained a mortgage to collateralize the special project loan reviewed as a part of our follow-up audit.
- The Department has attempted to locate a list of the items included in the Ashmore Property collection (which, in part, collateralizes the Ashmore Property loan to the BBCDC).

- The Department Director requested that the BBCDC return to the City \$29,910 in grant costs questioned in our audit and determined by the Department to be non-allowable, inappropriate, or unsubstantiated (three steps).
- The operating budget approved by the City Commission for the 2018 fiscal year includes appropriations of federal and state grant funds.

The four action plan steps that were determined to be in progress included:

- Providing to the Commission an annual report on the status of outstanding special project loans.
- Obtaining certificates of insurance on an annual basis for the purpose of verifying properties provided as collateral are appropriately insured.
- Executing monitoring plans for the special loan contracts.
- Enhancing the Department's monitoring of and oversight processes for loan and grant recipients.

The one action plan item that was deferred involves the Department's determination of the financial viability of the BBCDC and its ability to continue to provide services to low-income households. Initiation of this step is pending the final resolution of issues relating to the allowability of grant costs claimed by the BBCDC.

In a subsequent follow-up engagement, we plan to address the status of management's efforts to complete the remaining action plan steps that are in progress or deferred as of September 30, 2017.

We appreciate the cooperation and assistance provided by Department management and staff during this audit follow-up.

# Scope, Objectives, and Methodology

We conducted this audit follow-up in accordance the International Standards with for Professional Practice of Internal Auditing and Accepted Government Auditing Generally Standards. Those standards require we plan and perform the audit follow-up to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit follow-up objectives.

## Original Report #1701

The scope of our initial audit (report #1701) focused on the contracts between the City of Tallahassee (City) and the Big Bend Community Development Corporation (BBCDC), which were in effect during the period October 1, 2013, through September 30, 2016. The audited contracts included those relating to outstanding special project loans owed to the City by the BBCDC and those contracts relating to annual Community Development Block Grant (CDBG) awards.

The purpose of the audit was to determine the extent to which the City's Housing and Human Services Department (Department) had ensured, and could demonstrate of record, BBCDC compliance with the terms and conditions of City contracts.

To address the stated objective, we interviewed appropriate City and BBCDC management and staff; reviewed applicable contracts, commission agenda items, and related City and BBCDC records and documents demonstrating uses of loaned/awarded funds and programmatic goals achieved; and made site visits to locations that were intended to benefit from the use of the loaned and granted funds.

#### Report #1805

This is our second follow-up on action plan steps identified in audit report #1701. The purpose of this follow-up is to report on the progress and status of efforts to complete action plan steps due for completion no later than September 30, 2017. To determine the status of the action plan steps, we interviewed staff and reviewed relevant documentation.

# **Background**

#### Overview

The Big Bend Community Development Corporation (BBCDC) is a 501(c)(3) non-profit corporation. The BBCDC is headed by a Board, and its day-to-day operations are managed by an executive director. The BBCDC's mission is to develop affordable housing, foster neighborhood economic development and job creation, preserve historic community assets, provide youth and senior services, and deliver educational programs.

During its existence, the BBCDC has contributed to the revitalization of the Frenchtown Community through capital project initiatives, including the development of affordable housing and the preservation of historical properties. Such projects have included the construction of infill housing; the rehabilitation and repair of existing housing stock; the acquisition and restoration of two historically significant Frenchtown properties, the Tish Byrd House and Community Garden and the Casanas House; and the acquisition of a third historic property, the Ashmore Property.

One of the major capital project initiatives of the BBCDC was the Frenchtown Village Marketplace development. That planned project was a mixed-use development consisting of market-rate townhomes, affordable apartment style condominium units, commercial office building space, and an open market square for small vendor kiosks. However, because the BBCDC was unable to secure financing, that planned project was not completed.

Subsequently, the BBCDC and a partner, Pinnacle Housing Group, obtained financing to pursue on the Frenchtown Village Marketplace site a different development known as the Casanas Village project. Construction on that project started in early 2017, subsequent to the issuance of our initial audit report in December 2016.

In addition to the capital projects, the BBCDC has provided human services to low-income individuals and households. Some of the more prominent programs included summer camps for girls; collection of useful items for distribution to area pantries that in turn distribute the items to low-income families; and a free food program.

Many of the BBCDC's capital project and human services programs were funded, to a large degree, through City loans and grants awarded through the City's Community Housing and Human Services Department. The source of the funds loaned and granted to the BBCDC included the City Housing Trust Fund and federal funds awarded to the City by the United States Department of Housing and Urban Development (USDHUD), to include Community Development Block Grant (CDBG) funds. The Housing Division, within the City's Community Housing and Human Services Department, was responsible for administering the City loan and grant contracts executed with the BBCDC.

#### **Loan Contracts**

At the start of our initial audit, the BBCDC owed to the City \$1,274,852 in unpaid loans. At that time the loans were delinquent as the BBCDC had not made any payments on those loans, although the balances had been outstanding for several years. In November 2016, immediately prior to the issuance of our initial audit report on December 1, 2016, the BBCDC (1) paid the City \$752,237 to be applied to two of those loans and (2) executed amended promissory notes with the City for the remaining loans and outstanding balances. Table 1 provides information on the previous and current status of those loans.

Table 1
<b>Big Bend Community Development Corporation</b>
<b>Loans Payable to the City</b>

Loan Description	Due as of September 2016	Payments made in November 2016	Due as of December 2016 (Date of Initial Audit Report)	Additional Payments made after Initial Audit, as of September 30, 2017	Due as of September 30, 2017
\$250,000 Line of Credit Loan	\$250,000	(\$70,000)	\$180,000	(\$60,000) (Note A)	\$120,000
\$750,000 Line of Credit Loan	682,237	(682,237)	0	Not Applicable (Paid Off)	0
\$250,000 Ashmore Property Loan	342,615	(0)	343,147 (Includes \$532 interest accrued since September 2016)	(0)	343,147 (No additional interest accrues under amended promissory note if balance paid when due)
Totals	\$1,274,852	(\$752,237)	\$523,147	(\$60,000)	\$463,147

**Note A:** Additional payments made after the initial audit total \$60,000 and include amounts totaling \$19,183, received as of the date of our first follow-up audit, and \$40,817 received subsequently through September 30, 2017.

The BBCDC has used funds that it received, in connection with the financial closing and development of the Casanas Village project, to make the November 2016 and subsequent additional loan repayments. The amended promissory notes for the \$250,000 Line of Credit Loan and the \$250,000 Ashmore Property Loan provide for the BBCDC to repay the remaining outstanding balances no later than January 2019 and November 2018, respectively.

#### **CDBG Contracts**

Annual grants of CDBG funds were made by the City to the BBCDC for the three years covered by our initial audit. Each annual grant was for \$60,000, with grant awards for all three years totaling \$180,000. At the time of our initial audit, the City had paid the BBCDC a total of \$142,251 under the three applicable grant contracts. The respective contracts provided for the BBCDC to render specific neighborhood revitalization services, with a targeted population of low-income

individuals and families that resided in Frenchtown and other low-income neighborhoods.

# Previous Conditions and Current Status

In our initial audit (report #1701) we determined, in regard to City housing loans and the related projects, that additional City oversight was needed to better ensure contract compliance and protection of the City's best interests. With respect to CDBG grant contracts, we found that in many instances documentation was available to demonstrate City grant funds had been used appropriately; however, we determined there was some use of those funds for unallowable, inappropriate, or unsubstantiated purposes. We also determined and reported that inadequate resources had contributed to the lack of the BBCDC's success in providing many of the contracted services. Further, we determined and reported that the City's monitoring and oversight efforts needed to be enhanced. Recommendations were made to address the applicable areas.

City management developed 18 action plan steps to address the identified issues and related audit recommendations. Each of the 18 action plan steps were due for completion on or before September 30, 2017. Table 2 that follows shows the status of these steps as determined through our audit follow-up process. As indicated in that table,

**Action Plan Steps Due** 

13 of those steps have been completed, and efforts have been initiated to complete four other items. Action has been temporarily deferred for the remaining step. We will follow up on efforts to complete all remaining steps in a subsequent follow-up engagement.

**Current Status** 

Table 2 Current Status of Action Plan Steps from Audit Report #1701 Due as of September 30, 2017

Objective: Ensure compliance with terms and conditions related to special project loan contracts

between the City and BBCDC.				
• The Department will provide annually to the Commission a report on the status of outstanding special project loans, showing for each outstanding loan the debtor organization, the status of the related project, the loan amount authorized, the amount disbursed, the repayments received, the balance due, the due date, the sufficiency of collateral and insurance, a description of the actions taken to collect any past-due loans and the results, and any recommendations for Commission actions. (Report #1701 Action Plan Step A1)	➤ In Progress: The Department has adopted a definition of "special project," filled a Special Projects Coordinator position, and is in the process of completing the update of applicable policies and procedures. The Department also reports that it is in the process of reviewing grant and loan agreements, loan records, financial information, and other relevant information relating to projects in order to finalize a list of special projects. Once these activities have been concluded, reports can be prepared and provided to the Commission. Based on these actions, this step is considered in progress.			
• Community Housing and Human Services department (Department) staff will be reminded that City Administrative Policy and Procedure (APP) 201 requires that agenda item presentations include all relevant facts. (Report #1701 Action Plan Step A2)	✓ <u>Completed in prior period</u> .			
• The Department will develop a definition of "special projects" and the City Manager will select a special projects committee to review special project requests; the committee comments will be included in funding recommendations. (Report #1701 Action Plan Step A3)	✓ Completed: The Department has defined a special project as, "An activity, which is not included in the City's ongoing affordable housing programs as identified in the City's adopted HUD Annual Plan and/or Local Housing Assistance Plan, in which the City provides funds, assets, or other resources." The Department has also established the composition of the Special Projects Committee. The five-member Committee is to consist of a representative from the City Treasurer Clerk's Office, the Resource Management Office, the Real Estate Management Office, a local financial institution, and the public at large. The			

	member from the public at large is to have a background in providing vital services to the public. As noted in our first follow-up audit (report #1712), management indicated the Committee will be advisory in nature and will provide input, such as recommendations, on special project funding requests. That input will be included in the applicable agenda items presented to the City Commission. Based on these actions, we have concluded that this step is completed.
• All Department sponsored special project loan contracts will be prepared in accordance with City Commission authorization, or if not clearly in accordance with that authorization, be submitted for City Commission review and approval prior to execution. (Report #1701 Action Plan Step A4)	✓ <u>Completed in prior period</u> .
• Future loan contracts will include provisions requiring that the loan recipient provide proof that advanced (loaned) funds are used in accordance with contractual terms and conditions. (Report #1701 Action Plan Step A5)	✓ Completed in prior period.
• The Department will determine if the BBCDC is currently in possession of any unencumbered land or buildings. For any such property, the Department will consider requiring that the BBCDC deliver mortgages on that property sufficient to collateralize the \$250,000 Line of Credit (LOC) Loan. (Report #1701 Action Plan Step A6)	✓ Completed in prior period.
The Department will ensure the timely provision of all collateral required to secure future special project loans. (Report #1701 Action Plan Step A7)	✓ Completed: The Department reiterated to staff responsible for the preparation and management of loan agreements the importance of the timely provision of collateral. In addition, we found that for the special project line-of-credit loan made by the City to the Tallahassee Lender's Consortium (TLC) after the initial audit, the City had obtained a mortgage collateralizing the \$275,000 loan. As of September 30, 2017, approximately \$81,600 in loan proceeds had been disbursed to TLC under the line-of-credit loan. Based on these actions, we have concluded that this step is completed.
The Department will on an annual basis physically inspect the Ashmore Property and determine whether it is being maintained in good condition,	✓ Completed in prior period.

as required by contract. (Report #1701 Action Plan Step A8)

- The Department will require from the BBCDC a detailed list of the Ashmore Property antiques, political paraphernalia, and collectibles and periodically determine the existence and condition of the listed items. (Report #1701 Action Plan Step A9)
- **Completed**: The Department has requested that the BBCDC provide a detailed list of the Ashmore Property antiques, political paraphernalia, and collectibles. However, the BBCDC has not been able to locate such a list. Also, while Department staff have observed items which are believed to be a part of the Ashmore Property collection of antiques, political paraphernalia, and other collectibles, the Department has also been unable to locate in City records a listing of the items and has concluded that the cost of the development of such a list at this time would exceed the value of the observed items. These items, in addition to the Ashmore Property real estate, are designated as collateral for the Ashmore Property loan which, under the terms of an amended promissory note, is due on November 1, 2018. Department staff indicated that in the event, the loan is not repaid by that date, Department management will conduct an analysis to determine the appropriate actions to take. Based on these circumstances, we have concluded that this step is completed.
- The Department will on an annual basis obtain a certificate of insurance and determine that properties provided as collateral are appropriately insured. (Report #1701 Action Plan Step A10)
- **In Progress:** The Department has adopted a new policy requiring that every project and contract manager shall annually request the recipient of any loan funds or line-of-credit funds secured by a mortgage on real property to provide proof that the property is appropriately insured. The policy further provides that beginning with the 2018 fiscal year, Department staff are to mail to each mortgagor a letter requiring that the mortgagor provide proof of the maintenance of an appropriate level of insurance. According to the policy, these letters are to be sent during the first quarter of the fiscal year. As of the date of our audit fieldwork, these letters had not yet been sent. Based on these actions, this step is considered in progress.
- The Department will develop and execute monitoring plans for each of the special project loan contracts. (Report #1701 Action Plan Step A11)
- In Progress: The Department has adopted the following monitoring processes: Pursuant to Housing Division Policy, projects (contracts) will be monitored annually by a compliance monitoring team (CMT) consisting of the Special Projects Coordinator, the Administrative Services Manager, and the designated contract manager for the particular project. Beginning with the 2018

fiscal year monitoring cycle, before a monitoring letter is sent or a monitoring visit is scheduled, the will meet to review risk analysis information, establish the goals and objectives of the visit and the items to be reviewed, and consider any other logistical matters. The focus of the Special Projects Coordinator is to be the contractor's compliance with particular rules, regulations, and requirements of federal and state grantor agencies. The focus of the Administrative Services Manager is to be the contractor's compliance with the City agreement(s). The role of the contract manager is to assist the other CMT members by providing specific background (including information special issues, considerations, and circumstances, etc.) and the status of activities to date.

Department staff indicated that a checklist will be developed at the initial CMT meeting for each monitoring visit. The checklist will include each item to be sampled, reviewed, or checked and any special assistance required.

Following each monitoring visit, a compliance monitoring report documenting the visit will be prepared. A conclusion will be made regarding whether the project is being administered in compliance with funding agency rules, regulations, and requirements and whether the project is being administered in accordance with the agreement(s) with the City. The report will also include observations, concerns, findings, or guidance, as determined appropriate. A copy of the report will be placed in the Project file and a copy provided to the entity monitored.

As of the close of audit fieldwork, no monitoring visits had been completed during the 2018 fiscal year. Department staff indicated that the visits will be scheduled following the completion of annual grantor reports and the identification of special projects. In consideration of these remaining actions, we have concluded that this step is in progress.

<u>Objective</u>: Ensure compliance with terms and conditions related to CDBG contracts between the City and Big Bend Community Development Corporation.

- The Department will consult with the City Attorney's Office to ascertain if the BBCDC should be requested to return CDBG grant funds
- ✓ <u>Completed (Note 1)</u>: The Department allowed the BBCDC until July 21, 2017, to provide additional information or supporting

used for non-allowable and/or inappropriate uses. (Report #1701 Action Plan Step B1)

documentation regarding \$7,659 in grant fund charges which were questioned by our initial audit non-allowable or inappropriate. The that Department indicated acceptable documentation was not provided, and September 26, 2017, the Department Director sent a certified letter to the BBCDC Executive Director disallowing and requesting the return of the \$7,659 in non-allowable or inappropriate costs, together with other disallowed costs (see Action Plan Steps B3 and B4), by the close of business on October 10, 2017. As of September 30, 2017, no funds had been returned by the BBCDC to the City, and the Department and the BBCDC were pursuing further discussion of the disallowed costs.

<u>Note 1</u>: Although this action plan step has been completed, we will continue to follow-up and report on the City's efforts to recover the disallowed costs.

- The Department will enhance reviews of BBCDC reimbursement requests to ensure that only those costs that are adequately documented and substantiated by the BBCDC are reimbursed. (Report #1701 Action Plan Step B2)
- Completed in prior period.
- The Department will consult with the City Attorney's Office to ascertain if the BBCDC should return the CDBG grant funds for those costs that cannot be substantiated by the BBCDC. (Report #1701 Action Plan Step B3)
- Completed (Note 1): The Department allowed the BBCDC until July 21, 2017, to provide additional information or supporting regarding \$19,851 documentation unsubstantiated grant charges questioned by our The Department indicated that initial audit. acceptable documentation was not provided, and on September 26, 2017, the Department Director sent a certified letter to the BBCDC Executive Director disallowing and requesting the return of the \$19,851 in unsubstantiated costs, together with other disallowed costs (see Action Plan Steps B1 and B4), by the close of business on October 10, 2017. As of September 30, 2017, no funds had been returned by the BBCDC to the City, and the Department and the BBCDC were pursuing further discussion of the disallowed costs.

<u>Note 1</u>: Although this action plan step has been completed, we will continue to follow-up and report on the City's efforts to recover the disallowed costs.

• The Department will consult with the City Attorney's Office regarding whether a former Executive Director's hiring of his daughter violates contract terms prohibiting conflicts of interest and nepotism. If deemed a contract violation, the Department will consult with the City Attorney's Office concerning the corrective actions to be taken. (Report #1701 Action Plan Step B4)

Completed (Note 1): The Department has determined that the \$2,400 paid to a daughter of a former Executive Director violated contract terms, and on September 26, 2017, the Department Director sent a certified letter to the BBCDC disallowing and requesting the return of the \$2,400, together with other disallowed costs (see Action Plan Steps B1 and B3), by the close of business on October 10, 2017. As of September 30, 2017, no funds had been returned by the BBCDC to the City, and the Department and the BBCDC were pursuing further discussion of the disallowed costs.

Note 1: Although this action plan step has been completed, we will continue to follow-up and report on the City's efforts to recover the disallowed costs.

- If the BBCDC is determined not to be financially viable, the department will identify alternatives for providing needed and desired services to low-income households. (Report #1701 Action Plan Step B5)
- **Action Deferred:** The last payment made by the Department to the BBCDC related to charges incurred during the first quarter of the 2016 fiscal year. According to the Department, any potential payment for allowable grant costs for the remainder (2<sup>nd</sup> through the 4<sup>th</sup> quarter) of the 2016 fiscal year have been withheld pending resolution of the outstanding audit issues relating to nonallowable, inappropriate, and unsubstantiated The Department did not enter into an agreement with the BBCDC for the 2017 fiscal year and does not have funding allocated for the BBCDC in the 2018 budget. The Department indicated that once all audit issues are resolved in a satisfactory manner, management will make a final assessment of the financial viability of the BBCDC and the need for services beyond those offered by the Community Human Service Partnership. Accordingly, the completion of this action plan step has been deferred.
- Enhancements will be made in regard to the monitoring and oversight processes of the Housing Division. Specifically: (1) reimbursement requests will be reviewed in a manner to ensure BBCDC costs are allowable, reasonable, supported and substantiated; and not included on more than one reimbursement request; (2) required periodic performance reports will be reviewed for completeness and clarity, and to determine if they demonstrate the extent to which the contractual
- In **Progress**: The Department's Housing Administrator has assumed the responsibility for reviewing the reimbursement requests submitted by the BBCDC for the last nine months of the 2016 fiscal year contract period. Also, the Department filled the Special Projects Coordinator position in July 2017 and the new Special Projects working Coordinator will be with Administrative Services Manager and the Housing Administrator to enhance the monitoring and

goals are being met; and (3) more frequent site visits will be conducted. (Report #1701 Action Plan Step B6)

oversight processes of the Housing Division. Further, as described in the Table 2 entry for Action Plan Step A11, the Department has updated its Housing Division monitoring policies and procedures and these updates, if effectively implemented, should improve the effectiveness of the Division's monitoring processes. We will address the Department's success in completing these efforts in our subsequent follow-up engagement. Based on these actions, this step is considered to be in progress.

#### **Other Matters**

• The Department will review the process used to budget federal, state, and local resources to ensure that those resources and the related planned expenditures are included in the City's annual budgets. (Report #1701 Action Plan Step Other Matters)

✓ <u>Completed</u>: The operating budget approved by the City Commission for the 2018 fiscal year includes appropriations of federal and state grant funds. Based on the actions taken, we have concluded that this step is completed.

#### Table legend

Issue to be addressed from original audit.

- ✓ Action completed.
- Actions to address issue are in progress.
- Action deferred.

#### Conclusion

Table 2 above shows 13 of the 18 action plan steps due for completion as of September 30, 2017, had been completed. Five of the 18 steps have not been completed. The completion of four of these remaining steps is in progress, while the completion of the final step has been temporarily deferred.

We will follow up and report on management's efforts to complete the remaining five action plan steps in a subsequent follow-up engagement.

We appreciate the cooperation and assistance provided by Department management and staff during this audit follow-up.

# Appointed Official's Response

#### **INTERIM CITY MANAGER**

I appreciate the continued support of the City Auditor and the City Attorney's Office as we have worked to address the audit issues identified in the initial audit report regarding city contracts with the Big Bend Community Development Corporation. As noted in the audit follow-up, 13 of the 18 action items identified in the initial audit have been completed. The remaining items in-progress are primarily linked to procedural improvements in the Department of Community Housing and Services' Human (CHHS) contractual monitoring process. CHHS filled a critical vacancy in the department in June of this year which will allow for additional staff resources to be dedicated to contract monitoring.

Copies of this Follow-Up Audit Report #1805 or the initial audit report #1701 may be obtained from the City Auditor's web site (http://www.talgov.com/transparency/auditing-auditreports.aspx), via request by telephone (850 / 891-8397), by FAX (850 / 891-0912), by mail or in person (City Auditor, 300 S. Adams Street, Mail Box A-22, Tallahassee, FL 32301-1731), or by e-mail (auditors@talgov.com).

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