THE FLORIDA LEGISLATURE

OPPAGA

OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY

June 2012 Report No. 12-08

Miami-Dade's Discretionary Surtax Provides Benefits; Accountability Processes Should Be Improved

at a glance

Miami-Dade County's discretionary documentary stamp tax provides dedicated funding for affordable housing, with surtax revenues exceeding $100 million over the last five fiscal years. Two county agencies—the Department of Public Housing and Community Development and the Miami-Dade Economic Advocacy Trust—use surtax funds to provide homebuyer and homeowner assistance, education and counseling, and rental housing construction and rehabilitation. While state law requires that no more than 10% of each year's new surtax revenues be used for administrative costs, both agencies supplement such expenses with funds from other sources.

The department's commitment to facilitating homeownership is evident in surtax loan provisions, which include low interest rates, low monthly repayment schedules, and deferred payment. In addition, developers rely on surtax funds to complete complex financing arrangements needed for multi-family developments and also benefit from favorable loan provisions. Department officials estimate that $235.7 million of $305.2 million in current loans may never be collected due in part to favorable loan terms and the economic downturn.

The Department of Public Housing and Community Development does not have a comprehensive measurement system to assess surtax outcomes; we suggest it revise its performance management system to include additional surtax-related measures so that the success of the program can be assessed.

Scope

Chapter 2009-131, *Laws of Florida*, directs OPPAGA to review the discretionary surtax program operated under s. 125.0167, *Florida Statutes*, and report to the Legislature by June 30, 2012, and every five years thereafter.[1]

Background

The 1983 Legislature created s. 125.0167, *Florida Statutes*, which allows certain counties to levy a discretionary surtax for providing low- and moderate-income housing.[2] The tax applies to deeds and other instruments relating to real property in an amount not to exceed 45 cents per $100; the statute exempts real property transactions involving single-family residences.[3, 4] Currently, only Miami-Dade County assesses the discretionary documentary stamp tax.[5]

The law prohibits the use of discretionary surtax funds for rent subsidies or grants and provides that affordable housing funds be used to

- finance the construction, rehabilitation, or purchase of rental housing units;

---

[1] Section 125.0167(8), *F.S.*

[2] Chapter 83-220, *Laws of Florida.*

[3] The statewide documentary stamp tax is 70 cents per $100, except in Miami-Dade County, where it is 60 cents per $100.

[4] Condominiums are considered single-family residences under this law.

[5] Hillsborough and Monroe are the only other counties eligible to levy the discretionary surtax, but they would have to make significant changes to their Home Rule Charters to do so.

- rehabilitate single family housing units; and
- provide homeownership assistance through affordable second mortgages.

Surtax funds must be used for low- and moderate-income families.[6] A low-income family's income cannot exceed 80% of area median income. The current area median income for Miami-Dade County is $52,600. Thus, a low-income family, depending on family size, would have an annual income ranging from $36,750 (family of one) to $52,500 (family of four); the maximum allowable income increases for each additional family member. A moderate-income family's income cannot exceed 140% of area median income.

State law requires that no less than 50% of surtax funds be for the benefit of low-income families. However, current county policy provides that 75% of surtax funds be used for low-income families.

The 2009 Legislature amended the surtax law to provide that no more than 10% of the surtax revenues collected and remitted to the county by the Department of Revenue in a fiscal year may be used for administrative expenses. Of the remaining funds, no less than 35% may be used for homeownership and no less than 35% may be used for rental construction. The remaining funds can be used for homeownership and rental construction at the county's discretion.

Two entities use surtax funds in Miami-Dade County. The county authorizes two entities to expend surtax funds: the Department of Public Housing and Community Development receives 92% of surtax funds, and the county allocates 8% to the Miami-Dade Economic Advocacy Trust (MDEAT).[7] As shown in Exhibit 1, surtax revenues distributed to these entities exceeded $100 million over the last five fiscal years.[8]

Exhibit 1
Over the Last Five Fiscal Years, Miami-Dade County Received $102.8 Million in Surtax Revenues

Fiscal Year	Discretionary Surtax Revenues: Miami-Dade County	Discretionary Surtax Revenues: Miami-Dade Economic Advocacy Trust[1]
2007	$30,383,067	$2,855,667
2008	20,982,178	1,824,538
2009	8,613,911	749,036
2010	15,037,315	1,307,592
2011	19,332,132	1,681,055
Subtotal	**$94,348,603**	**$8,417,888**
Grand Total[2]	**$102,766,491**	

[1] Miami-Dade Economic Advocacy Trust, formerly known by the name Metro Miami Action Plan Trust.

[2] In March 2012, the Department of Revenue (DOR) notified Miami-Dade County that due to a computer programming error, DOR had over distributed $3.3 million in surtax funds beginning with transfers in June 2008. From March through September 2012, DOR will adjust transfers to the county to recoup the over distributed amount.

Source: Miami-Dade County.

The **Department of Public Housing and Community Development** uses surtax funds to support three areas: administration; homeownership programs (second mortgages, rehabilitation, beautification loans, and homebuyer education and counseling services); and rental construction (includes multi-family new construction and the rehabilitation of existing properties). The **Miami-Dade Economic Advocacy Trust** uses its surtax revenues for administration and homeowner assistance through down payment and closing loans. (See Appendix A for additional information on MDEAT housing activities and expenditures.)

Miami-Dade affordable housing programs have undergone numerous changes since 2006. In July 2006, the *Miami Herald* published an investigative series regarding the county's affordable housing programs. Subsequent to the newspaper series, a Miami-Dade County grand jury reported on the same subject. In addition, the county's inspector general and the U.S. Department of Housing and Urban

[6] Section 125.0167(1), *F.S.*, defines low income as less than 80% of the county median income and moderate income as between 80% and 140% of the county median income.

[7] Along with MDEAT, several county entities have administered surtax funds, including Dade County Housing and Urban Development (1983), the Special Housing Programs Department (1986), the Miami-Dade Housing Agency (1996), the Housing Finance Authority (2006), the Office of Community and Economic Development (2008), and the Department of Housing and Community Development (2010). In the fall of 2011, the county mayor reorganized several departments; the Department of Public Housing and Community Development now administers the surtax funds.

[8] Florida counties operate on the federal fiscal year, October 1 to September 30. Thus, the county's Fiscal Year 2011 would be from October 1, 2010, through September 30, 2011.

Development (HUD), along with the state attorney's office and local law enforcement, reviewed or investigated different aspects of the county's affordable housing programs. Issues raised by these various investigations included the inappropriate use of surtax funds; inadequate financial controls over affordable housing funds; insufficient oversight policies and procedures; and fraudulent criminal activities.

In 2007, HUD took control of the Miami-Dade Housing Agency due to concerns that the agency was in default of the two federal contracts that controlled its public housing and rental assistance. Following a series of corrective actions, HUD returned control of the agency to the county in January 2009.

In January 2008, the Miami-Dade County inspector general issued a report concerning \$12.6 million in surtax funds loaned to the county's housing agency to cover departmental shortfalls; the report stated that the county should repay these funds because the expenditures did not meet statutory criteria for surtax expenditures. The county established a repayment schedule for \$12.6 million, which was subsequently reduced by \$3.1 million.[9]

Findings

Surtax administration is supported by several sources, including 10% of new surtax funds

When the discretionary surtax was created, the only restriction on surtax funds was that no less than 50% be used to provide housing assistance for the benefit of low-income families. The authorizing statute did not address the use of surtax funds for administrative expenses. However, subsequent legislative changes established a cap on the use of surtax funds for such purposes.

In Fiscal Year 2007, the county received \$30.4 million in surtax revenues and spent \$7.8 million on its administrative expenses. These expenses included all staff costs relating to administration and project delivery. In Fiscal Year 2008, the county received \$21 million in surtax revenues and spent \$6.2 million on administrative expenses.

In 2009, the Legislature amended s. 125.0167, *Florida Statutes*, requiring that no more than 10% of each year's new discretionary surtax revenues be used for administrative costs. In accordance with this statutory change, officials now allocate 10% of new surtax revenues for administrative costs. For Fiscal Year 2011, 10% of surtax revenues equaled \$1.9 million.

However, officials also allocate other surtax-related funding for administrative expenditures. In Fiscal Year 2011, officials used these other sources to supplement internal administrative expenditures with an additional \$2.2 million. Furthermore, department officials reported expenditures of \$904,000 in surtax funds to reimburse Miami-Dade Department of Community Action and Human Services staff who supported certain surtax homeowner assistance loan programs.[10] Thus, the department spent an additional \$3.1 million to administer its surtax loans during Fiscal Year 2011, which represents approximately 25% of the receipts from other sources (\$12.4 million).[11, 12]

For Fiscal Year 2011, the additional funds for administrative expenses came primarily from three sources: surtax loan repayments, investment income, and fees. Homeowners and developers repaid approximately \$9.9 million in principal and \$1.3 million in surtax loan interest. The department also reported earning \$223,445 in investment income. Finally, the department received \$483,229 in fees associated with

[9] The \$12.6 million surtax debt resulted from two loans to the Miami-Dade Housing Agency: \$3 million in 2004 and \$9.6 million in 2006. The department identified \$3.1 million in rehabilitation program expenses from 2003 to 2009 and used these costs to adjust the loan repayment. Department officials report that they are using rent payments from nine county-owned housing developments to repay surtax funds.

[10] For Fiscal Year 2011, these additional administrative expenses included \$548,849 for the beautification program and \$355,370 for costs relating to the single-family rehabilitation program.

[11] In 2011, the department also repaid \$1 million to the Housing Finance Authority for previous administrative costs for surtax homeownership activities.

[12] In 2011, the department also received \$500,000 in surtax debt repayment from two loans to the Miami-Dade Housing Agency.

processing and collecting loan payments from loan recipients. (See Appendix B for additional information on the fees.) Current surtax statutes are silent on how these sources of funds can be used.

The department's commitment to facilitating homeownership is evident in loan provisions

Miami-Dade County's surtax funds provide homeownership assistance to citizens who would otherwise be unable to obtain the necessary financing to purchase or repair a home. According to Department of Public Housing and Community Development officials, loan repayment is a secondary priority, and loans include generous repayment provisions or loan forgiveness.

In Fiscal Year 2011, the department spent approximately $4.5 million for homeownership assistance activities, including homebuyer education and counseling services and homebuyer loans.[13]

Surtax funds are used for three types of homeowner loans. The department provides three types of homeowner loans: second mortgages, rehabilitation, and beautification. As shown in Exhibit 2, the second mortgages are usually the largest individual homeowner loans issued by the department; second mortgages range from $50,000 to $70,000. Rehabilitation loans typically range from $30,000 to $40,000, and beautification loans are capped at $5,900.

[13] The county's spending for homeownership (35% by statute) should have equaled $6.76 million. Officials indicated they plan to spend the remaining funds in the following fiscal year.

Exhibit 2
The Department Provides Three Types of Surtax Homeowner Assistance Loans

Loan Type	Description	Typical Loan Amount
Second Mortgage	Borrowers who qualify for and obtain a first mortgage (from a bank or other lender) can qualify for a second mortgage to complete their loan package	$50,000 to $80,000
Rehabilitation[1]	Department loans to assist homeowners in bringing a house's structural, electrical, and plumbing systems up to county building code standards	$30,000 to $40,000
Beautification[2]	Loans for exterior painting and landscaping	$5,900

[1] Typically, rehabilitation loans are provided to the elderly and/or individuals whose homes need disability modifications.

[2] Beautification loans are only provided in two county commission districts designated as suffering from urban blight. Like rehabilitation loans, these loans are often provided to elderly residents in these areas.

Source: OPPAGA analysis.

To qualify for loan programs, homebuyers must meet certain income thresholds and other program criteria. In addition, participants must complete a homeowner education and counseling course. These education services, provided in an eight-hour workshop, teach homebuyers how to build/repair individual credit, how to qualify for a mortgage and meet homeowner responsibilities, and the role of real estate agents, inspectors, and title companies. Upon completing the workshop, homebuyers receive certificates that can be used when applying for down payment assistance or other subsidy programs. Local non-profits compete for surtax funds to provide homeowner education courses. For example, in 2007 and 2008, one local community development corporation received a total of $350,000 and provided education and counseling to 350 families.

Homeowner loans provide generous loan repayment provisions. All homeowner loans require that the borrower maintain the home as a primary residence. If the homeowner vacates or sells the home, the balance of all surtax loans must be repaid. If borrowers remain compliant with requirements, the loans provide low interest rates and low monthly repayment schedules; in addition, some loan terms forgive all or a portion of the loan. Interest rates for second mortgages range from 0% to 3% for low-income borrowers and 4% to 6% for moderate-income borrowers. Rehabilitation loan interest rates vary from 0% to 6% depending on the borrower's income compared to the county median income. Beautification loans do not include an interest charge.

Monthly repayment schedules vary by loan type, and payments can be very low. For example, low-income second mortgage borrowers pay $25 per month for the first five years of the loan and $50 per month for the second five years. Moderate-income borrowers pay $50 per month for the first five years and $100 per month for the second five years of the loan. The department applies these payments toward loan interest for the first five years and forgives any remaining interest. For years 6 through 10, the department applies half the payment to the loan balance, half to the interest, and forgives any remaining interest. After 10 years, loan terms amortize the remaining principal and interest over the next 20 years.

Repayment for rehabilitation loans depends on the borrower's debt-to-income ratio, which is calculated by dividing an individual's monthly debt payments by his/her monthly income. If the ratio exceeds 45%, the loan terms require a repayment of $50 per month and forgive the interest.[14] In this situation, the county would forgive $18,000 of a $30,000 loan and the borrower would repay $12,000 over 20 years.

By design, some surtax loans do not require repayment. For example, beautification loans have no interest rate and no repayment schedule. The department forgives the loans at a rate of 20% per year as long as the homeowner remains in the home. As with the other loans, should the homeowner sell the home within five years, the remaining balance of the loan must be satisfied. Exhibit 3 shows the loan status of homeownership and rehabilitation loans. As shown in the exhibit, 90% of beautification and rehabilitation loans are deferred, meaning that no monthly payment is required. The Miami-Dade Economic Advocacy Trust provides similar loan forgiveness related to its down payment and closing cost assistance loans. (See Appendix B for additional information.)

[14] When the debt-to-income ratio is 45% or less, the loan term is 20 years fully amortized and is not forgiven. The interest rate ranges from 0% to 6%.

Exhibit 3
Most Rehabilitation and Beautification Loans Are Deferred

Loan Status	Homeownership	Rehab/Beautification
Active[1]	1,773 (78%)	148 (10%)
Deferred[2]	506 (22%)	1,367 (90%)
Total	**2,279**	**1,515**

[1] The number of active homeownership loans (those that require a monthly payment, referred to as amortized) includes 379 (21.4%) homeowner loans that were delinquent as of May 2012; the number of active rehabilitation loans includes 47 (31.8%) that were delinquent.
[2] Deferred homeowner loans may include loans from earlier years with loan terms that did not require a monthly payment.
Source: OPPAGA analysis.

Florida law prohibits the use of discretionary surtax funds for grants. The department's practice of loan forgiveness, with no required repayment, gives the loans the appearance of a grant. However, department officials reported that because homeowners must repay the loan balance when selling the property, these forgivable loans do not constitute grants.

Low income housing developers rely on surtax funds for project completion

Each year, developers apply for surtax funds to construct multi-family affordable rental housing for low-income families. Development projects can include new construction of high-rise rental developments as well as smaller projects and the rehabilitation of existing rental housing. The financing process for such developments involves many steps and complex financing arrangements using funds from a variety of sources, including federal tax credits and surtax funds. Like homeowner loans, development loans include low interest rates and delayed or deferred loan repayment.

In Fiscal Year 2011, the Department of Public Housing and Community Development's expenditures for rental housing construction totaled approximately $9.2 million, which exceeded the 35% minimum ($6.76 million) in the new surtax funds; officials used additional surtax related repayments, investment income, and fees to provide additional construction funds.

The department funds new surtax projects each year and has on-going project commitments. For the five-year period from 2007 through 2011, we identified 85 development projects approved for surtax funding. Twelve of these projects were cancelled with no funds expended. The remaining 73 projects include projects where surtax loans have not yet closed and construction has not begun, developments under construction, and projects completed during this five-year period.

In Fiscal Year 2011, the department reported $41.4 million in funds committed to pending or on-going rental construction developments. As of April 2012, the department had 197 loans; 172 loans were active, while 25 were deferred, which means that no loan repayment is required at the present time or no loan repayment is required at all, depending on the loan terms.[15]

The process to fund large developments requires multiple steps and funding sources. As shown in Exhibit 4, the process of obtaining funds to build these developments can be lengthy. For developers seeking tax credits, the process begins with an application to the county for matching funds and ends with the loan closing. At any step in the process, the project can come to a standstill. For example, if the developer fails to obtain federal tax credits, the surtax funds committed for the local match are not provided. In addition, if the developer does not sell the federal tax credits and raise the equity needed for the project, the project may not proceed.

[15] The definition of a deferred loan differs according to the type of loan. While deferred homeowner loans do not require a monthly payment, deferred developer loans may require a monthly payment, but not until many years in the future.

Exhibit 4
The Process of Raising Funds for Low Income Housing Development Can Be Lengthy[1]

Example of the Affordable Housing Financing Process	Explanation
Board of County Commissioners: The board approves the annual Request for Application (RFA) documents.	County housing staff compiles the annual application documents that contain the application and loan requirements for all affordable housing funds, including surtax funds, Community Development Block Grants, the HOME Investment Partnership Program, and the State Housing Initiatives Partnership.
Application: Developer completes the county's request for application and submits the request to the county.	The county process typically begins in July with a county commission-approved RFA. Sometimes the county issues a second RFA process referred to as a mid-year RFA. Depending on the phase of the project, developers may apply for initial matching funds, construction funds, or emergency funds to complete a project.
Local Match: To obtain tax credits, the developer asks the county to commit to providing local matching funds (surtax funds).	Local match commitment shows the local government's support for the project and supports the developer's application to the Florida Housing Finance Corporation (FHFC) for federal tax credits. The county currently commits $175,000 in local match and in prior years, the amount has been as high as $300,000. The funds are provided as part of the completed loan package.
Project Awards: The department receives developer applications, reviews them, and makes recommendations for project funding.	Department staff presents the board with a list of proposed funding amounts for projects. The board reviews the proposal and must approve all projects for funding. Developers may receive all or only part of the funds they requested.
Federal Tax Credits: The project will only go forward if the developer receives federal tax credits.	The Florida Housing Finance Corporation uses a statewide competitive process to award federal tax credits. This process can take one and a half years or longer.
Sale of Tax Credits: Tax credits are sold to investors, who provide the primary equity for the project.	The process to sell the tax credits can be lengthy. Investors will be more likely to purchase the tax credits for a good return on investment (i.e., investing 85 cents for each $1 dollar tax credit).
Other Funding: The developer seeks additional funding.	The developer may seek bank loans and apply for additional surtax funds to cover any "gaps" in the funding needed to complete the project.
Loan Closing: The department seeks a single closing with all the parties that are involved in the funding for the development.	Prior to closing, the project undergoes an external review to ensure it is financially viable. Following the loan closing, the developer can begin construction. The department does not release committed surtax funds to the developer until the loan closing process is completed.

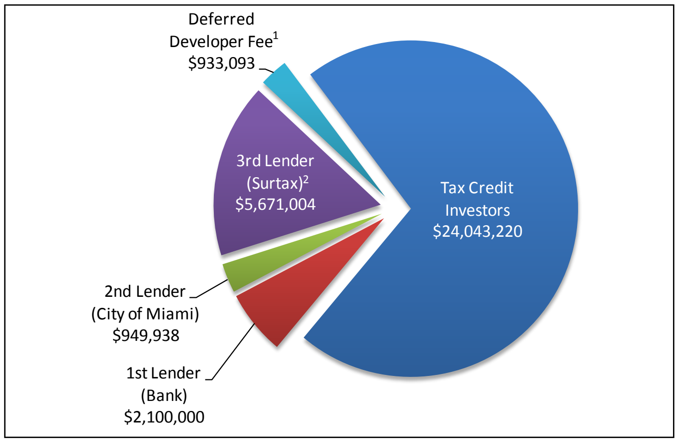
[1] The exhibit focuses on projects that rely on federal tax credits to raise project funds. However, projects may also be funded with other sources, including federal funds or through the sale of revenue bonds.

Source: OPPAGA analysis.

Developers rely on federal tax credits to build large affordable housing developments. The federal government's tax credit program makes affordable housing developments more attractive to developers and investors. In Florida, the Florida Housing Finance Corporation administers the program, allowing developers to apply for housing tax credits which, if received, are sold to investors to raise a portion of the project's funding.[16] For example, an investor might pay $88,000 for $100,000 in tax credits to be used over a 10-year period; investors who purchase tax credits are able to use them to reduce their federal tax liability dollar for dollar.[17] Prior to applying for federal tax credits, developers first seek a surtax local match. These local match funds demonstrate the county's support for the project; in the absence of local match, most projects cannot move forward.

Exhibit 5 describes the financing package for a recent Miami-Dade County affordable housing project. As shown in the exhibit, the developer qualified for and received tax credits and investors purchased tax credits that provided approximately $24.0 million for the project. In addition, the developer obtained project funding from a bank ($2.1 million), the City of Miami ($950,000), and the county surtax fund ($5.6 million). The affordable housing development provided 137 rental units (116 for low-income families and 21 for extremely low-income) at a total cost of $33.7 million ($21.0 million in construction costs).

Exhibit 5
Surtax Funds Are Only One of Several Funding Sources for Affordable Housing Developers



[1] During the construction period, the developer must defer all or part of the available developer fees depending on the project's financing.

[2] The total loan amount would include the original local surtax match of $300,000 provided prior to the developer's application for tax credits. While the county commits the local match early in the project development, the funds are not provided until the loan closes.

Source: OPPAGA analysis.

Surtax construction development loan terms may delay repayment for many years. The county also makes projects more attractive to developers through various loan terms, including low interest rates, delayed loan repayments, and certain loans that are 100% forgivable.

Interest rates charged to surtax development loans vary from 0% to 6% depending on whether the developer is non- or for-profit. Loan terms do not assess interest during the construction period, typically 24 months, although this period can be extended. For projects that use tax credits, loan terms do not require repayment during the first 15 years after construction is completed, which is referred to as the compliance period.[18] Upon project completion, the developer makes interest only payments for the remainder of the 30-year term (years 17 to 30) at a rate between 0% and 3% based on cash flow.[19] The principal for these loans is due at the end of the term; depending on the development's cash flow, the loan may be refinanced.

[16] Developers apply for either competitive (9%) or non-competitive (4%) tax credits.

[17] The cost to purchase the tax credits varies over time depending on economic conditions and the health of the real estate market.

[18] The compliance period refers to the time that developers must comply with certain Florida Housing Finance Corporation guidelines.

[19] Department officials indicated that construction of new affordable housing is practically impossible without tax credits.

In the case of a housing development to serve the homeless, if the project complies with loan provisions, loan terms forgive the principal and interest in equal increments of 25% for years 26 through 30 of the loan.

A significant percentage of surtax funds loaned may never be collected

Discretionary surtax revenues potentially provide the county with an ongoing source of funds if borrowers (homeowners and developers) repay their loans and any applicable interest. However, as shown in Exhibit 6, department officials estimate that $235.7 million of $305.2 million (or 77%) in current surtax loans may never be collected.

Estimates for uncollectable loans include a portion of homeowner loans that may default when loan payments are gradually increased according to repayment schedules, developer loans that will be refinanced at term due to cash flow restrictions, 100% of deferred loans, and loans that will be forgiven. (See Appendix C for additional information.)

Exhibit 6
Department Officials Estimate That a Large Percentage of Loans May Never Be Collected

Loan Type	Loan Amounts	Allowance for Collectability	Percentage Estimated Uncollectable
Homeowner Assistance	$73,321,319	$38,684,539	53%
Rehabilitation	12,953,213	10,883,180	85%
Multi-Family Developer	218,919,031	186,158,413	83%
Total	**$305,193,563**	**$235,726,132**	**77%**

Source: Department of Public Housing and Community Development.

As a result, these surtax funds do not return to the county to be used for additional loans. Other factors that may reduce the surtax loan repayments include the economic downturn and department's position as the second lender on homeowner and developer loans.

The economic downturn negatively affected loan repayment. The national recession that began in 2007 created adverse impacts on employment, financial lending institutions, and housing values. As a result, Florida's unemployment rate increased from 3.3% in 2006 to 11.4% in 2010. In addition, banks and major lenders experienced a decrease in the value of their assets due to significant declines in the stock market and in real estate values. Moreover, housing values in Miami fell significantly from their peak in 2006 to approximately half of those values by late 2011.

All of these factors contributed to borrowers experiencing difficulty making their loan payments. When individuals cannot meet their loan obligations, the primary mortgage lender, usually a bank, declares default and begins foreclosure proceedings. These circumstances often result in borrowers unable to pay their loan obligation to the department. The department then writes off the loan (all or a portion) as uncollectible due to foreclosure by the first lender.

To help borrowers facing difficult financial circumstances, the department has implemented a Fresh Start initiative. Officials work with individuals to delay payments on their second mortgages for a period up to a year. If the applicant begins repaying their loan, the forbearance amount will be added back at the end of the loan. From 2007 through 2011, only 25 borrowers have accessed the Fresh Start initiative.

The department's ability to recover loan monies is limited. If a homeowner or developer fails to make payments, the department's position as the second lender, combined with the value of the assets, could result in a situation where the funds may not be sufficient to cover the outstanding loan balance. With the downturn in the economy and declining real estate values, the department has little opportunity to recapture funds on loans in default. Since 2007, county officials have written off over $5.2 million in loans as uncollectible, including losses from two affordable housing developments. The county's financial losses attributed to these two projects totaled $3.1 million.

Comprehensive accountability processes are not in place to assess surtax outcomes

From Fiscal Year 2007 to Fiscal Year 2011, Miami-Dade County (excluding the Miami-Dade Economic Advocacy Trust) received $94.3 million in surtax revenues. In order to assess outcomes related to the use of these surtax funds, we examined existing performance measures and additional information related to project oversight and monitoring. We found that the Department of Public Housing and Community Development does not have a comprehensive measurement system to assess surtax outcomes. To address this issue, we suggest that the department revise its performance management system.

There is no comprehensive system to measure surtax outcomes. During our review, department officials provided only limited output measures for individual employees; consequently, we could not assess the department's progress in meeting goals for the different activities supported by surtax funds.[20] Subsequent to our review, department officials provided additional homeowner loan information, including loan type, amount, and recipient demographic information. While useful, this information does not represent a comprehensive performance measurement system that tracks outcomes specific to the use of surtax funds, including comparison of such outcomes to established standards in order to gauge program performance over time.

In considering surtax outcomes, we also examined oversight of surtax-funded housing developments, which receive the largest surtax allocations. While the department tracks loan amounts, surtax construction payments, and loan repayments, the nature of the projects makes it difficult to determine surtax outcomes. Specifically, the uniqueness of each multi-family housing development, combined with the complexity of the financing process, impedes identification of outcomes directly attributable to surtax dollars. Consider, for example, the project that resulted in 137 rental units at a total cost of $33.7 million. Department officials attributed construction of all 137 rental units to surtax funds; however, the surtax investment was only 16.8% ($5.7 million) of total project funding.

Another aspect of surtax outcomes concerns compliance with state and federal set-aside requirements that provide that developers must agree to set aside a certain number of units in an affordable housing development for a period ranging from 30 to 50 years. The department monitors projects constructed with surtax funding as part of its federally-required housing oversight activities related to federal Community Development Block Grants (CDBG) and the HOME Investment Partnership (HOME) program. Federal CDBG and HOME funds require annual Housing Quality Standard Inspections to ensure developments comply with federal guidelines.

Upon completion of an affordable housing development, department staff annually monitors tenant eligibility, tenant rents, and facility maintenance. If necessary, the department can take action against the developer if monitoring uncovers problems with ineligible tenants, rents that are too high, or facilities in disrepair. However, these aggregate monitoring activities cannot be used to distinguish or measure surtax outcomes.

The department's performance system needs improvement. In order to comprehensively assess housing outcomes associated with surtax funding, the department needs a system that includes performance measures for the three broad areas of surtax spending: education and counseling, homeowner assistance, and multi-family rental developments. Along with establishing surtax outcome measures, the department needs baseline information for the measures and performance standards that are reported annually.

To implement a comprehensive performance system, the department could adopt measures similar to those the Legislature has directed the Florida Housing Finance Corporation to report. These measures include the

- number of people served, delineated by income, age, and family size;
- number of homeless persons served;
- number of elderly served;
- number of new units produced under each surtax loan or activity (homebuyer, rehabilitation, beautification loans, and education/counseling); and
- average cost of producing units under each loan type: homebuyer, rehabilitation, beautification, and education/counseling.

[20] The department's five-year action plan, required by the U.S. Department of Housing and Urban Development, includes the county's long-range goals and objectives. The plan is updated each year as surtax funds are allocated. To produce this document, the department seeks input from the public in developing goals and objectives for all county housing programs.

Beyond this basic information on the individuals who benefit from surtax funds and housing units produced, additional outcome measures related to surtax expenditures could provide meaningful information on program performance. Additional measures could include the

- percentage of potential homebuyers who completed homebuyer education and counseling and successfully obtained a home loan within 12 months;
- percentage of loan recipients making loan payments (by type) who are current on their loans;
- percentage of loans by type that are not current or are deferred;
- number of development projects that received a surtax local match commitment and the number of development surtax loans executed;
- percentage of low-income multi-family housing units funded by surtax revenues as proportion of total units; and
- rental units lost to bankruptcy or foreclosure.

Agency Response

A draft of our report was submitted to the Executive Director of the Miami-Dade County Department of Public Housing and Community Development for review and response. The department chose not to submit a formal response, but provided comments which were considered in the final version of the report. The executive director's comments have been reproduced in Appendix D.

Appendix A

The Miami Dade Economic Advocacy Trust Operates a Homeowner Assistance Program Using Surtax Funds

Program Purpose. Created by the City of Miami and Miami-Dade County in 1983, the Metro Miami Action Plan became the Metro Miami Action Trust in 1992. The organization's purpose is to ensure the equitable participation of African Americans in Miami-Dade County's economic growth through advocacy and monitoring of economic conditions and economic development initiatives the county.

The Miami-Dade Economic Advocacy Trust (MDEAT), as the organization is now known, operates a housing assistance program and serves low- and moderate-income families by providing down payment and closing costs assistance to first time homebuyers. The maximum loan amount is $7,000 with a 0% interest rate and no repayment schedule. If the borrower stays in the home 10 years, the trust forgives the amount of the loan.

Revenues and Expenditures. As shown in Table A-1, in addition to new surtax revenues, the program receives other revenue from interest income and loan repayments. Loans are repaid if homeowners sell their homes within 10 years.

Administrative Costs. Table A-1 presents MDEAT's costs for administration in two categories: administrative and programmatic. Salaries and benefits for MDEAT employees make up the programmatic expenditures category in the table. Combined administrative costs (programmatic and administrative expenditures) total $235,710 (or 13.7%) of new surtax funds ($1,717,388) in Fiscal Year 2011.

Table A-1
Miami Dade Economic Advocacy Issued 241 Loans in the Most Recent Fiscal Year

		Fiscal Years				
		2007	2008	2009	2010	2011
Beginning Cash Balance		$6,542,607	$909,826	$1,553,832	$581,211	$688,120
Sources	Documentary Surtax	2,753,381	1,867,455	741,790	1,215,187	1,717,388
	Other Revenue	2,056	18,530	630	750	580
	Interest Earnings	114,065	59,116	8,239	1,083	1,194
	Repayment	858,534	273,488	100,729	90,595	94,203
	Total Sources	**$3,728,036**	**$2,218,589**	**851,388**	**1,307,615**	**1,813,365**
Uses	Administrative	(616,405)	(269,089)	(3,515)	(6,388)	(24,657)
	Programmatic	(224,269)	(391,252)	(352,712)	(322,243)	(211,054)
	Loans	**(8,520,143)**	**(914,242)**	**(1,467,782)**	**(872,075)**	**(1,537,378)**
	Total Uses	**(9,360,817)**	**(1,574,583)**	**(1,824,009)**	**(1,200,706)**	**(1,773,089)**
Net Sources (Uses)		(5,632,781)	644,006	(972,621)	106,909	40,276
Beginning Cash Balance		6,542,607	909,826	1,553,832	581,211	688,120
Ending Cash Balance		909,826	1,553,832	581,211	688,120	728,396
Number of loans funded		**761**	**93**	**224**	**146**	**241**

Source: Miami-Dade Economic Advocacy Trust.

Appendix B

Miami-Dade Public Housing and Community Development Department Current and Proposed Loan Fees

The Department of Public Housing and Community Development plans to increase loan and other fees in order to make its fees comparable to those of commercial lenders. Most fees are paid by the homebuyers or developers. However, the bulk of revenue comes from the $10 per month/per loan servicing fee paid to the department out of surtax funds. The proposed servicing fee increase from $10 to $25 will result in $990,000 in revenues.

Table B-1
The Loan Fee Structure and Proposed Increases Used to Supplement Administrative Costs[1]

Fee Description	Current Fee	Proposed Fee	Fee Paid by
Loan set up fee	$20	$100	Applicant or project developer
Satisfaction of mortgage	25	50	Homeowner/developer
Subordination agreements	20	50	Homeowner
Fresh start/forbearance	0	50	Homeowner
Mortgage modification	0	100	Homeowner
Force placed insurance	0	25	Department, through the County's Risk Management program, pays when the homeowner has discontinued insurance
Servicing monthly fee	10	25	Department pays for each loan in the portfolio
Partial release	0	50	Developer pays when units are sold for single family residences
Total Revenue	**$407,400**	**$1,049,500**	

[1] Department officials developed the new fee structure to parallel fees charged in the private sector. They anticipate the new fee structure will be in place in October 2012.

Source: Department of Public Housing and Community Development.

Appendix C

Department Allowances for Surtax Loans that May Never Be Collected

Department officials estimate that $235.7 million of $305.2 million in surtax loans may not be collected due to loan terms that forgive 100% of loans, delay repayment 10 to 20 years in the future, or gradually increase homeowner repayment amounts and may lead to default.

Table C-1
The Department Estimates That 77% of Homeowner and Developer Loans May Not be Collected

		Loan Amounts	Estimates for Amounts that May Not Be Repaid	Explanation
Homeownership	Active Loans	$54,840,041	$20,203,261	Department officials reserve this portion of homeowner loans, those with graduated payments, because of the possibility of default as payment increases according to loan terms.
	Deferred Loans	$18,481,278	$18,481,278	100% of deferred loans are reserved. Department officials expect that these individuals will not repay the loans if they live in their homes for 10 to 20 years, depending on loan agreements.
Rehabilitation	Active Loans	$2,070,033		
	Deferred Loans	$10,883,180	$10,883,180	100% of deferred loans are reserved. Department officials expect that these individuals will not repay the loans if they live in their homes for 10 to 20 years, depending on the loan agreements.
Developer	Active Loans	$36,400,686	$3,640,068	10% of performing loans are interest-only loans. Department officials reserve these loans because many developers have requested later amortization due to cash flow restrictions.
	Deferred Loans	$173,918,766	$173,918,766	100% of loans reserved because loans are deferred for 15 to 20 years. There is a possibility of restructuring these loans if no cash flow is available.
Forgivable		$8,599,579	$8,599,579	100% of loans are forgivable.
Total		**$305,193,563**	**$235,726,132**	

Source: Department of Public Housing and Community Development.

Appendix D

PHCD'S RESPONSE TO THE OPPAGA PRELIMINARY REPORT - Page **1** | Page

Page/Comment	Response
P1/C1	Starting in 2009, the department limited administration expenses to ten percent of new surtax funds. [redacted] Additional administrative costs that exceed the ten percent would be supplemented through other streams of surtax revenues such as loan repayments, servicing fees, and investment interest.
P1/C2	Department officials estimate that $235.7 million of $307.2 million in current loans may not be collected due in part to the loans being deferred or forgivable. The deferred loans are typically multi-family projects that require time to stabilize the leasing of the units and for adequate time for the project to begin cash-flowing. These forgivable loans are only applicable to homeless or residential and beautification projects.
P1/C3	The Department of Public Housing and Community Development has always tracked measures specific to the Surtax program. These measures include but are not limited to: 1) The number of people served (designated by income, age and family size); 2) The number of elderly served; 3) The number of homeless persons served; 4) The number of new units produced under each Surtax loan activity; 5) The delinquency rate on all Surtax loan activities; and 6) The value of Surtax loan repayments, etc. Use this link to access the full performance report: http://www.miamidade.gov/management/health-human.asp
P3/C1	In 2007, the department earned $30,383,067 in new Surtax dollars and spent $7,756,763 in administrative expenses. However, at the time there were no administration caps or restrictions. Additionally, the expenses were not tracked based on the revenues earned. This type of tracking started in 2009 when the revised ordinance was released. Also, in the ordinance, it does not detail how other Surtax revenues (repayment, fees, and investment interest) should be treated or restricted as it relates to administration.
P3/C2	Prior to the 2009 Surtax Legislature, there were no caps or restrictions related to administrative costs. This applies to both the new surtax revenues and other surtax earnings. The statue was amended in 2009 which capped administrative expenses to ten percent of new surtax dollars. However, it still did not speak to how other surtax earnings should be treated. As a result, the department segregated the ten percent allowance on new surtax dollars, and supplemented the remaining expenses among the other surtax earnings. See table for a detailed 5Yr breakdown.
P3/C3	Prior to the 2009 Surtax Legislature, there were no caps or restrictions related to administrative costs. This applies to both the new surtax revenues and other surtax earnings. The statue was amended in 2009 which capped administrative expenses to ten percent of new surtax dollars. However, it still did not speak to how other surtax earnings should be treated. As a result, the department segregated the ten percent allowance on new surtax dollars, and supplemented the remaining expenses among the other surtax earnings. See table for a detailed 5 Yr breakdown.
P4/C1	PHCD officials expect all loans to be repaid in accordance with the terms of the loan. The Homeownership program allows for borrowers to repay in graduated payments. New homeowners need time to adjust to the higher mortgage payments compared to the rental payments they were paying before. The higher mortgage payments in year 10 of the loan are derived from the previously mentioned payment shock and expectations that the borrower's economic condition will continue to improve over time due to raises and promotions.
P4/C2	Homeowner loans provide flexible loan repayment provisions. The majority of the rehabilitation homeowners are elderly, disabled or a household member is disabled. The monthly incomes are fixed or falls below 65% of the U.S. HUD area median income for Miami-Dade County. The homeowners are unable to acquire financing from lending institutions or mortgage companies because of higher interest rates, fees and credit requirements.
P4/C3	Second Mortgage goes up to $80k.
P5/C1	The additional repayment terms were not addressed for rehabilitation loans. This repayment term is geared for homeowners with a debt-to-income ratio of 45% or less. The loan term is 20 years fully amortized and not forgiven. The interest rate ranges from 0 to 6% and the interest rate determined is based on the homeowners' income and debt.
P6/C1	Remove reference of SAIL funds.
P6/C2 (Other Funding)	It is important to note that our current program policy only addresses "final gap funding".
P7/C1	It is important to note that the 100% forgivable Surtax construction development loans applicable to homeless multifamily projects.
P8/C1	As a result of foreclosures enforced by the first lender.
P9/C1	Use this link to access the full performance report: http://www.miamidade.gov/management/health-human.asp

PHCD'S RESPONSE TO THE OPPAGA PRELIMINARY REPORT - Page **2** | Page

Page/Comment	Response
	See comments for response P1/C3. • Measures tracked by Loan Servicing include: • Delinquency rate of Surtax Loans for each activity: Homeownership, Multi/Family, and Rehabilitation • Value of Surtax Loan Repayments • Value of Surtax Loans originated • Number of first lender foreclosures on Surtax funded properties/developments
P9/C3	The department monitors rental developments constructed or rehabilitated with local, state and federal funds for compliance with the specific funding source and Rental Regulatory Agreement requirements. Set-aside units are monitored annually during the affordability period for compliance with tenant income, affordability requirements and Housing Quality Standards (HQS). Therefore, developments funded with both surtax and state or federal funds are required to comply with the set-aside units requirements of each funding source.
P11/C1	It is important to note that administrative cost and project delivery cost are two separate line items and should not be combined. A project delivery cost is a separate expense, which covers the cost of completing the specific project, including the specific staffing expenses required to complete those projects.

	2007		2008		2009		2010		2011	
REVENUE SOURCE	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
New Surtax	30,383,067		20,982,178		8,613,911		15,037,315		19,332,132	
Repayments	13,907,975		9,993,276		12,379,228		8,986,315		11,644,892	
Interest on Investment	4,134,976		2,918,436		885,651		231,457		223,445	
Fees	677,815		815,738		626,428		522,618		483,229	
TOTAL	**49,103,833**		**34,709,628**		**22,505,218**		**24,777,705**		**31,683,698**	

EXPENSE	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
ADMIN from New Surtax	4,557,460	15%	3,147,327	15%	861,391	10%	1,503,732	10%	1,933,213	10%
ADMIN from Repayments	1,947,117	14%	1,698,857	17%	4,704,107	38%	1,707,400	19%	1,682,802	14%
ADMIN from Interest on Investmen	574,371	14%	530,309	18%	345,929	39%	49,471	21%	31,282	14%
ADMIN from Fees	677,815	100%	815,738	100%	626,428	100%	522,618	100%	483,229	100%
TOTAL	**7,756,763**	**16%**	**6,192,231**	**18%**	**6,537,855**	**29%**	**3,783,220**	**15%**	**4,130,527**	**13%**

1. The percentage represents the amount expended compared to the amount received for each source (ie: New Surtax, Repayments, etc.)

The Florida Legislature

Office of Program Policy Analysis and Government Accountability

OPPAGA provides performance and accountability information about Florida government in several ways.

- Reports deliver program evaluation and policy analysis to assist the Legislature in overseeing government operations, developing policy choices, and making Florida government better, faster, and cheaper.
- PolicyCasts, short narrated slide presentations, provide bottom-line briefings of findings and recommendations for select reports.
- Government Program Summaries (GPS), an online encyclopedia, www.oppaga.state.fl.us/government, provides descriptive, evaluative, and performance information on more than 200 Florida state government programs.
- PolicyNotes, an electronic newsletter, delivers brief announcements of research reports, conferences, and other resources of interest for Florida's policy research and program evaluation community.
- Visit OPPAGA's website at www.oppaga.state.fl.us

OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

OPPAGA website: www.oppaga.state.fl.us

Project supervised by Mary Alice Nye (850/487-9253)
Project conducted by Wade Melton and Bill Howard
Kara Collins-Gomez (850/487-4257), Staff Director
R. Philip Twogood, Coordinator