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DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS

INSPECTION AND REVIEW

Organization: Yonkers Alliance for Latino and Immigrant Services, Inc. ("YALIS")

Grant/Loan: CDBG YR 34 – \$27,000
YLAC Loan – \$10,000

Date: October 29, 2009

BY: Philip A. Zisman, Inspector General *PAZ*

Organization Overview and Background Information

According to its mission statement, YALIS is a community based organization dedicated to improving services and opportunities for Yonkers Latinos and other immigrant residents of the City. The organization seeks to: 1) increase public awareness of services available for Latino and other immigrants in Yonkers; 2) enhance the efficacy of current services and create new programs to support the advancement of Latino and other immigrants; and 3) build community awareness of the varied and valuable contributions that Latino and other immigrants make to the larger Yonkers community. YALIS was incorporated as a non-profit corporation in 2001.

City of Yonkers officials and employees have traditionally played an active role in YALIS. The idea for an organization providing services to Yonkers' immigrant community was initially conceived by the former Commissioner of the Yonkers Department of Planning and Development ("Planning Department") Stephen Whetstone, based on input from the community.¹ Until shortly before his death in December 2005, Mr. Whetstone served on YALIS' Board of Directors.

¹ See City of Yonkers FY'99 Consolidated Plan dated December 10, 1999 at pages 36-40.

Under Mr. Whetstone's direction, Alba Guevara, a Program Assistant in the Planning Department's Community Development Bureau, worked on YALIS matters and also served on YALIS' Board of Directors. Current City employees who were members of the YALIS Board of Directors during our review include: Lorraine Lopez, Special Assistant to the Mayor, Frank Intervallo, Police Captain, Judith Garcia, Director of the Human Rights Commission, and Anthony Piacente, Constituent Services Manager. There were no active non-City employees serving on the Board.

According to Ms. Lopez and other members of the Board, with the death of Mr. Whetstone and the prior resignation of Board Chairperson Mother Peregrine Murphy, the pastor of San Andres Church, YALIS lost its leadership, and decisions regarding the organization fell almost by default to the remaining active Board members who were all City employees. Ms. Lopez has coordinated the administration of YALIS since Mr. Whetstone's death. Mr. Piacente served as Ms. Lopez' assistant on YALIS matters starting in 2008.

YALIS rents a small suite of offices in a building located at 45 Ludlow Street, Yonkers, NY. For the last year, YALIS had only had one employee, Beatrice Castrillon, a part-time immigrations counselor, who provided free or low cost immigration counseling services approximately two days per week.

Beginning in 2006, YALIS began experiencing financial difficulty as significant funding sources were lost. YALIS lost one State grant and others were delayed. Its office subtenant, another non-profit organization, also moved out of the office.

In 2008, the New York State Department of Labor cited YALIS for failure to file and pay unemployment insurance taxes for the organization's employees for 2005 through most of 2007, and the New York State Workers' Compensation Board cited YALIS for failure to maintain workers' compensation insurance coverage from 2006 – 2008. YALIS paid back charges, interest and penalties in 2008 to resolve these matters. Subsequent to resolving violations with the State, YALIS again did not file and pay required New York State unemployment insurance taxes starting in the fourth quarter of 2008 through the present.

YALIS' financial books and records for 2008, the period of our review, have not been reconciled and the organization's 2008 tax return has not been filed.

The YALIS Board is currently in transition. The City Board members continued to run the organization until June of 2009, when Rosy Gonzalez joined the Board and became its President. The City Board members are now serving in an advisory capacity as Ms. Gonzalez rebuilds the organization.

Grant Budget and Loan Summary

In year 34 of the CDGB program (February 1, 2008 – January 31, 2009), YALIS received two grants. An initial grant of \$20,000 and a supplement grant of \$7,000 to pay rent arrears. The monies were budgeted as follows:

	\$ 10,300	contract services
	\$ 1,500	telephone
	\$ 200	printing
	<u>\$ 15,000</u>	rent
Total:	\$ 27,000	

In 2001, YALIS received a temporary \$10,000 loan with a 3% interest rate from the Yonkers Local Assistance Corporation, which was supposed to be repaid in two years. No payments were made. On August 8, 2007, the loan was converted to an interest free loan and YALIS executed a promissory note to make monthly payments of \$100 beginning September 8, 2007. The current loan balance is \$7,810 with the last payment having been made in May 2009.

Scope of Review

The Inspector General's Office conducted this Inspection and Review pursuant to City Council Resolution No. 52-2008, which directed the Inspector General to implement an ongoing oversight program of Community Based Organizations ("CBOs") that receive City grant funding.

At first, our intent was to limit our review to City funding for CDBG Year 34 and the \$10,000 YLAC loan. However, because of apparent irregularities in the Year 34 reimbursement claims, the fact that YALIS' 2008 books and records had not been reconciled, and that YALIS had become an organization administered and managed by City employees; we expanded our review to include financial records from 2007 through April 2009. Our initial review of the financial records raised questions about whether YALIS had properly accounted for its cash receipts. As a result, we wanted to determine whether City employees involved in the administration of YALIS accurately accounted for the organization's cash, and otherwise acted appropriately in dealing with YALIS and related City matters.

In addition to reviewing available financial records, we also reviewed grant applications and several years of CDBG claims, program participant progress reports, applicable HUD and City regulations, New York State Department of Labor records, and other documentation.

We interviewed or spoke with YALIS' paid employee Beatrice Castrillon; City employees who are members of the YALIS Board of Directors; James Castro-Blanco, the attorney who represented YALIS in matters related to New York State Department of Labor and the Worker's Compensation Board claims; Rosy Gonzalez, Board Member; Vincent Hom, HUD Director of New York

Community Planning and Development, Louis Kirven, Yonkers Commissioner of Planning and Development; and members of the Planning Department's Community Development Bureau.

Documents that are referenced in this memorandum are on file in the Inspector General's Office and are available for review upon request. Ms. Lopez' written response to the report and the Inspector General's reply are attached as an appendix.

Summary of the Findings and Recommendations

Our review of YALIS' Year 34 CDBG funding and cash receipts for 2007 and 2008 revealed that there were significant problems with the organization's administration. We found that the organization's books and records were disorganized and incomplete, and that there was a lack of internal controls over YALIS' finances that violated HUD regulations for grant recipients. As a result, we could not verify that YALIS accounted for all of its cash receipts from program income or cash payments to employee Beatrice Castrillon. Moreover, YALIS' lack of proper accounting procedures failed to meet minimum standards of the CDBG program.

As an example of its weak administration, YALIS failed to respond in a timely manner to non-payment notices from the New York State Department of Labor Unemployment Insurance Division and the Worker's Compensation Board. As a result, these agencies imposed penalties and interest on the organization for failure to file and pay unemployment taxes and the failure to maintain worker's compensation insurance. At considerable expense to the organization, problems with the State were resolved in 2008; however, because of YALIS' subsequent nonfeasance, the organization again failed to file required unemployment insurance tax returns.

We also found that Ms. Lopez and Mr. Piacente submitted inaccurate and misleading documentation to the Planning Department in support of the claims for reimbursement under Year 34 CDBG funding. The documentation submitted violated both City of Yonkers and HUD regulations. Under the City's Code of Ethics, City employees have a duty of loyalty to their municipal employer which prohibits them from submitting misleading documentation to a City agency on behalf of a third party. The submission of inaccurate documents to the Department of Planning created a conflict of interest. As required by the City Charter, we are referring this matter to the Yonkers Board of Ethics for appropriate action.

Finally, although we found significant problems with YALIS' administration, and the services YALIS provided during the Year 34 grant failed to meet stated goals and objectives, we recognize that YALIS has the potential of becoming an important resource for the Latino and immigrant residents of Yonkers. Now that the administration of YALIS has been turned over to a new Board President who is rebuilding the organization, the new Board should be given an opportunity to

demonstrate that YALIS is worthy of continued support from the City. Moreover, we recommend that staff members of the City's Planning Department's Community Development Bureau, meet with the new YALIS Board and advise them as to how to best meet the financial requirements of the CDBG program.

Findings

Financial Books and Records

When we first reviewed the documentation that YALIS submitted to the City for reimbursement under the City's \$27,000 Year 34 grants, we found what appeared to be irregularities regarding the appropriateness of claims submitted, and also questioned why in two instances, in lieu of sending a reimbursement check directly to YALIS, the City remitted payments to the New York State Department of Labor.

In an effort to answer our questions, we requested that YALIS provide us with financial records for 2008 in order to compare the claims submitted to the City with the actual books and records of the organization. We also asked YALIS to explain the reason for the payments to the State Department of Labor.

Because YALIS' 2008 financial statements had not been prepared and the 2008 tax return has not been filed, Ms. Lopez and Mr. Piacente could not provide us with the financial records we requested, and instead gave us some of the organization's actual records including: petty cash disbursements from 2007 – 2009; cash receipts for 2007 – 2009; partial copies of bank statements and check stubs for 2008 – 2009; and a QuickBooks printout of fiscal activity through 2007.

As a general matter, the records that were provided were disorganized and incomplete. They did not provide a clear financial picture of the underlying transactions that we were reviewing, and raised additional questions about the organization's handling of cash generated by program fees for providing immigration counseling. Also, YALIS did not provide documentation that explained the reasons for the payments to the State Labor Department. Over a period of several months, we repeatedly asked for clarifying documents and explanations, which led to extensive delays in completing this review.²

The lack of a complete set of records made our review difficult, and ultimately made it impossible for us to confirm the accuracy of the cash receipts and disbursements that we reviewed. Moreover, the records revealed a lack of internal controls over the organization's finances. There was no established policy for accounting for cash receipts and processing payments. Under applicable HUD regulations, grant recipients must maintain adequate accounting systems for managing federal funds. See *Playing by the Rules, a Handbook for CDBG Subrecipients on Administrative Systems* (March 2005) (Hereinafter

²The Inspector General's first meeting with YALIS Board Members took place on January 20, 2009.

"*Handbook*") at Chapter 2.0 (entitled Financial Management). YALIS failed to meet the minimum standards set forth in the *Handbook*.

Cash Receipts and Affidavit Payments

During 2007 and 2008, we calculated that YALIS generated \$17,548 in fees, mostly in cash, from clients who had received immigration services. As part of our review, and out of concern that there were inadequate internal controls over the cash receipts, we wanted to verify that this cash was properly accounted for.

Beatrice Castrillon, the YALIS employee who provides the immigration services and collects the fees, stated that in 2007 and 2008 she recorded all cash payments received in a cash receipts book. During 2007 and until early 2008, on a regular basis, she put accumulated cash receipts into an envelope, which she then gave to Alba Guevara to deliver to Lorraine Lopez for deposit into YALIS' bank account.³

Ms. Castrillon stated that beginning in 2008, the cash that she collected was sometimes used to pay her own salary. Ms. Castrillon said that on seven occasions, she informed Ms. Lopez that she needed to be paid, and based on verbal approvals from Ms. Lopez, she paid herself in cash for the hours she had worked. Ms. Lopez emailed Ms. Castrillon an "affidavit" attesting to the fact that she had received cash payments.

YALIS provided the Inspector General's Office with copies of seven, undated affidavits signed by Ms. Castrillon. According to Ms. Castrillon, she only signed the affidavits after the Inspector General's Office questioned them.

We attempted to determine whether the \$17,548 in cash that was collected between January 2007 and December 2008 was accounted for. However, because of incomplete records, we could not reconcile the amount of cash that was collected with deposits into the YALIS bank accounts, the expenditures of petty cash, or affidavit payments to Ms. Castrillon.

Bank deposit records that were available to us revealed that deposits were generally made on a monthly basis, but in most cases, the amounts deposited did not correspond to the dollar amounts in the envelopes that were delivered to Ms. Lopez. It appears from the records that we reviewed that during 2007, cash in Ms. Lopez' possession sometimes accumulated to more than \$1,500 before being deposited.

³ Small amounts of cash were also used for petty cash expenses of the organization. Ms. Castrillon kept a record of cash disbursements in a petty cash receipts book. From January 16, 2007 through February 19, 2008, there were receipts for 32 cash envelopes that were delivered to Ms. Lopez totaling \$11,755 with dollar amounts in each envelope ranging from \$60 to \$1,200.

Ms. Lopez confirmed that in 2007 and 2008 she received the envelopes of cash that Ms. Castrillon prepared, and stated that all the cash was deposited in YALIS' bank accounts. However, she did not remember and could not explain why there were delays in making deposits or why cash was allowed to sometimes accumulate for several weeks before she made a deposit. With respect to the cash payments to Beatrice Castrillon, she stated that the payments were documented by timesheets and the undated affidavits, which, she claims Ms. Castrillon signed when the payments were made and not after the Inspector General's Office began its review.

Based on our review, although Ms. Lopez asserted that all cash was properly deposited into YALIS bank accounts, we could not confirm this because the records were incomplete and did not establish that all cash receipts were properly deposited.⁴ We do note, that consistent with Ms. Lopez' statements, the deposits that were made into YALIS' bank accounts in 2007 and 2008 appeared to include most of the cash that was collected, but again, because the bank records that we were provided were incomplete, there was no way to confirm whether the bank deposits were from the cash receipts or other sources. Clearly, however, the organization's handling of its cash receipts and use of affidavits to pay its lone employee were irregular and revealed a lack of internal controls over the cash generated by program fees. The practice of letting cash accumulate, sometimes for several weeks before it was deposited, was not a proper procedure to safeguard the funds. Moreover, the practice of allowing Ms. Castrillon to pay herself with cash receipts is not a standard payroll procedure.

Labor Law and Workmen's Compensation Claims

We initially had questions about two Year 34 grant reimbursement checks that the City sent directly to the New York State Labor Department. YALIS was cited for failure to file and pay unemployment insurance taxes and maintain workers compensation insurance for three years between 2005 and 2007.⁵ The State Labor Department claimed that YALIS failed to file the required unemployment tax returns or pay the required taxes for its employees. In April of 2008, a levy was executed against the YALIS bank account at Wachovia Bank and the account's balance of \$731.04 was seized and transferred to the State Department of Labor. In July of 2008, the New York State Commissioner of Labor served a Specification & Levy on the City Commissioner of Finance, which directed that City payments to YALIS be made to the New York State

⁴ There were no records that accurately tracked the deposit of cash into YALIS' bank accounts. We repeatedly asked for supporting documentation for the bank deposits that would account for the cash receipts, but such records were never provided.

⁵ Labor Department records indicated that YALIS owed \$9,560.06 in unpaid unemployment taxes, interest and penalties. The Worker's Compensation Board had filed a judgment in the amount of \$21,500 for the failure to maintain worker's compensation insurance from June 20, 2006 through September 2, 2007, and had imposed an additional penalty of \$45,000 for the period of September 3, 2007 through September 16, 2008. In addition, YALIS had been previously cited by the State Labor Department for the non-payment of unemployment insurance taxes in 2002, 2003 and 2004, which were resolved in 2005.

Unemployment Insurance Division. The levies were served on the City and the YALIS' bank, at least in part, because YALIS did not, for many months, respond to notices of non-payment sent to the YALIS' offices at 45 Ludlow Street. According to Ms. Lopez, notices that were sent to YALIS were never forwarded to her attention.

According to James Castro-Blanco, the attorney YALIS retained to help resolve the matter, YALIS originally did not make the payments because it was believed, that legally, YALIS' employees were independent contractors and therefore the organization was not required to pay workers compensation insurance and unemployment taxes. The State, however, rejected this assertion and determined that for the purposes of New York State unemployment taxes and worker's compensation insurance, there were a number of employees for whom unemployment taxes and worker's compensation insurance were required to be paid.

The matter was resolved in November of 2008, and YALIS paid a total of \$7,578.02 in back taxes, interest and penalties to the State Department of Labor,⁶ and \$1,000 to the State Worker's Compensation Board. From that point forward, YALIS' lone employee Beatrice Castrillon was to be considered an employee of the organization for New York State unemployment insurance tax purposes. As a result of its problems with the State Department of Labor and the Worker's Compensation Board, YALIS incurred unanticipated legal and accounting expenses that contributed to the organization's financial distress.⁷

To confirm that the problems with the State had been finally resolved, we spoke to a tax compliance agent at the New York State Department of Labor Unemployment Insurance Division and were informed that the fines and penalties that YALIS incurred through the third quarter of 2007 had been satisfied. However, beginning in the fourth quarter of 2008, and continuing to the present, YALIS has once again failed to file required unemployment insurance tax returns with the State Labor Department.

Year 34 Grant Reimbursements

In Year 34 of the CDBG program, which covered February 1, 2008 through January 31, 2009, the City provided \$27,000 in funding to YALIS: \$20,000 in the initial grant and \$7,000 in a supplemental grant to pay for arrears in the organization's rental of office space.

There were six claims that were submitted to the City for reimbursement under the \$20,000 grant. Our initial review of these claims raised two specific questions: First, the copies of the 15 checks, which YALIS submitted as proof of

⁶ According to the Labor Department, the actual taxes owed for the period of non-payment was \$3,612.11.

⁷ In addition to back taxes and penalties, we estimate that YALIS paid at least \$15,000 in legal and accounting fees.

payments, did not indicate that the checks had been cancelled, and thus there was no proof that the checks had been cashed by the intended YALIS' creditors. Second, on Year 34 claims Nos. 3 and 4, instead of reimbursing YALIS for its submitted expenses, the City remitted payments to the New York State Department of Labor based upon a lien which had been served upon the City's Commissioner of Finance. From the outset, it was not clear to us whether copies of the non-cancelled checks were proper documentation of a reimbursable grant expense.

With respect to the validity of the claims, when we compared the Year 34 claims for the original \$20,000 grant to YALIS' banking records, we had questions about 10 of the 15 checks that were presented to the City for grant reimbursement. Specifically, although the checks had been submitted as proof of actual payments, we found that 7 checks never cleared the bank⁸, 2 were only released and cleared over 6 months after the date of issue, and 1 was voided and reissued for a lesser amount. Only 5 of the 15 checks had actually been cashed in what could be considered a reasonable period of time.

Our analysis of the checks raised questions of whether YALIS' submissions to the City were proper. Because most of the checks that YALIS submitted as support for their reimbursement claims were not issued or deposited in a timely manner by YALIS' creditors, it appeared to us that 10 checks had been written and submitted to the City only for the purpose of securing the release of grant funds. We were concerned that the submitted claims may have been a misrepresentation that violated HUD and City regulations.

In considering the propriety of the Year 34 claims, we first contacted the Planning Department's Fiscal Office to determine what supporting documentation is required before a CDBG claim will be approved for City payment. As a general rule, an organization must demonstrate with supporting documentation that expenses that are reimbursable under the grant were actually paid.⁹ With respect to whether non-cancelled checks could serve as proof of payment, we were informed that the Planning Department recognized that sometimes CBOs can have cash flow problems and that as an informal practice the Department would approve non-cancelled checks for grant reimbursement, with the understanding that the organization was to submit the cancelled checks once they cleared the bank. Indeed, YALIS acknowledged awareness of this policy in letters submitted along with their Year 34 claims for reimbursement, and specifically promised to provide copies of the cancelled checks once the checks cleared. The Fiscal Office also informed us, however, that it was not appropriate

⁸ One of the 7 non-cancelled checks was a duplicate of a Verizon invoice that had been previously submitted to the City and accepted for reimbursement.

⁹ Under the CDBG program, a subrecipient (an organization that has been awarded a grant from the City) can drawdown grant funds from the City by either: 1) seeking reimbursement from the City based on actual expenditures, or 2) requesting a cash advance for grant covered expenses before the actual cash disbursements have been made, provided that once the funds are received they must be disbursed within three business days. See *Handbook* at Chapter 2-14.

for a CBO to submit non-cancelled checks which were subsequently voided or never actually issued as proof of payment for reimbursement purposes.¹⁰

When we spoke with Lorraine Lopez about the irregularities with the claims, she stated that all of the submissions for reimbursement to the City in Year 34 were based on actual obligations of YALIS. She stated that the claims had been submitted based on consultation with Alba Guevara, former YALIS Board member and a Program Assistant for the Planning Department's Community Development Bureau. The claims were prepared by Ms. Lopez and Mr. Piacente.¹¹

Ms. Lopez explained that in 2008, YALIS was experiencing extreme financial difficulties. The organization had lost a significant grant that it had received from former State Senator Nicholas Spano, and there were unanticipated expenses associated with State unemployment and workers' compensation insurance claims. Although some consideration was given to closing YALIS for financial reasons, Ms. Lopez said the Board decided to continue operations. She stated that the Year 34 monies were needed to resolve the problems with the Labor Department, which had seized the money in YALIS' bank account at Wachovia Bank and placed a lien on City payments to YALIS. Ms. Lopez also stated that because of the organization's financial problems she asked Planning and Development Commissioner Louis Kirven for a supplemental Year 34 grant to help pay YALIS' rent.

Alba Guevara explained that she served on the YALIS Board of Directors when the organization was first founded, and worked on YALIS' matters at the direction of former Commissioner Stephen Whetstone. She stated that after Mr. Whetstone died at the end of 2005, she stopped working actively on YALIS matters.¹² She stated that with respect to the Year 34 claims, she did not prepare them and was unaware of the specific details of these claims. She stated that she had, however, spoken to Ms. Lopez about the policy that the Planning Department's Fiscal Office would accept non-cancelled checks in support of claims for reimbursement.

Louis Kirven, Commissioner of the Department of Planning and Development stated that as a policy matter he directs his staff to adhere to proper accounting principles and that he would review the Department's policy

¹⁰Based on our discussions, the Planning Department's Fiscal Director Tony Labreglio indicated that the Department would tighten its review of non-cancelled checks when evaluating CBO claims for reimbursement purposes.

¹¹ Police Captain Frank Intervallo who signed two of the Year 34 claims stated that he assumed that the payments had been or would be made consistent with the documentation presented, and that he was unaware that some checks were subsequently voided, not released or issued months later.

¹² Ms. Guevara acknowledged that in 2007 and 2008 she did receive and deliver the cash envelopes to Ms. Lopez, but did not open the envelopes or play a role in depositing the organization's program generated cash receipts.

for evaluating reimbursement claims in light of the questions raised by YALIS' Year 34 claims.

In evaluating YALIS' Year 34 claims it is apparent to us that YALIS' submissions to the City for reimbursement under the grant were improper because many of the checks that were submitted were inaccurate, misleading and inconsistent with both HUD and City of Yonkers policies. Even though we believe that Ms. Lopez' was substantially correct when she stated that the claims submitted were all for actual obligations of the organization, the submissions were nonetheless improper for several reasons.

First, the claims did not meet HUD requirements. HUD regulations require that claims for reimbursement accurately reflect payments that are deemed a reimbursable expense under the grant.¹³ Also, HUD regulations do not allow CDBG monies to be used for penalties and interest which are imposed upon a grant recipient.¹⁴ Thus it was not appropriate for YALIS to submit claims for reimbursement which would lead the City to pay with CDBG monies penalties and interest imposed by the New York State Department of Labor and the Workers' Compensation Board.

Second, the submission of checks that were never cashed or cashed in an untimely manner violated the City's policy of allowing non-cancelled checks to serve as supporting documentation for claims reimbursement, provided that the cancelled checks were later forwarded to the Fiscal Office. YALIS acknowledged this policy in its claims submissions, but did not and could not submit the actual cancelled checks as required because most of the checks were never issued.

Third, Ms. Lopez' and Mr. Piacente's submission of inaccurate documentation to the Planning Department's Fiscal Office on behalf of YALIS raises ethical issues. Under applicable ethics provisions, City employees owe a duty of loyalty to their municipal employer, and are prohibited from acting in ways that are incompatible with the public interest.¹⁵ That duty includes the obligation that City employees shall not submit intentionally misleading documents to a City agency. It is apparent to us that the submission of inaccurate and misleading documentation to secure CDBG funding reimbursement violated the Ethics Code.

As a result of our finding that an ethics violation has occurred, as required by the City Charter, we are forwarding a copy of this report to the Yonkers Board of Ethics to take appropriate action.

¹³See *Handbook* at Chapter 2-14.

¹⁴See OMB Circular A-87, Attachment B; OMB Circular A-122; and *Handbook* at Chapter 2-9.

¹⁵ See Yonkers Code of Ethics §C1A-2A (the purpose of the Code of Ethics is to establish high standards of ethical conduct for City officers and employees and to prohibit acts incompatible with the public interest); See also Ethics Code §C1A-6 (City officer or employee cannot take actions that result in financial benefit for outside business); § C1A-9 (A City office or employee shall not appear before any agency of the City except on his or her own behalf or on behalf of the City); See also, City claim forms signed by YALIS representatives attesting that the information provided is accurate.

Services Provided

As part of its reporting requirements under the Year 34 grant, YALIS filed three quarterly progress reports with the Planning Department that indicated that from February through October 2008, YALIS provided immigration services to 129 individuals. A progress report for the fourth quarter was not filed, but if the numbers of clients that sought services remained constant in the fourth quarter, we estimate that YALIS helped approximately 175 people during Year 34.¹⁶

In YALIS' Year 34 grant application dated November 26, 2007, YALIS asserted that it would achieve the following outcomes during the year:

- At least 300 individuals will receive initial consultations regarding immigration issues;
- At least 50 individuals will be assisted in maintaining permanent housing and employment by resolving issues related to immigration status or work authorization;
- At least 75 individuals will be referred to health care, social services, employment and training, affordable housing, or other needed support services;
- At least 100 individuals will be connected to classes in English as a Second Language (ESL) to enhance their potential and thus their stability in employment and permanent housing.

The application claimed that YALIS was already providing these services and that staff was available during nontraditional operating hours such as during the evening and on weekends.

In examining YALIS' actual performance during the review period, YALIS provided immigration counseling service approximately two times per week and helped approximately 175 individual clients. The services rendered fell short of the organization's goals and objectives as set forth in the Year 34 grant application.

Although we found that the services YALIS provided during the Year 34 grant failed to meet stated goals and objectives, we recognize that the services are important for the Latino and immigrant residents of Yonkers, and are clearly in keeping with the goals and objectives of the City's CDBG program. Now that the administration of YALIS has been turned over to a new Board President who is rebuilding the organization, the new Board should be given an opportunity to demonstrate that YALIS is worthy of continued support from the City.

¹⁶ The progress reports also indicated that services were being provided to individuals who met the low income requirements of the CDBG program and intake forms that we reviewed documented clients' income.

Conclusion

For the reasons stated herein we find:

1. YALIS' financial books and records were disorganized and incomplete, and as a result, we could not verify that YALIS accounted for all its cash receipts from program income and cash payments to its employee. YALIS' lack of proper accounting procedures did not meet the minimum standards established by HUD.
2. YALIS' failure to file and pay unemployment insurance taxes and to maintain workers' compensation insurance for its employees led to considerable unanticipated costs for the organization which contributed to its financial problems. The payment of penalties and interest with CDBG monies violated HUD regulations. After resolving all New York Department of Labor unemployment insurance claims in November of 2008, YALIS has now once again failed to file required unemployment insurance taxes.
3. Lorraine Lopez' and Anthony Piacente's submission of inaccurate and misleading claims to the Planning Department for CDBG reimbursement violated HUD regulations and the Yonkers Code of Ethics. As required by the City Charter, we are forwarding a copy of this report to the Yonkers Board of Ethics for appropriate action.
4. Finally, although we found significant problems with YALIS' administration, and the services YALIS provided during the Year 34 grant failed to meet stated goals and objectives, we recognize that YALIS has the potential of becoming an important resource for the Latino and immigrant residents of Yonkers. Now that the administration of YALIS has been turned over to a new Board President who is rebuilding the organization, the new Board should be given an opportunity to demonstrate that YALIS is worthy of continued support from the City. Moreover, we recommend that staff members of the City's Planning Department's Community Development Bureau, meet with the new YALIS Board and advise them as to how to best meet the financial requirements of the CDBG program.



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**DEPARTMENT OF
INSPECTOR GENERAL**

October 23, 2009

Philip A. Zisman, Inspector General
Yonkers City Hall
40 South Broadway
Yonkers, N.Y. 10701

Dear Mr. Zisman:

Your report on YALIS is both surprising and somewhat confusing, and seems to include contradiction.

In your findings, you state "YALIS has the potential of becoming an important resource for the Latino and immigrant residents of Yonkers." We, the past Board and apparent target in this investigation, agree. That is why we have struggled tirelessly to maintain the organization through these difficult times. The economy faltered, grant monies were lost, and Board members vanished. The job of many, fell on the shoulders of a few. These are all issues that the Board brought to your attention on the first day of your investigation and issues that, while not mentioned to be an excuse, are worth noting. However, also brought to your attention at the onset of your investigation was the Board's plan to bring in new members, thereby replacing the entire existing Board that consisted of non-City employees who shared YALIS' vision. The obstacles for a successful transition and maintaining the organization were enormous. However, as alluded to in your report, your investigation lasted for nine months, a timeframe that was solely in the control of your office. So, while you state that you share YALIS' view, you have sought only to hamper it and bog it down. Though many items discussed in your report include explanations which were never sought by your office, we will touch upon a few issues in this letter.

Firstly, you state that the organization did not reach its goals. These goals, however, were adjusted as funding changed. Nevertheless, YALIS' initial goals were nearly met despite all of the alleged "issues" and the investigation itself. You claim that the length of your investigation was the result of irregularities and the Board's slow response to your

inquiries, but many of your “findings” were derived from issues that were voluntarily brought to your attention by the Board in the very early stages of your investigation.

Secondly, Workers’ Compensation, Unemployment Insurance, and tax issues brought about by the organization’s financial difficulties were acknowledged, all necessary documentation was provided, and future plans to remedy the situation were discussed, all to the satisfaction of each appropriate government agency. As stated and explained in your report and early in the investigation, the Board believed that it hired independent contractors, which would not have required YALIS to pay Workers’ Compensation and Unemployment taxes. However, YALIS retained a lawyer in 2008, and in working with the New York State Department of Labor and Workers’ Compensation Board, reached a settlement significantly reducing any penalties. The new Board continues to work with these agencies, as well as preparing any taxes, funds permitting.

Your office and the Board appeared to be in agreement in ensuring a timely investigation so that the recovery plan could move forward. Evidently, nine months later, we were mistaken. Your office was in control of the investigation’s pace the entire time. Furthermore, much of the documentation provided was, in fact, originals and remain in the possession of your office. In the spirit of full cooperation and disclosure, we felt a timely investigation took precedence. Your continued possession of original documentation, however, has only hampered our efforts in moving forward. Therefore, YALIS would like any and all documents returned immediately.

Moreover, you state in your report that a loan was provided to YALIS in 2001 in the amount of \$10,000 and that a payment was not made until August of 2007. Once again, there appears to be a discrepancy between your report and discussions with you and your staff during your investigation. That loan was not believed by the Board to actually be a loan, but rather a grant. Once the miscommunication was understood by both parties involved, a promissory note was executed and is being honored to this day.

You go on in your report, at length, in discussing the organization’s cash receipts, program income, and internal financial controls. In summary, you claim that the records are incomplete or inaccurate, and that the internal processes for handling finances were “irregular” and “weak.” This resulted in your office’s inability to reconcile the organization’s finances. In response, again, documentation relating to the organization’s finances was provided, including the original receipt books documenting program income, copies of all bank statements for the period in question, and affidavits provided to Ms. Beatriz Castrillon, Immigration Specialist for YALIS. Your findings over the course of a nine month investigation, that YALIS’ bank account included at least most of money collected seems to contradict your previous position that the records were incomplete. To date, and omitted from your report, your office has not provided us with any amount that you deem to be in dispute or irreconcilable. In reality, great progress has been made to satisfy prior financial short-comings, keep the organization moving forward, and transitioning the Board to non-City employees.

Finally, and most importantly, you question the ethics of two YALIS Board members and City employees, Lorraine Lopez and Anthony Piacente. During one of your interviews with Ms. Lopez, a past Board member, you predicted that Ms. Lopez would receive a “black eye” by your report, a claim made well before the conclusion of your investigation. Your report accuses both of acting knowingly in presenting “inaccurate and misleading claims” for CDBG reimbursement to the City of Yonkers. Nothing can be more further from the truth. As your report indicated, Lorraine Lopez discussed with Alba Guevara, a Program Coordinator in the Yonkers Planning Department’s Community Development Agency as you cite, CDBG reimbursements and the claim’s process. To Ms. Lopez’s and Mr. Piacente’s knowledge, and that of the entire Board, there was never an attempt made by the organization to deceive the City, manipulate the process, or violate the delicate balance between being a board member of a community-based organization and being a City employee. There simply is no motive to do so. Any changes made after reimbursement were made to keep the doors open, the phones working, and the organization moving forward toward the goal of reaching its potential under a new Board. Funding and cash flow issues simply complicated the process and even the slightest delay in one, affected every aspect of the organization leading to the redirection of funds. This redirection went to organizational obligations, as you acknowledge in your report. Though YALIS was in continuous contact with the Department and Planning and Development, which administered the HUD grants, at no time was YALIS notified by the Department of Planning and Development or by HUD, verbally or in-writing, that reimbursements were filed incorrectly. Reasonably, this left the Board with the belief that no violations occurred.

Several of the checks you cite in your report were taken by New York State. While the Board was well aware that this would occur, it was not known that this would be done automatically and directly from our CDBG reimbursement. To knowingly undermine the hard work put into this organization by its Board, compromises everything the Board has tried to do. On behalf of the two Board members in question, to assert that they would violate their obligations to the City in which they live and work in is unthinkable. Mr. Piacente, to the best of his ability, sought to answer each question posed by your office. When necessary, supporting documentation was provided. Based, in part on these responses, your recommendation of a referral to the Ethics Board is cause for great concern by Mr. Piacente. Mr. Piacente, at the time of your questioning, and to the present, is a member of Local 456 of the I.B.T., and therefore entitled to Civil Service Law §75 protection. Section 75 states in pertinent part that “an employee who at the time of questioning appears to be a potential subject of disciplinary action shall have the right to representation . . . and shall be notified in advance.” At no time during your investigation was Mr. Piacente afforded the opportunity to have representation.

Referral to the Ethics Board based upon violations of the Ethics law, as you are well aware, can be the subject of disciplinary action. Moreover, referral can also lead to possible criminal prosecution. It is unclear from your report at which point during your investigation you began to consider that Mr. Piacente violated the Ethics Law, which would then trigger Mr. Piacente’s right to representation.

The final point in your findings is that YALIS now has a new Board President and that YALIS needs time to prove its worthiness of receiving City funding and its value as a viable organization to the Hispanic community within Yonkers. As we stated earlier, we agree. But, the process did not begin with our new Board President, it began before the new Board was voted into office.

Despite our best efforts in providing documents and answering countless questions that all seemed to be depicted as "the last one," the investigation process lasted far too long and yielded items initially discussed during the first month of the investigation and items still in the process of being resolved.

You state early in your report that "the organization fell almost by default to the remaining active Board members." On the contrary, the Board members that remained active chose to be active to save the organization. It was not by default, but based on their ethics that you now question.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Lopez". The signature is written in black ink and is positioned to the left of the typed name.

Lorraine Lopez
YALIS

cc: Philip A. Amicone, Mayor

PHILIP A. AMICONE
MAYOR

PHILIP A. ZISMAN
INSPECTOR GENERAL



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DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS

TO: Lorraine Lopez, YALIS Board Member

CC: Philip A. Amicone, Mayor

FROM: Philip A. Zisman, Inspector General *PAZ*

SUBJECT: Your Letter Dated: October 23, 2009; Received: October 27, 2009

DATE: October 28, 2009

I write in response to the above-referenced letter, in which you respond to my Office's draft report of our Inspection and Review of Yonkers Alliance for Latino and Immigrant Services, Inc. ("YALIS"). (A copy of your letter and this memorandum will be attached to the final report in an appendix.)

From the outset, I note that nothing in your letter calls into question the accuracy of the specific findings and conclusions of the Inspector General's report. As a result we stand by our findings that are summarized below:

1. YALIS' books and records were disorganized and incomplete, and we could not verify that YALIS accounted for all of its cash receipts from program income, and YALIS lacked proper accounting procedures that met the minimum standards established by HUD.
2. YALIS failed to file and pay unemployment insurance taxes and maintain workers' compensation insurance which contributed to the organization's financial problems. After paying significant penalties and interest in 2008, beginning in the fourth quarter of 2008, YALIS again did not file required unemployment insurance taxes.
3. You and Mr. Piacente filed misleading claims to the Planning Department for CDBG reimbursements, which violated HUD regulations and the Yonkers Code of Ethics.
4. YALIS did not meet its stated goals and objectives as set forth in the Year 34 grant application.

With respect to the issues set forth in your letter, we respond as follows:

Claim:

YALIS' stated goals were adjusted based on funding changes and that YALIS nearly met its goal despite all of the alleged "issues" and the investigation itself.

Response:

Our determination that YALIS did not meet its goals and objectives was based on our findings that during the Year 34 grant period, February 1, 2008 to January 31, 2009, YALIS's only service was the provision of immigration counseling approximately two times per week. This was far short of the stated goals set forth in the Year 34 grant application. Our Inspection and Review had no impact on YALIS' ability to meet its objectives for the Year 34 grant period, because we started our work after the Year 34 grant period had ended.

Claim:

The Inspector General's findings were derived from issues that were voluntarily brought to our attention by the YALIS Board at an early stage.

Response:

All members of the YALIS Board cooperated with our Review and Inspection, which was conducted in an informal manner, as is our policy and procedure when conducting reviews of Community Based Organizations that receive CDBG funding from the City. The information that you provided was included in our findings of fact.

Claim:

The Inspector General's Office unduly delayed its review of YALIS and the Inspector General continues to hold original documentation of YALIS which has hampered the organization.

Response:

We disagree that the Inspector General's Office unduly delayed our Inspection and Review, and believe that delays were caused by YALIS. The main reason the review took as long as it did was the fact that YALIS' financial books and records were incomplete and disorganized. We also had to analyze and reconstruct records in an effort to try to determine whether YALIS' cash receipts were fully accounted for. Because the records were incomplete, we repeatedly asked you and Mr. Piacente to find the relevant records and your search for

records continued for many months. Also, we had difficulty scheduling timely appointments with YALIS Board members and staff which led to additional delays.

During the late summer our efforts to obtain necessary documents and information came to a standstill. As a result, on September 10, 2008, I sent you a memorandum (attached) outlining the open items that still needed clarification. The memorandum expressed our frustration in obtaining the information that we needed to finish our review. In the memorandum we imposed a deadline for the needed information so that we could finish our review as expeditiously as possible.

We will return all original documents to YALIS as soon as possible.

Claim:

The Inspector General mischaracterized YALIS' \$10,000 loan from the Yonkers Local Assistant Corporation ("YLAC").

Response:

We reviewed the original loan documents from 2001 that indicated that YALIS was the recipient of a \$10,000 loan at 3% interest from YLAC. We confirmed that no payments on the loan were made until 2007 when the loan was renegotiated.

Claim:

There are contradictions in our findings regarding whether YALIS' cash receipts were properly accounted for.

Response:

Because of the lack of internal controls over the organization's cash receipts from program income, we wanted to ensure that all cash was accounted for. We had concerns that cash may have disappeared. From the incomplete records that were provided to us, we calculated that a total of \$17,548 had been collected in 2007 and 2008. That cash was reportedly spent on petty cash items, used to pay Beatrice Castrillon's salary or deposited in the bank.

After preparing detailed schedules of receipts and disbursements from the raw data that was provided us, our analysis appeared to suggest that much of the cash was actually deposited; however, we could not verify this to be the case. We could not determine how much cash was actually deposited in the bank because we were not provided with bank deposit records and the deposits that were made did not correspond to the cash receipts that Ms. Castrillon provided to

you in envelopes. We specifically shared our concerns with you and Mr. Piacente, and provided you with schedules that we had prepared regarding the cash receipts, but we never received documentation that would confirm that all cash was properly accounted for.

Claim:

I indicated to you early on that you would receive a “black eye” from our final report.

Response:

The statement about the black eye was made in response to your question as to how you would be perceived based on the lack of internal controls over YALIS' finances. At our meetings in April and July of this year, you admitted that the organizations financial records were incomplete and disorganized. You asked what the implications of YALIS' problems were and what the focus of our review was. I told you that there would be a report that would state our findings about YALIS. I also told you that we wanted to confirm that the organization's cash receipts were properly accounted for and that the claims that YALIS submitted for reimbursement were accurate. Throughout our review we worked with you and Mr. Piacente, told you what the focus of our review was, and gave you every opportunity to provide documents and answer our questions.

Claim:

With respect to the Inspector General's findings that the submitted claims for reimbursement under Year 34 CDBG funding were misleading, you claimed there was no motive to mislead or deceive the City and that YALIS was in continued contact with the Department of Planning, and at no time was YALIS ever notified that the reimbursements were not filed correctly.

Response:

On the surface, the Year 34 claims that YALIS submitted generally complied with Planning Department policies and procedure. Only an after the fact audit would reveal that the submitted reimbursement claims contained checks that were never cashed. According to Planning Department staff who reviewed the claims, they were unaware of the inaccuracies in the submitted Year 34 claims. Although you claim there was no motive to deceive the City, your desire to save YALIS does not justify violating City and HUD requirements for obtaining grant funds.

Claim:

With respect to our finding that the misleading claims submitted to the Planning Department violated the Yonkers Code of Ethics, you state that Mr. Piacente should have been afforded the opportunity to have representation under Civil Service Law.

Response:

Our review of YALIS was informal, Mr. Piacente was always fully cooperative, and tried to answer our questions and explain the records to the best of his ability. At one time I did ask him if he wanted to have a representative present and he declined. We also spoke with you and Alba Guevara about having representation present during our interviews. Finally, we only came to the conclusion that an ethics violation existed after our last meeting with Mr. Piacente when he stated that he and you prepared the claims.

**PHILIP A. AMICONE
MAYOR**



**CITY HALL
YONKERS, NEW YORK 10701-3883**

**PHILIP A. ZISMAN
INSPECTOR GENERAL**

**Ph: 914-377-7000
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**DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS**

By Email and Interoffice Mail

TO: Lorraine Lopez, Member YALIS Board of Directors

FROM: Phil Zisman, Inspector General

SUBJECT: YALIS meeting scheduled for September 17, 2009

DATE: September 10, 2009

This memorandum is written in preparation for the meeting scheduled for September 17, 2009, at 10:00 AM with you, Anthony Piacente and Ed Benes and Harvey Green of the Inspector General's Office. The meeting will be the final opportunity for you to provide us with requested documentation and information regarding YALIS that is relevant to the audit that my Office has been conducting for almost nine months. (Our first meeting with YALIS Board Members took place on January 20, 2009.)

As you are aware, YALIS's financial records for 2008 have not been reconciled and the underlying documents that you have provided to us have raised questions that we have been trying to have answered for many months. In working with you and Mr. Piacente, additional documentation has been provided at various times, but the records are still incomplete. As I indicated to you on the telephone last week, we need to resolve these matters and receive final input from YALIS in order to complete our review.

Specifically, we need the following:

1. We were provided with a document entitled "INVOICE" which appears to be a schedule of salary payments to YALIS employee Beatrice Castrillon. In that document there are references to "affidavit" cash payments and checks to Ms. Castrillon. We need to know the dates when these affidavit

payments were made. In addition, we asked Mr. Piacente to verify the accuracy of all listed payments.

2. We were also recently provided with tax form 1099 for Beatrice Castrillon for 2008. We have requested to see the supporting documentation for this tax information.
3. We provided Mr. Piacente with a schedule of what we believed to be bank deposits of cash and check receipts of program income from March 11, 2008 through December 23, 2008. We asked him to verify that the deposits were, in fact, cash and checks from program income. The documents he provided caused us to adjust our schedule of cash deposits for that period. We now request that he verify the cash and check receipts of program income deposited during the period of January 4, 2007 through March 5, 2008. (See attached schedule.)
4. In 2008, YALIS entered into a settlement with the New York State Department of Labor for alleged violations of unemployment insurance and workers compensation requirements. We need a copy of the legal documents that describe the alleged violations and the terms of the settlement. During the summer, I spoke to YALIS attorney Jim Castro-Blanco who told me he needed to be authorized by YALIS to provide this information.
5. Finally, we would like to see copies of all Board minutes for 2007 through the present.

We have been working with Mr. Piacente in an effort to resolve the open items, and he has told us that he is still trying to provide the information we have requested.

With respect to the status of our review, after we have received final documentation and answers to our questions, we will be conducting final interviews before we issue a preliminary report on our findings for your input.

If you have any questions, please contact me as soon as possible since we need any additional information to be provided to us by the September 17th meeting.