

AUDIT COMMITTEE MEETING

JANUARY 17, 2013



**TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS**
Building Homes. Strengthening Communities.

AUDIT COMMITTEE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AGENDA

9:00 a.m.
January 17, 2013
Thompson Conference Center
2405 East Campus Drive, Room 3.102
Austin, TX 78712

CALL TO ORDER, ROLL CALL

Lowell Keig, Chair

CERTIFICATION OF QUORUM

Lowell Keig, Chair

PUBLIC COMMENT

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will solicit public comment at the beginning of the meeting and will also provide for public comment on each agenda item after the presentation made by the Department staff and motions made by the Committee.

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

REPORT ITEMS

- | | | |
|---------|---|--|
| Item 1 | Presentation, Discussion, and Possible Approval of the Audit Committee Minutes for September 6, 2012 | Sandy Donoho,
Director of Internal Audit |
| Item 2 | Presentation, Discussion and Possible Action on Acceptance of the 2012 Audit Results from the State Auditor's Office
-Communications with the Audit Committee
-Opinion Audit on FY 2012 Basic Financial Statements
-Opinion Audit on FY 2012 Revenue Bond Program Enterprise Fund
-Opinion Audit on FY 2012 Computation of Unencumbered Fund Balances | Verma Elliott,
Director of Internal Audit
State Auditor's Office |
| Item 3 | Presentation, Discussion, and Possible Action on the 2013 Internal Audit Charter and Board Resolution No. 13-019 | Sandy Donoho,
Director of Internal Audit |
| Item 4 | Presentation and Discussion of the Internal Audit Peer Review Results | |
| Item 5 | Presentation and Discussion of the Status of the Fiscal Year 2013 Internal Audit Work Plan | |
| Item 6 | Presentation and Discussion of Recent Internal Audit Reports
A. An Audit of Program Services | |
| Item 7 | Presentation and Discussion of the Status of External Audits | |
| Item 8 | Presentation and Discussion of Recent External Audit Reports
A. Comptroller's Post-Payment Audit
B. FEMA Close-out Monitoring of the Heston Contract
C. HUD Uniform Relocation Act Monitoring
D. HUD Monitoring of the HOME Program | |
| Item 9 | Presentation and Discussion of the Status of Prior Audit Issues | |
| Item 10 | Presentation and Discussion of the Status of the Fraud Hotline and Fraud, Waste and Abuse Complaints | |

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

EXECUTIVE SESSION

Lowell Keig, Chair

The Committee may go into Executive Session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551 and under Texas Government Code §2306.039.

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Nidia Hiroms, TDHCA, 221 East 11th Street Austin, Texas 78701-2410, 512-475-3930 and request the information. Individuals who require the auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Nidia Hiroms, 512-475-3930 at least three days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

1

BOARD ACTION REQUEST

BOARD SECRETARY

JANUARY 17, 2013

Presentation, Discussion, and Possible Action on the Audit Committee Meeting Minutes Summary for January 17, 2013.

Recommended Action

Approve Audit Committee Meeting Minutes Summary for September 6, 2012.

RESOLVED, that the Audit Committee Meeting Minutes Summary for September 6, 2012, is hereby approved as presented.

AUDIT COMMITTEE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

September 6, 2012
8:00 AM
Capitol Extension, E2.026
1500 North Congress
Austin, TX

Summary of Minutes

Call To Order, Roll Call; Certification of Quorum

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs of September 6, 2012 was called to order by Chair, Lowell Keig at 8:00 a.m. It was held at the Capitol Extension, E2.026, 1500 North Congress Ave., Austin, TX.

Roll call certified a quorum was present.

Members Present:

Lowell Keig, Chair
Leslie Bingham-Escareño, Member
Tom Gann, Member

PUBLIC COMMENT

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will solicit public comment at the end of the meeting and will also provide for public comment on each agenda item after the presentation made by the Department staff and motions made by the Committee.

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

REPORT ITEMS

- Agenda Item 1 Presentation, Discussion, and Possible Approval of the Audit Committee Minutes for June 14, 2012
A corrected version of the June 14, 2012 Audit Committee Minutes were handed out to Board Members and available for the public. Notable item corrected was Agenda Item #1. Leslie Bingham-Escareño was present at the meeting.
Motion by Leslie Bingham-Escareño to approve with corrections; duly seconded by Tom Gann; motion passed.
- Agenda Item 2 Presentation, Discussion, and Possible Approval of the Fiscal Year 2013 Internal Audit Work Plan
Motion by Tom Gann to approve the FY 2013 Internal Audit Work Plan; duly seconded by Leslie Bingham-Escareño; motion passed.
- Agenda Item 3 Presentation and Discussion of the Status of the Fiscal Year 2012 Internal Audit Work Plan
Report Item Only. No Action Required.
- Agenda Item 4 Presentation and Discussion of Recent Internal Audit Reports
Report Item Only. No Action Required.
- Agenda Item 5 Presentation and Discussion of the Status of External Audits
Report Item Only. No Action Required.
- Agenda Item 6 Presentation and Discussion of Recent External Audit Reports
Report Item Only. No Action Required.
- Agenda Item 7 Presentation and Discussion of the Status of Prior Audit Issues
Report Item Only. No Action Required.
- Agenda Item 8 Presentation and Discussion of the Status of the Fraud Hotline and Fraud, Waste and Abuse Complaints
Report Item Only. No Action Required.

Public Comment on Matters Other Than Items For Which There Were Posted Agenda Items.
None.

EXECUTIVE SESSION

At 8:37 a.m. Chairman Keig convened the Executive Session.

The Board may go into Executive Session pursuant to Texas Government Code §551.071 for the purpose of receiving legal advice from counsel on any agenda item and Texas Government Code §551.074 for the purpose of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or

employee including, specifically, the performance evaluation of the Internal Auditor.

OPEN SESSION

At 9:57 a.m. Chairman Keig reconvened the Open Session and announced that No Action had been taken during the Executive Session and certified that the posted agenda had been followed.

ADJOURN

Since there was no further business to come before the Committee, Lowell Keig adjourned the meeting of the Audit Committee at 9:58 a.m. on September 6, 2012.

Brooke Boston, Board Secretary

For a full transcript of this meeting, please visit the TDHCA website at www.tdhca.state.tx.us

2

BOARD ACTION REQUEST
INTERNAL AUDIT
JANUARY 17, 2013

Presentation, Discussion and Possible Action on Acceptance of Audit Results from the State Auditor's Office.

RECOMMENDED ACTION

WHEREAS, the Department is required to undergo an annual audit of its books and accounts, an annual audit of the Housing Trust Fund, and to obtain audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules,

NOW, therefore, it is hereby

RESOLVED, the annual financial audit, audit of the Housing Trust Fund and audit of the Housing Finance Division and the Supplemental Bond Schedules are hereby accepted.

BACKGROUND

Audit requirements:

- 1) The Department's governing statute, Texas Govt. Code §2306.074, requires an annual audit of the Department's books and accounts.
- 2) Texas Govt. Code §2306.204 requires an annual audit of the Housing Trust Fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.
- 3) The Department's bond indentures require audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules.

Results of the audits conducted by the State Auditor's Office:

FY 2012 Basic Financial Statements

Unqualified Opinion

FY 2012 Unencumbered Fund Balances Calculation

Audit results yielded no required transfer to the Housing Trust Fund

FY 2012 Revenue Bond Program Audit

Unqualified Opinion

FY 2012 Report to Management

Other less significant internal control issues were verbally conveyed to management.

Required Communication with the Audit Committee
Based on the Audit of the Department of Housing and Community Affairs'
Fiscal Year 2012 Financial Statements

We have audited the financial statements of the Department of Housing and Community Affairs (Department) for the year ended August 31, 2012, and have issued our reports thereon dated December 20, 2012. Professional standards require that we communicate the following information related to our audit.

No.	Item	Comments
1	The Auditors' Responsibilities Under Generally Accepted Auditing Standards	As stated in our engagement letter dated July 19, 2012, our responsibility, as described by professional standards, is to express an opinion about whether the financial statements prepared by management with your oversight are presented fairly, in all material respects, in conformity with generally accepted accounting principles. Our audit of the financial statements does not relieve management or those charged with governance of their responsibilities.
2	Planned Scope and Timing of the Audit	We performed the audit according to the planned scope and timing previously communicated to you in our engagement letter dated July 19, 2012.
3	Corrected and Uncorrected Misstatements	Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those the auditor believes are trivial, and communicate them to the appropriate level of management. Auditors identified some adjustments that the Department corrected.
4	Other Information in Documents Containing Audited Financial Statements	As noted in our opinion reports dated December 20, 2012, our financial statement audit opinions apply to the Department's financial statements, Revenue Bond Program Enterprise Fund's financial statements, and Computation of Unencumbered Fund Balances, which include the accompanying notes. We also applied our auditing procedures to supplementary bond schedules and concluded that such information was fairly stated in all material respects in relation to the basic financial statements taken as a whole. We did not opine on management's discussion and analysis (MD&A). However, we performed limited procedures related to the MD&A, which consisted of inquiring management regarding the methods of its measurement and presentation. We also did not opine on the Revenue Bond Program Enterprise Fund supplemental schedules.
5	Management Representations	We requested certain representations from management that are included in the management representation letter dated December 20, 2012. We also requested a representation letter dated December 20, 2012, from the Department's general counsel regarding the existence of certain contingent liabilities that might require disclosure in the financial statements.

Required Communication with the Audit Committee
Based on the Audit of the Department of Housing and Community Affairs'
Fiscal Year 2012 Financial Statements

No.	Item	Comments
6	Qualitative Aspects of the Entity's Significant Accounting Practices	<p>Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies the Department used are described in Note 1 to the financial statements.</p> <p>We noted no transactions the Department entered during the year for which there was a lack of authoritative guidance or consensus. There were no significant transactions that had been recognized in the financial statements in a period that differed from when the transaction occurred.</p>
7	Significant Difficulties Encountered During the Audit	<p>We did not encounter any restrictions in performing our procedures or gaining access to individuals or records. Management and staff provided us with all of the information and support we requested in a timely manner.</p>
8	Other Audit Findings or Issues	<p>We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year. Those discussions occurred in the normal course of the audit.</p> <p>We did not identify any material weaknesses in internal control over financial reporting or non compliance with laws and regulations that materially affected the Department's financial statements or the Computation of its Unencumbered Fund Balances.</p> <p>We communicated certain issues that were not material or significant to the audit objective in writing to the Department management.</p>
9	Disagreements with Management	<p>For purposes of this document, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report.</p> <p>We did not encounter any disagreements with management during this audit.</p>
10	Management's Consultations with Other Accountants	<p>In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Department's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts.</p> <p>To our knowledge, there were no such consultations with other accountants.</p>

Required Communication with the Audit Committee
Based on the Audit of the Department of Housing and Community Affairs'
Fiscal Year 2012 Financial Statements

No.	Item	Comments
11	Significant Issues Discussed, or Subject to Correspondence, with Management	Prior to and throughout our audit, we had routine discussions, or engaged in correspondence, with management regarding the Department and the application of accounting principles and auditing standards. In our judgment, such discussions and correspondence did not occur in connection with our retention as auditors.
12	Independence	The State Auditor's Office is independent to conduct the audit of the Department's fiscal year 2012 financial statements. It is the State Auditor's Office's philosophy to conduct all projects in an environment of full independence; that is, free of any personal, external, or organizational impairment.
13	Fraud, Illegal Acts, Violations of Provisions of Contracts or Grant Agreements, or Abuse	We did not find evidence that fraud, illegal acts, violations of contracts or grant agreements, or abuse had, or might have, occurred.

This information is intended solely for the use of the Department's Board of Directors, as well as the Department's management, and is not intended to be and should not be used by anyone other than these specified parties.



John Keel, CPA
State Auditor

A Report on
**The Audit of the Department of Housing
and Community Affairs'
Fiscal Year 2012 Financial Statements**

December 21, 2012

Members of the Legislative Audit Committee:

In our audit reports dated December 20, 2012, we concluded that the Department of Housing and Community Affairs' (Department) financial statements and the Revenue Bond Program Enterprise Fund's financial statements for fiscal year 2012 were materially correct and presented in accordance with accounting principles generally accepted in the United States of America. We also concluded that the Department's computation of unencumbered fund balances of the Department's Housing Finance Division complies with Texas Government Code, Sections 2306.204 and 2306.205. The Department published our audit reports as part of its financial statements, which it intends to post on its Web site at www.tdhca.state.tx.us.

We also issued a report on internal control over financial reporting and on compliance and other matters as required by auditing standards. Our procedures did not identify any material weaknesses in internal control over financial reporting or any noncompliance with laws or regulations, including the Public Funds Investment Act (Texas Government Code, Section 2256), that materially affected the financial statements or the computation of unencumbered fund balances. In addition, the major internal controls that we tested for the purpose of forming our opinions were operating effectively.

Our procedures were not intended to provide an opinion on internal control over financial reporting or to provide an opinion on compliance with laws and regulations. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance with laws and regulations.

Auditors communicated certain issue(s) that were not material or significant to the audit objectives in writing to the Department's management.

As required by auditing standards, we will also communicate to the Department's Board of Directors certain matters related to the conduct of a financial statement audit.

In addition, auditors performed agreed-upon procedures to assist the Department in determining whether the electronic submission of certain information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with related hard-copy documents. Our procedures determined that the Department's electronically submitted information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with the related hard-copy documents.

SAO Report No. 13-014

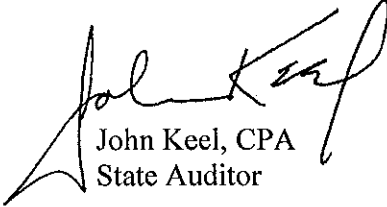
Members of the Legislative Audit Committee

December 21, 2012

Page 2

We appreciate the Department's cooperation during this audit. If you have any questions, please contact Verma Elliott, Audit Manager, or me at (512) 936-9500.

Sincerely,



John Keel, CPA
State Auditor

cc: Members of the Department of Housing and Community Affairs Board of Directors
Mr. J. Paul Oxer, P.E., Chair
Mr. Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareño
Mr. Lowell A. Keig
Mr. J. Mark McWatters
Dr. Juan Sanchez Muñoz
Mr. Timothy Irvine, Executive Director, Department of Housing and Community Affairs



This document is not copyrighted. Readers may make additional copies of this report as needed. In addition, most State Auditor's Office reports may be downloaded from our Web site: www.sao.state.tx.us.

In compliance with the Americans with Disabilities Act, this document may also be requested in alternative formats. To do so, contact our report request line at (512) 936-9500 (Voice), (512) 936-9400 (FAX), 1-800-RELAY-TX (TDD), or visit the Robert E. Johnson Building, 1501 North Congress Avenue, Suite 4.224, Austin, Texas 78701.

The State Auditor's Office is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

To report waste, fraud, or abuse in state government call the SAO Hotline: 1-800-TX-AUDIT.

Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair
Mr. Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareño
Mr. Lowell A. Keig
Mr. J. Mark McWatters
Dr. Juan Sanchez Muñoz

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2012, which collectively comprise the Department's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Department's management. Our responsibility is to express opinions on these financial statements based on our audit.


We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to previously present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department, as of August 31, 2012, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 20, 2012, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Department's financial statements. The supplementary bond schedules are presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the financial statements as a whole.



John Keel, CPA
State Auditor

December 20, 2012



Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxeer, P.E., Chair
Mr. Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareño
Mr. Lowell A. Keig
Mr. J. Mark McWatters
Dr. Juan Sanchez Muñoz

We have audited the accompanying financial statements of the Revenue Bond Program Enterprise Fund (Program) of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2012, which collectively comprise the Program's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Department's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As discussed in Note 1, the financial statements present only the Program, an enterprise fund of the Department and the State of Texas, and do not purport to, and do not, present fairly the financial position of the Department or the State of Texas as of August 31, 2012, the changes in the Department's or the State's financial position, or, where applicable, the Department's or the State's cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to previously present fairly, in all material respects, the respective financial position of the Program of the Department, as of August 31, 2012, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 20, 2012, on our consideration of the Department's internal control over the Program's financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and

Robert E. Johnson Building
1501 N. Congress Avenue
Austin, Texas 78701

P.O. Box 12067
Austin, Texas 78711-2067

Phone:
(512) 936-9500

Fax:
(512) 936-9400

Internet:
www.sao.state.tx.us

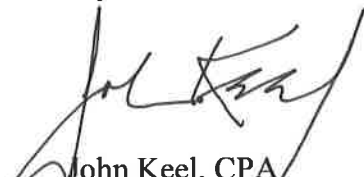
SAO Report No. 13-312

compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

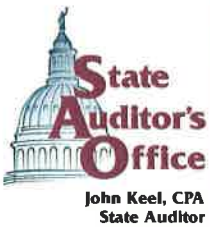
Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Program's financial statements. The supplementary bond schedules are presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the financial statements as a whole.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Program's basic financial statements. The supplemental schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.



John Keel, CPA
State Auditor

December 20, 2012



Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxeer, P.E., Chair
Mr. Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareño
Mr. Lowell A. Keig
Mr. J. Mark McWatters
Dr. Juan Sanchez Muñoz

We have audited the accompanying Computation of Unencumbered Fund Balances (Computation) of the Department of Housing and Community Affairs' (Department) Housing Finance Division as of August 31, 2012. The Computation is the responsibility of the Department's management. Our responsibility is to express an opinion on the Computation based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Computation is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Computation. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall presentation of the Computation. We believe that our audit provides a reasonable basis for our opinion.

The Computation is presented on the basis of criteria described in Note 2 to the Computation for compliance with the provisions of Texas Government Code, Sections 2306.204 and 2306.205. The Computation is not intended to present unencumbered fund balances in accordance with accounting principles generally accepted in the United States of America. Unencumbered fund balances determined under the basis of presentation described in Note 2 may materially differ from those determined under accounting principles generally accepted in the United States of America

In our opinion, the Computation referred to previously presents fairly, in all material respects, the unencumbered fund balances of the Department's Housing Finance Division, as of August 31, 2012, in conformity with the criteria specified by management of the Department for compliance with the computations described in the Texas Government Code, Sections 2306.204 and 2306.205, as set forth in Note 2 to the Computation.

Robert E. Johnson Building
1501 N. Congress Avenue
Austin, Texas 78701

P.O. Box 12067
Austin, Texas 78711-2067

Phone:
(512) 936-9500

Fax:
(512) 936-9400

Internet:
www.sao.state.tx.us

SAO Report No. 13-313

In accordance with *Government Auditing Standards*, we have also issued our report dated December 20, 2012, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.



John Keel, CPA
State Auditor

December 20, 2012

Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair
Mr. Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareño
Mr. Lowell A. Keig
Mr. J. Mark McWatters
Dr. Juan Sanchez Muñoz

We have audited the financial statements of the Department of Housing and Community Affairs (Department), the financial statements of the Department's Revenue Bond Program Enterprise Fund, and the computation of unencumbered fund balances of the Department's Housing Finance Division (collectively, the Department's financial reports), as of and for the year ended August 31, 2012, and have issued our reports thereon dated December 20, 2012. Except as discussed in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

We have chosen not to comply with a reporting standard that specifies the wording to be used in discussing restrictions on the use of this report. We believe the use of such wording is not in alignment with our role as a legislative audit function.

Internal Control over Financial Reporting

Management of the Department is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Department's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial reports, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of Department's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant

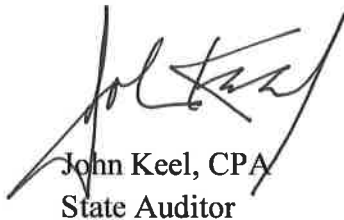
deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Department's financial reports are free of material misstatement, we performed tests of its compliance with certain provisions of laws, including the Public Funds Investment Act (Texas Government Code, Section 2256); regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of the Department in writing.

This report is intended for the information and use of the Department's Board of Directors, the Department's management, and the Legislature. However, this report is a matter of public record, and its distribution is not limited.



John Keel, CPA
State Auditor

December 20, 2012

Report on Compliance with the Public Funds Investment Act

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Ozer, PE, Chair
Mr. Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareño
Mr. Lowell A. Keig
Mr. J. Mark McWatters
Dr. Juan Sanchez Muñoz

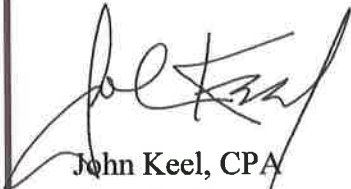
Mr. Timothy Irvine, Executive Director, Department of Housing and Community Affairs

Mr. David Cervantes, Director of Financial Administration, Department of Housing and Community Affairs

Mr. Tim Nelson, Director of Bond Finance, Department of Housing and Community Affairs

We have performed tests designed to verify whether the Department of Housing and Community Affairs' (Department) complied with the requirements of the Public Funds Investment Act for the year ended August 31, 2012. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly we do not express such an opinion. The results of our test disclosed no instances of noncompliance or other matters that are required to be reported under *Government Audit Standards*.

This report is intended solely for the information and use of the Department's Board of Directors, the Department's management, and the Legislature. However, this report is a matter of public record, and its distribution is not limited.



John Keel, CPA
State Auditor

December 20, 2012

3

BOARD ACTION REQUEST
INTERNAL AUDIT
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on the 2013 Internal Audit Charter and Board Resolution No. 13-019.

RECOMMENDED ACTION

WHEREAS, the Internal Audit Division is required by audit standards to develop a charter, and to periodically update the charter, and

WHEREAS, the Department maintains a board resolution regarding internal audit in order to clarify its expectations regarding the audit function;

NOW, therefore it is hereby

RESOLVED, the Internal Audit Charter and Board Resolution No. 13-019 are approved as presented.

BACKGROUND

Internal Audit Standards (the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing*) require periodic approval of the Internal Audit Charter. The Board resolutions regarding internal audit are reviewed and approved as part of this process. The content of the charter and the resolutions has not changed substantially since their last approval in February 2012.

**Texas Department of Housing and Community Affairs
Internal Audit Division**

INTERNAL AUDIT CHARTER

(Effective October 17, 2001, Amended ~~February~~January 16~~7~~23, 201~~2~~3
as approved by the Department's Governing Board)

DEFINITION

Internal audit is an independent, objective assurance and consulting activity within the Texas Department of Housing and Community Affairs (Department) designed to add value and improve the Department's operations. Internal audit helps the Department accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

PURPOSE

The purpose of internal audit's work is to determine whether:

- risks are appropriately identified and managed,
- management information is reliable, accurate and timely,
- acceptable policies and procedures are followed,
- compliance with applicable laws and regulations is achieved,
- resources are safeguarded and used efficiently and economically,
- planned missions are accomplished effectively, and
- the Department's objectives are met.

The internal audit division supports management in its responsibilities by furnishing analyses, appraisals, observations and recommendations to assist the Department in evaluating and improving the effectiveness of its risk management, control and governance processes.

AUTHORITY

The Internal Auditing Act (Chapter 2102, Government Code) and the Department's enabling legislation (Chapter 2306, Government Code) authorize the establishment of an internal audit program. Internal auditors shall have full access to all of the Department's records, facilities, properties and personnel relevant to the performance of engagements or investigations, and are free to review and evaluate all policies, plans, procedures and records. However, internal auditors shall have no direct responsibility for, or authority over, any of the activities reviewed, and the auditing, review and evaluation of an area shall in no way relieve management of its assigned responsibilities.

Department management shall respond to all information requests by the internal auditor or internal audit staff pursuant to this authority within two business days of such requests, including

**Texas Department of Housing and Community Affairs
Internal Audit Division**

requests of information considered confidential by its nature or due to pending or actual litigation. The internal audit staff shall use discretion in its review of records and assure the confidentiality of all matters that come to its attention.

The director of internal audit or a designated representative will be included in all entrance and exit conferences conducted by any external, federal or state auditors or monitors and shall receive copies of the audit or monitoring reports, as well as copies of management's written response. The internal audit division shall be available to assist management in providing additional information, preparing responses to reports and examinations, and subsequently reviewing the progress made to correct the deficiencies reported.

I N D E P E N D E N C E

Internal auditors shall not develop or install procedures, prepare records, perform internal control functions, or engage in any other activity which they would normally review and evaluate and which could reasonably be construed to compromise the independence of the internal audit division. However, the independence of the internal audit division shall not be adversely affected by determining and recommending standards of control to be applied to the development of the systems and procedures reviewed. The internal audit division shall be responsive to requests for assistance from management, provided that the subject of the request is related to auditing or internal controls. The internal audit division staff shall not assume operating responsibilities or direct the activities of any employee not employed by the internal audit ~~department~~ division or assigned to assist the internal auditors.

The internal audit division shall be available to perform consulting and advisory services at the specific request of the board, or of management with the board's approval. The nature and scope of these services are subject to agreement with management and the board. Consulting and advisory services are intended to add value and improve the Department's governance, risk management and control processes. These consulting and advisory services will only be performed if the director of internal audit deems that the engagement can be performed while still maintaining the auditors' objectivity and independence, and if the assignment does not result in the internal audit division or any member of the internal audit staff assuming any management responsibility.

A C C O U N T A B I L I T Y

The director of internal audit shall report directly to the audit committee of the governing board of the Department and administratively to the executive director of the Department. The director of internal audit shall furnish copies of all audit reports to the audit committee and to the governing board in accordance with the criteria established by the audit committee. The director of internal audit shall periodically appear before the audit committee and/or the governing board at its meetings to report on audit findings and the operations of the internal audit division.

**Texas Department of Housing and Community Affairs
Internal Audit Division**

The audit committee and the governing board shall periodically assess whether resources allocated to the internal audit division are adequate to implement an effective program of internal auditing. To facilitate this process, the director of internal audit will emphasize significant risks to the Department that are not addressed in the annual audit plan as proposed to the audit committee and/or the governing board for approval, and will periodically report to the audit committee and/or the governing board on internal audit staffing levels. The audit committee and/or the governing board shall approve the internal audit division's annual operating budget.

RESPONSIBILITIES

The internal audit division shall:

- comply with the Texas Internal Auditing Act;
- execute a comprehensive audit program to insure all activities of the Department are reviewed at appropriate intervals as determined by the director of internal audit and as approved by the audit committee and/or the governing board;
- review and evaluate systems of control and the quality of ongoing operations, recommend actions to correct any deficiencies and follow-up on management's response to assure that corrective action is taken on a timely basis;
- perform an objective assessment of evidence to provide an independent opinion or conclusions regarding the Department, its operations, functions, processes and systems;
- evaluate the quality of management performance in terms of compliance with policies, plans, procedures, laws and regulations;
- evaluate the effectiveness and contribute to the improvement of risk management processes, including evaluating the potential for the occurrence of fraud and how the Department manages fraud risks;
- assess and make appropriate recommendations for improving the governance process for ~~in~~ promoting ethics and values within the Department, ensuring effective organizational performance, achieving management's strategic objectives, communicating risk and control information to appropriate areas of the Department, and coordinating and communicating information among the governing board, external auditors and management;
- review the controls of significant new systems and subsequent revisions before they are implemented. In addition, the environmental, operational and security controls of the

Texas Department of Housing and Community Affairs Internal Audit Division

Department's automated processes shall be assessed and reviewed as needed;

- verify the existence of Department assets and assure that proper safeguards are maintained to protect them from losses of all kinds;
- audit the reliability and operation of the accounting and reporting systems as needed;
- consider the scope of work of external auditors and regulators, as appropriate, for the purpose of providing optimal audit coverage to the Department;
- conduct or participate in internal investigations of suspected fraud, theft or mismanagement, and provide advice relating to internal fraud and security;
- identify operational opportunities for performance improvement by evaluating the functional effectiveness against Department and industry standards; ~~From time to time other divisions and individuals may also be engaged in this or similar functions~~
- coordinate its audit efforts with those of the Department's external, state, and federal auditors; and
- evaluate the adequacy of management's corrective actions and perform necessary follow-up procedures to ensure that the corrective actions have been implemented.

The Director of Internal Audit shall:

- ensure that written reports are prepared for every internal audit and that such reports are furnished to the director responsible for the audited activity. Copies of each audit report and management's responses shall be provided to the audit committee and the governing board in accordance with the criteria established by the audit committee. Management is responsible for providing the internal audit division with a detailed written response to reported deficiencies. Such response, stating corrective action taken or planned, including a target date for completion and the individual responsible for implementation, should be received by the director of internal audit within ten (10) business days after management has received the report draft disclosing the deficiencies. Additional response time may be granted by the director of internal audit if circumstances warrant additional time;
- present a summary of audit activities to the audit committee or to the governing board at least three times annually. Each presentation will include comments about major audit findings and if necessary, an opinion of the adequacy of management's response to the audit reports. In addition, the director of internal audit will meet, as needed, with the executive director and/or the audit committee to discuss the purpose, authority, responsibility and performance of the internal audit division, the status of the audit plan,

**Texas Department of Housing and Community Affairs
Internal Audit Division**

the status of management's resolution of audit recommendations, and other significant issues involving the internal audit function;

- prepare an annual summary report of audit activities; ~~including opinions on the overall condition of the Department's controls and operations; in the content and manner prescribed by the State Auditor's Office;~~
- confirm to the audit committee and/or the governing board on an annual basis the independence of the internal audit division and its audit staff;
- periodically review the internal audit charter and present it to management, the audit committee and/or the governing board for approval; and
- promote and encourage the advancement of audit and control knowledge through the dissemination of related information and the active participation in professional groups and organizations.

STANDARDS OF AUDIT PRACTICE

As a means of assuring the quality and performance of the internal audit division, the audit committee requires the internal audit division to meet or exceed the *International Standards for the Professional Practice of Internal Auditing* and to comply with the *Code of Ethics* prescribed by the Institute of Internal Auditors and with ~~g~~G~~enerally~~ ~~a~~A~~ccepted~~ ~~g~~G~~overnmental~~ ~~a~~A~~uditing~~ ~~S~~S~~tandards~~, as may be periodically amended. It is also expected that the internal audit division will obtain an external peer review of the internal audit division to evaluate the quality of its operations at least once every three years.

AUDIT COMMITTEE - BOARD RESOLUTIONS

Resolution # 12-01813-019

(As approved by the Board on ~~February-January~~ 167, 20123)

WHEREAS the original audit committee (Committee) members were appointed by the chairman of the governing board (Board) in April, 1992, pursuant to the Texas Government Code, Chapter 2306, *Texas Department of Housing and Community Affairs* (Department), section 2306.056, *Committees*, and whereas the Committee's authority and composition has not been specified, and whereas the Committee members' duties and responsibilities have not been previously enumerated, the Board hereby resolves the following:

RESOLVED, that the Committee shall have the authority to investigate any organizational activity as it deems necessary and appropriate, and shall have unrestricted access to all information, including documents and personnel, and shall have adequate resources in order to fulfill the oversight responsibilities it conducts on behalf of the Board, including full cooperation of Department employees. The Committee has the authority to pre-approve the annual budget of the internal audit division and the annual audit plan, and to approve any non-audit services or requests for audits or investigations outside of the annual audit plan.

RESOLVED, that the Committee shall be composed of three board members appointed by the Board's chairperson who shall serve for two year terms each or until their respective successor shall be duly appointed and qualified. Audit committee members shall be free of any relationships that would interfere with their ability to exercise independent judgment as a member of the Committee.

RESOLVED, that a chairperson of the Committee shall be appointed by the Board's chairperson.

RESOLVED, that the Committee shall meet a minimum of three times each year, either in a separate meeting or as part of a larger Board meeting, or at such additional or special meetings as may be called as needed by the Board chairperson, the Committee chairperson, or the executive director; and that the Committee shall report on its proceedings and actions to the Board with such recommendations as the Committee deems appropriate.

RESOLVED, that the Committee's primary function is to assist the Board in carrying out its oversight responsibilities as they relate to financial and other reporting practices, internal control, and compliance with Board and ethics policies, and to ensure the independence of the internal audit function.

RESOLVED, that in fulfilling its function, the Committee's responsibility for (i) financial and other reporting practices is to provide assurance to the Board that financial and other reporting information reported by management reasonably portrays the circumstances or plans reported; (ii) internal control is to monitor the effectiveness of control systems and processes through the results of internal and external audits and reviews; (iii) compliance with Board and ethics policies is to periodically inquire of management, the internal audit director, and the independent accountant about significant risks or exposures and assess the steps management has taken to minimize such risk; (iv) the internal audit function is to support the internal audit division so that internal auditors can gain the cooperation of auditees and perform their work independently and free from interference and to provide reasonable assurance that the internal auditors perform their responsibilities.

PASSED and APPROVED this 17th day of January, 2013.

Chair of the Governing Board _____

Executive Director _____

Board Secretary _____

4

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation and Discussion of the Internal Audit Peer Review Results.

REPORT ITEM

The Internal Audit Division is required by Government Auditing Standards to receive a peer review every three years. The most recent peer review was in December 2012. This presentation covers the results of that review.

BACKGROUND

Internal Audit Standards and the Internal Auditing Act require the Internal Audit Division to undergo a peer review every three years. The Internal Audit Division received a rating of “Pass” which is the highest possible rating available. There were no suggestions for improvement.

**REPORT ON THE
EXTERNAL QUALITY ASSURANCE REVIEW OF THE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY
AFFAIRS INTERNAL AUDIT DIVISION**

December 2012



PERFORMED BY

William H. Lawler, CPA
Director of Internal Audit
Texas Department of Motor Vehicles

Henry Wood, CIA
Senior Internal Audit Project Manager
Texas Department of Motor Vehicles

PERFORMED IN ACCORDANCE WITH THE
STATE AGENCY INTERNAL AUDIT FORUM
PEER REVIEW POLICIES AND PROCEDURES

OVERALL OPINION

Based on the information received and evaluated during this external quality assurance review, it is our opinion that the Texas Department of Housing and Community Affairs (TDHCA) Internal Audit Division receives a rating of “pass” and is in compliance with the Institute of Internal Auditors (IIA) *International Standards for the Professional Practice of Internal Auditing* and Code of Ethics, the United States Government Accountability Office (GAO) *Government Auditing Standards*, and the Texas Internal Auditing Act (*Texas Government Code*, Chapter 2102). This opinion, which is the highest of the three possible ratings, means that policies, procedures, and practices are in place to implement the standards and requirements necessary for ensuring the independence, objectivity, and proficiency of the internal audit function.

We found that the Internal Audit Division is independent, objective, and able to render impartial and unbiased judgments on the audit work performed. The staff members are qualified, proficient, and knowledgeable in the areas they audit. Individual audit projects are planned using risk assessment techniques; audit conclusions are supported in the working papers; and findings and recommendations are communicated clearly and concisely.

The Internal Audit Division is well managed internally. In addition, the Division has effective relationships with the Board and is well respected and supported by management. Surveys and interviews conducted during the quality assurance review indicate that management considers Internal Audit a useful part of the overall agency operations and finds that the audit process and report recommendations add value and help improve the agency’s operations.

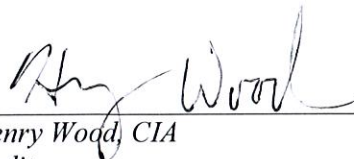
ACKNOWLEDGEMENTS

We appreciate the courtesy and cooperation extended to us by the Internal Audit Director, Internal Audit staff, Members of the TDHCA Board, the Executive Director, and the senior managers who participated in the interview process. We would also like to thank each person who completed surveys for the quality assurance review. The feedback from the surveys and the interviews provided valuable information regarding the operations of the Internal Audit Division and its relationship with management.



William H. Lawler, CPA
Director of Internal Audit
Texas Department of Motor Vehicles
SAIAF Peer Review Team Leader

01/07/12
Date



Henry Wood, CIA
Auditor
Texas Department of Motor Vehicles
SAIAF Peer Review Team Member

01/07/12
Date

BACKGROUND

The Institute of Internal Auditors (IIA) *Standards for the Professional Practice of Internal Auditing*, U.S. Government Accountability Office (GAO) *Government Auditing Standards*, and the Texas Internal Auditing Act require that internal audit functions obtain external quality assurance reviews to assess compliance with standards and the Act and to appraise the quality of their operations. Government auditing standards require these reviews at least every three years. A periodic external quality assurance review, or peer review, of the internal audit function is an essential part of a comprehensive quality assurance program. This quality assurance review was performed in accordance with State Agency Internal Audit Forum (SAIAF) Peer Review guidelines. The most recent quality assurance review for the TDHCA Internal Audit Division was performed in December, 2009.

OBJECTIVES, SCOPE, AND METHODOLOGY

The primary objective of the quality assurance review was to evaluate the TDHCA Internal Audit Division's compliance with auditing standards and the Texas Internal Auditing Act. Additional objectives included identifying best practices as well as areas where improvement may be needed. The review covered all completed audit and management assistance projects performed by the TDHCA Internal Audit Division from March 2010 through September 2012.

The work performed during the review included:

- Review, verification, and evaluation of the self-assessment prepared by the Internal Audit Division according to SAIAF guidelines.
- Review and evaluation of e-mailed surveys completed by management.
- Interviews with the Internal Audit Director, Internal Audit Division staff, the Executive Director, four senior managers, and two Board members, including the Chairman of the Board and the Chairman of the Audit Committee.
- Review and evaluation of audit working papers.
- Review of Internal Audit's policies and procedures, annual risk assessment, annual audit plan, and other relevant documents.

DETAILED RESULTS

The results of the quality assurance review for the Texas Department of Housing and Community Affairs Internal Audit Division are presented in the order of the *Standards for the Professional Practice of Internal Auditing*. No significant weaknesses were identified during the review that would prevent the Division from fulfilling its responsibilities.

IIA Code of Ethics

Internal Audit demonstrates its commitment to the IIA *Code of Ethics* by including it in the *Internal Audit Policies and Procedures Manual*, attending periodic ethics training classes, and practicing ethical behavior in the course of daily work. In addition, the agency's *Ethics Policy* and fraud hotline are indications of an organization-wide commitment to accountability and integrity.

Standard 1000: Purpose, Authority, and Responsibility

The purpose, authority, and responsibility of Internal Audit have been defined in a charter that is consistent with auditing standards. The current charter was signed by the Board and the Executive Director in February 2012. It defines the nature of audit and consulting services and grants the Internal Audit Division unrestricted access to agency records, property, and personnel.

Standard 1100: Independence and Objectivity

The Internal Audit Division is independent both in terms of the agency's organizational structure and the Division's practices. The Internal Audit Director reports directly to the Board, which provides sufficient authority to promote independence and to ensure adequate consideration of audit reports and appropriate action on audit issues and recommendations. Removal of the Internal Audit Director requires Board approval.

The charter helps ensure continued independence by specifying that internal auditors must remain free of operational and management responsibilities that could impair their ability to make independent reviews of all areas of the agency's operations. None of the internal auditors has had prior responsibility for any areas that the Division audits. In addition, auditors are required to sign annual independence statements.

Standard 1200: Proficiency and Due Professional Care

The internal auditors individually and collectively possess the knowledge, skills, and abilities to perform their responsibilities. Three of the four auditors have at least one relevant professional certification. Internal auditors are required by the Division's policies and procedures to enhance their knowledge, skills, and abilities by obtaining at least 40 hours of continuing professional education each year.

Standard 1300: Quality Assurance and Improvement Program

The Internal Audit Director has implemented a quality assurance and improvement program to help ensure that Internal Audit adds value and improves the agency's operations and to provide assurance that the Division complies with *Standards* and the IIA Code of Ethics. The quality

assurance program involves auditor performance evaluations, annual auditee surveys, and periodic internal and external reviews, which are communicated to the Board and made available on the agency's internet website. Each audit report indicates that the work was performed in accordance with *Standards*.

Standard 2000: Managing the Internal Audit Activity

The Internal Audit Director conducts an annual risk assessment that forms the basis for the Annual Audit Plan, which is approved by the Board. Each internal audit report addresses risk and control issues within the agency. The Director has developed policies and procedures to guide the internal audit activity. The Director reports the Division's performance relative to the annual plan in both periodic updates to the audit committee and as part of an annual report submitted to the agency's Executive Director and Audit Committee Chair. This annual report is then also submitted to the Governor's Office, State Auditor, Legislative Budget Board, and Sunset Commission as required by the Texas Internal Auditing Act.

Standard 2100: Nature of Work

Internal Audit evaluates risks related to financial and operating information as well as the effectiveness and efficiency of operations, safeguarding of assets, and compliance with laws and regulations. The Division also evaluates the extent to which operating and program objectives have been achieved.

The IIA *Standards* require Internal Audit to contribute to the organization's risk management and governance processes; the Division provides information and assistance to Executive Management and the Board about how the accomplishment of goals is monitored and how accountability is ensured.

Standard 2200: Engagement Planning

During planning, internal auditors consider the objectives of the activity being reviewed and the related risks and controls. Resources needed for each audit are adequately considered during planning. Risk assessments are used to develop the objectives of each audit. Surveys and interviews conducted during this quality assurance review indicated that the objectives of audits are clearly communicated to the auditees. An Audit Plan and an Audit Program are documented and approved for each audit. The scope of audits is adequately planned and documented in planning documents and audit reports.

Standard 2300: Performing the Engagement

Internal auditors evaluate and document sufficient, reliable, and relevant information to achieve their audit objectives. Results and conclusions are based on analysis.

Audits are properly supervised by the Internal Audit Director. The Auditor-in-charge for each project monitors the progress of the individual audits. The Internal Audit Director attends planning meetings, approves all control documents, and reviews working papers to ensure sufficiency of evidence and compliance with *Standards*.

Standard 2400: Communicating Results

Audit results are communicated in a timely manner. Potential findings are communicated throughout the audits, which provide management the opportunity to provide additional information and/or to start taking corrective action. Audit results are presented to management before they are finalized in a report, which helps ensure there is agreement about the areas for improvement and the recommended solutions.

Audit reports contain the audit objectives, results, conclusions, recommendations, and management's responses and action plans. The results of our surveys and interviews with management indicated that internal audit reports are accurate, objective, clear, concise, and complete. The Internal Audit Director distributes internal audit reports to the Board, to Executive Management, and to management of the activity being audited. In addition, internal audit reports are placed on the agency website.

Standard 2500: Monitoring Progress

The agency has a system for monitoring the disposition of audit issues. The status of management's progress in implementing recommendations is reported periodically at Board Audit Committee meetings, and the results are made accessible to all levels of management. Additionally, the Division verifies recommendations that have been implemented and assesses their effectiveness during the survey phase of audits and as time permits during the year.

Standard 2600: Resolution of Senior Management's Acceptance of Risks

During the quality assurance review, no instances were identified of management accepting an inappropriate level of risk that would require the Internal Audit Director to notify the Board.

BEST PRACTICES

Internal Audit is a progressive division that is dedicated to continuous improvement. During the quality assurance review, we observed a number of practices that demonstrate outstanding commitment and professionalism. These leading practices include the following:

- IA has relationships with executive and division management based on mutual respect and commitment to improving controls within the agency. The IA Director and staff work in concert with executive management on diverse audit assurance and consulting projects.
- The internal auditors are professional and proficient. They collectively hold eight professional certifications and one graduate degree. Certifications held include Certified Internal Auditor, Certified Public Accountant, Certified Information Systems Auditor, Certified Fraud Examiner, and Certified Internal Controls Auditor.
- All IA staff members obtain at least 80 hours of continuing professional education each two-year period provided by local professional auditing organizations including the State Auditor's Office (SAO) and local chapters of the Institute of Internal Auditors (IIA), the Association of Certified Fraud Examiners (ACFE), and the Texas Society of Certified Public Accountants (TSCPA). Agency managers and SAO managers stated in interviews that the internal auditors are competent professionals and are committed to public service.
- There is an excellent system for tracking and reporting the status of prior audit recommendations. The audit follow-up system includes periodic reviews and updates provided to line management and executive management.
- IA has developed the *Internal Audit Policies & Procedures Manual*, an excellent guide that provides direction to staff auditors and assures more consistent IA practices.
- IA summarizes its audit engagement planning process in a comprehensive manner to include the identification of potential risks, testing methodology, preliminary interviews, and audit objectives and scope.

Mr. J. Paul Oxer, Chairman of the Board

Mr. Lowell Keig, Chairman of the Audit Committee

Mr. Tim Irvine, Executive Director

Ms. Sandy Donoho, Chief Audit Executive

5

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation and Discussion of the Status of the Fiscal Year 2013 Internal Audit Work Plan.

REPORT ITEM

The Internal Audit Work Plan for Fiscal Year 2013 was approved by the audit committee and by the Board on September 6, 2012. This presentation outlines the current status of the plan.

BACKGROUND

There are six audits on the plan this year. We have completed two of these audits and released the reports:

- an Audit of the Manufactured Housing Division's Mailroom Procedures and Processes and
- an Audit of the Program Services Division.

There are two audits that we are currently working on:

- an Audit of Asset Management, and
- an Audit of Housing Trust Fund Transfers.

In addition, we completed the following non-audit activities that are required by auditing standards:

- the annual review and revision of the internal audit charter and board resolutions,
- an update of the Internal Audit Division's policies and procedures, and
- the Internal Audit Division's 2012 peer review.

**Department of Housing and Community Affairs
Internal Audit Division
Status of the Fiscal Year 2013 Internal Audit Plan
as of January 17, 2013**

Program Area/Division	Audit	Hours 4160	Comments
Asset Management	Asset Management	900	In Process
Program Services	Program Services – Quality Assurance	1000	Completed
Bond Finance	Housing Trust Fund Transfers	160	In Process
Compliance	Compliance Monitoring	1000	Pending
Agency-Wide	Loan Processing	1000	Pending
Mfg. Housing Division	Mailroom Procedures and Processes	100	Completed
Program Area/Division	Management Assistance/ Special Projects	900	Comments
Internal Audit	Conduct Annual Risk Assessment and Prepare Fiscal Year 2014 Audit Plan	120	Due Late Summer 2013
Internal Audit	Annual Review and Revision of Internal Audit Charter	20	Completed
Internal Audit	Review and Revise Internal Audit Policies and Procedures to Comply with New Auditing Standards	60	Completed
Internal Audit	2012 Peer Review	160	Completed
Internal Audit	Preparation and Submission of the Fiscal Year 2013 Annual Internal Audit Report	40	Due Fall 2013
Internal Audit	Coordinate with External Auditors	50	Ongoing
Internal Audit/IS	Consolidate ERM and Risk Assessment Processes	175	Pending
All Divisions	Follow-up on the Status of Prior Audit Issues	125	Ongoing
All Divisions	Tracking the Status of Prior Audit Issues	50	Ongoing
All Divisions	Tracking, Follow-up and Disposal of Fraud Complaints	100	Ongoing

6

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation and Discussion of Recent Internal Audit Reports.

REPORT ITEM

Internal Audit recently completed the following audits or reviews from our fiscal year 2012 work plan:

- an Internal Audit of the Manufactured Housing Division, and
- an Internal Audit of the Program Services Division.

BACKGROUND

An Internal Audit of the Manufactured Housing Division

Internal Audit also provides audit coverage for the Manufactured Housing Division and reports the results of those audits to their board. Since this is a time commitment for internal audit staff, we report to the TDHCA board when we perform work in the Manufactured Housing Division.

An Internal Audit of the Program Services Division

The Program Services Division's quality assurance activity ensures that programs are adhering to and processing draws in accordance with state, federal, and program requirements. Program Services performs the quality assurance review of draws requested by contract administrators for the HOME, Housing Trust Fund (HTF), and Neighborhood Stabilization (NSP) Programs. Of the 120 draws tested, 114 (95.0%) contained the required checklists to ensure that the draw requirements were met. In addition, Program Services formally disapproved 13 (10.9%) draws due to deficiencies in the required supporting documentation. Eleven of these draws were subsequently corrected and approved. There were no findings for this audit, therefore management responses were not required.

6a



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oxer, *Chair*
Tom H. Gann, *Vice Chair*
Leslie Bingham-Escareño
Lowell A. Keig
Juan S. Muñoz, PhD
J. Mark McWatters

December 18, 2012

Writer's direct phone # (512) 475-3813
Email: sandy.donoho@tdhca.state.tx.us

RE: AN INTERNAL AUDIT OF THE PROGRAM SERVICES DIVISION (REPORT #13-1053)

To the Audit Committee and the Governing Board of the Texas Department of Housing and Community Affairs:

Attached is the Internal Audit Division's report on the Texas Department of Housing and Community Affairs' (Department's) Program Services Division (Program Services). Program Services has processes in place that help ensure programs are adhering to and processing draws in accordance with state, federal, and program requirements and that unused activity funds are deobligated during activity close-out in a timely manner.

Program Services performs the quality assurance review of draws requested by contract administrators for the HOME, Housing Trust Fund (HTF), and Neighborhood Stabilization (NSP) programs. Of the 120 draws we tested, 114 (95.0%) contained the required checklists to ensure that the draw requirements were met.

The objectives of this audit were to determine if the Program Services Division's Quality Assurance function is ensuring that programs are adhering to and processing draws in accordance with federal, state, and program requirements, and is processing close-outs in order to ensure any unused funds are deobligated in a timely manner. The scope of this audit was fiscal year 2012. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and the *International Standards for the Professional Practice of Internal Auditing*.

If you have any questions about this audit report, please contact me at (512) 475-3813. We appreciate the assistance and cooperation we received from management and staff during the audit.

Sincerely,

Sandra Q. Donoho, MPA, CIA, CISA, CFE, CICA
Director of Internal Audit

cc: Tim Irvine, Executive Director
Tom Gouris, Deputy Executive Director of Asset Management and Analysis



Executive Summary

The Program Services Division's quality assurance activity provides a valuable function for the Department by ensuring that programs are adhering to and processing draws in accordance with state, federal, and program requirements. Program Services performs the quality assurance review of draws requested by contract administrators for the HOME, Housing Trust Fund (HTF), and Neighborhood Stabilization (NSP) Programs. The complexity of draws and the required documentation varies significantly due to the variety of program areas and the program activities performed in each area.

As part of the quality assurance review, Program Services utilizes checklists to ensure that the draw request is supported by the required documentation. The checklists used by Program Services are specific to each program area and activity type. Program Services consistently works with and actively communicates with the program areas during the quality assurance review to make sure that the required supporting documentation is present before funds are paid out. On occasion, Program Services approves a draw if the division director of a program approves an override and requests that the draw be paid. In these instances, Program Services maintains documentation to support the override requests.

The Program Services Division

The Texas Department of Housing and Community Affairs (Department) established the Program Services Division (Program Services) on September 1, 2009. Program Services facilitates adherence, processing, and completion of federal mandates and Departmental requirements affecting a variety of programs administered by the Department. These mandates and requirements include commitments and disbursements of federal funds.

Of the 120 draws we tested, 114 (95.0%) contained the supporting documentation to ensure that the draw requirements were met. In addition, Program Services formally disapproved 13 (10.9%) draws due to deficiencies in the required supporting documentation. Eleven of these draws were subsequently corrected and approved.

Program Services has processes in place that generally ensure unused activity funds are deobligated during contract or activity close-out in a timely manner. However, there are instances in which Program Services does not close-out activities due to guidance received from the program area. The close-out process will deobligate any unused funds for the activity or contract once completed. The unused funds are then available to be obligated to other households. Program Services does not have a defined period of time in which to process close-outs.

Table of Contents

Chapter 1	3
Quality Assurance Reviews Help Ensure that Draw Requirements are Met Prior to Payment	3
Chapter 2	5
The Close-Out Process is Generally Performed in a Timely Manner	5
Appendix A	6
Appendix B	8
Background.....	8

Detailed Results

Chapter 1

Quality Assurance Reviews Help Ensure that Draw Requirements are Met Prior to Payment

Program Services has processes in place that help to ensure programs are adhering to and processing draws in accordance with state, federal, and program requirements. Program Services performs the quality assurance review of draws requested by contract administrators for the HOME, Housing Trust Fund (HTF), and Neighborhood Stabilization (NSP) Programs. As part of the quality assurance review, Program Services utilizes checklists to ensure that draw requests are supported by the required documentation. The complexity of draws and the required documentation varies significantly due to the variety of program areas and program activities performed in each area. For example, the HOME program's monthly recurring Tenant Based Rental Assistance draws are relatively simple compared to draws for construction or land purchases under the NSP Program. The checklists used by Program Services are specific to each program area and activity type.

Program Services actively communicates with the program areas during the quality assurance review to ensure that the supporting documentation is present. Program Services communicates the need for additional supporting documentation formally or informally to the program divisions. Draws with significant deficiencies are formally disapproved, whereas draws with smaller deficiencies are left in the queue while program divisions are informally notified of needed corrections. On occasion, Program Services approves a draw if the division director of a program approves an override and requests that the draw be paid. In these instances, Program Services maintains documentation to support the override requests.

We tested 120 draws for compliance with the required documentation from the applicable checklist used by Program Services to review the draws. We found only a few minor errors that consisted primarily of missing or incomplete checklists. Of the 120 draws tested, 114 (95.0%) contained all of the documentation required by the checklist. In addition, Program Services formally disapproved 13 draws (10.9%) due to deficiencies in the required supporting documentation. Eleven of these draws were subsequently corrected and approved.

We selected a random statistical sample of 367 draws that were processed during fiscal year 2012 for testing. Of the 367 draws, 287 were from the HOME Program, 49 were from NSP, and 31 were from HTF. These sample sizes represent the percentage of the draw population that originated from these three programs. However, we discontinued testing of the HOME draws after testing of the first 40 draws yielded no significant errors. Therefore, we tested a total of 120 draw transactions that were reviewed by Program Services.

In addition, when a draw is received that does not contain the required supporting documents, Program Services' quality assurance staff works with the various program areas to request and obtain the required

An Internal Audit of the Program Services Division

support. This helps the Department ensure that draw requests are properly supported and processed in accordance with program requirements. The Program Services staff consistently documents their communication with the program areas whenever they have questions related to a draw request.

Chapter 2

The Close-Out Process is Generally Performed in a Timely Manner

Program Services generally ensures that unused activity funds are deobligated during activity close-out in a timely manner. However, there are instances in which Program Services does not close-out activities due to guidance received from the program area. Therefore, it may appear that that many of the activities and contracts for this program area are active even though the funds have been expended.

Program Services closes out an activity after the final draw and the Project Completion Report (PCR) has been requested. The close-out process deobligates any unused funds for the activity once completed. The unused funds are then available to be re-obligated to other households. Program Services does not have a defined period of time in which to process close-outs. Close-outs are processed as time allows. However, management agreed that a five business days of the PCR request was a reasonable standard to determine the timeliness of close-outs during audit testing.

Of the 120 draws we tested, 19 (15.8%) were final draws. The 19 final draws were also tested for timeliness of activity and contract close-outs. Of these:

- Three draws (15.8%) were closed within five business days or less,
- Eight draws (42.1%) were closed within six to ten business days
- Two draws (10.5%) were closed more than ten business days after the PCR was requested,
- One draw (5.3%) has not had the PCR requested nor has it been closed out,
- One draw (5.3%) was for administrative costs which do not require a close-out process, and
- Four draws (21.1%) did not have a PCR requested as the program area does not require them. Only one of these draws was closed-out.

Appendix A

Objectives

The objectives of the audit were to determine if the Program Services Division's Quality Assurance function is:

- ensuring that programs are adhering to and processing draws in accordance with federal, state, and program requirements, and.
- is processing close-outs in order to ensure any unused funds are deobligated in a timely manner.

Scope

The scope of this audit was state fiscal year 2012.

Methodology

We conducted interviews of department staff involved in the Quality Assurance process.

We performed background research on the Quality Assurance process.

We tested 120 draws and close-outs for compliance with the quality assurance checklists.

We tested 19 close-outs for timeliness.

Criteria

Quality assurance checklists which identified state, federal, and program requirements for each draw type.

Program Services Quality Assurance Standard Operating Procedures.

Agreed upon criteria as discussed with management.

Type of Audit

This audit was a performance audit of the Program Services Division's Quality Assurance process.

Report Distribution

As required by the Texas Internal Auditing Act (Texas Government Code, Chapter 2102), this report is distributed to the:

- Texas Department of Housing and Community Affairs' Governing Board
- Governor's Office of Budget and Planning
- Legislative Budget Board
- State Auditor's Office
- Sunset Advisory Commission

Project Information

We conducted audit fieldwork from October 2012 through December 2012. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit

An Internal Audit of the Program Services Division

objectives. This audit was also conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*.

The following staff performed this audit:

Nicole Elizondo, CFE, CICA, Project Manager

Betsy Schwing, CPA, CFE

Derrick Miller

Appreciation to Staff

We would like to extend our sincere appreciation to the management and staff of the Program Services Division for their cooperation and assistance during the course of this audit.

Appendix B

Background

The Texas Department of Housing and Community Affairs (Department) established the Program Services Division on September 1, 2009. The Program Services Division facilitates adherence, processing, and completion of federal mandates and departmental requirements affecting a variety of programs administered by the Department. These mandates and requirements include commitments and disbursements of federal funds.

The Program Services Division has five staff members that perform quality assurance reviews (QA) for the HOME, Housing Trust Fund (HTF), and Neighborhood Stabilization (NSP) Programs. The quality assurance review process is designed to ensure eligible and accurate commitment and expenditure of federal funds. Program Services quality assurance staff perform a final review, evaluation, and approval of information and supporting documentation submitted by the subrecipient contract administrators via the Department's Housing Contract System for all program set-ups committing federal funds and all disbursement requests from program participants in accordance with federal, state, and Department requirements. The quality assurance staff will also assist program area specialists and program participants with Project Completion Reports (PCR Reports) that are used to close-out contract activities.

7

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation and Discussion of the Status of External Audits.

REPORT ITEM

There have been three external audits or monitoring visits so far this fiscal year. A fourth one is scheduled to start next month.

BACKGROUND

Of the four external audits or monitoring visits in fiscal year 2013, two are complete, one is in the fieldwork phase, and one is scheduled to start in February.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
INTERNAL AUDIT DIVISION – STATUS OF FY 2013 EXTERNAL AUDITS
January 17, 2013**

External Audits/Activities	Scope/Description	Stage	Comments
SAO	Annual opinion audits: <ul style="list-style-type: none"> • Basic Financial Statements for the FYE August 31, 2012. • Revenue Bond Program Audit for the FYE August 31, 2012. • FY 2012 Unencumbered Fund Balances. 	Completed	Final reports were released on December 20, 2012.
KPMG	The scope of the financial portion of the Statewide Single Audit includes an audit of the state's basic financial statements for fiscal year 2012 and a review of significant controls over financial reporting and compliance with applicable requirements.	Reporting	The final report will be released in March 2013.
DPS	A review of the Section 8 Program's use of the Criminal History Records Information (CHRI) to perform criminal records checks.	Planning	This audit is currently underway.
DOE	DOE will be conducting an onsite monitoring of the Weatherization Assistance Program.	Scheduled	DOE plans to arrive the week of February 11, 2013.

8

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation and Discussion of Recent External Audit Reports.

REPORT ITEM

Reports were recently finalized for the last four of the 14 external audits or monitoring visits that occurred in fiscal year 2012.

BACKGROUND

The Comptroller's Post-Payment Audit - The Comptroller's Office reviewed the Department's purchasing, travel and payroll expenditures to determine if they complied with state laws and rules regarding expenditure requirements as well as with Uniform Statewide Payroll/Personnel System (USAS) processing requirements.

- Purchase Transactions, Refund of Revenue Transactions and Fixed Assets – No errors were identified.
- Payroll Transactions and Deductions – The audit identified one incorrect longevity payment that resulted in an underpayment of \$100 to an employee and three personnel files missing prior state service documentation.
- Travel Transactions – Seven transactions were paid early, resulting in a total loss to the treasury of \$1.52 in interest.
- Internal Controls – One employee had the ability to adjust payee instructions and approve paper vouchers, and one required confidentiality form was not signed timely by the employee.

FEMA Close-Out Monitoring of the Alternative Housing Pilot Project (AHHP) – Three issues were identified but all three issues were resolved based on the Department's responses to the findings. Documents were submitted to FEMA to complete the grant close-out process.

HUD Technical Assistance and Monitoring Review of the HOME Program - HUD reviewed the State's affordable housing programs in the HOME Division. HUD concluded that the state has the continuing capacity to implement and deliver its affordable housing and rehabilitation programs at current levels and to manage its financial responsibilities. They noted that the state has significantly improved the quality of its monitoring and has implemented a process to complete the required annual monitorings of its subrecipients and CHDOs. HUD identified six findings and six concerns. The Department provided explanations and/or corrective actions for all of the findings identified in the report.

HUD Technical Assistance and Monitoring Review of the HOME Program's Uniform Relocation Act – HUD conducted a monitoring review for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA.) HUD identified three

findings and one concern. The findings were: lack of timely relocation notices, incorrect replacement housing payment calculations, and lack of compliance with one-for-one replacement and relocation requirements for certain demolition and reconstruction projects. The concern was that acquisitions for projects undertaken by an entity that receives federal assistance but does not have authority to acquire property by eminent domain do not disclose information to the seller as required. The Department provided explanations and/or corrective actions for all of the findings identified in the report.

8a

Audit Report # 332-13-01

Post Payment Audit of the Texas Department of Housing and Community Affairs

COPY

**Fiscal Management Division
Expenditure Audit Section**

November 30, 2012



**Susan Combs
Texas Comptroller of Public Accounts**

Auditor: Ben Strauser, MBA

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



November 30, 2012

Mr. Timothy Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Dear Mr. Irvine:

We have completed a post payment audit of certain payroll, travel and purchase transactions of the Texas Department of Housing and Community Affairs (Department). We would like to thank your staff for their responsiveness and cooperation in assisting us with this audit including David Cervantes, Krissy Vavra, Esther Ku, Laura Escobedo, Bob McRae, Julie Dumbeck and Gina Esteves. A draft of this audit report was sent to the Director of Financial Administration, Mr. Cervantes on October 30, 2012. Responses to the draft are included within this final report.

Our purpose was to determine whether the Department's expenditures complied with certain state laws and rules concerning expenditures and with the processing requirements of the Uniform Statewide Accounting System (USAS) and the Uniform Statewide Payroll/Personnel System (USPS). The Department is responsible for ensuring that its staff is knowledgeable in those areas.

The Department must submit to the Texas Comptroller of Public Accounts (Comptroller's office) a corrective action plan that addresses the instances of payment and documentation errors detailed within this report. The plan must provide for appropriate improvements in the control structure related to the Department's payment process and show expected dates of implementation. The corrective action plan must be completed and signed by management and the Department's internal auditor. An electronic copy of the corrective action plan is available upon request. Our office must receive the completed plan by December 31, 2012.

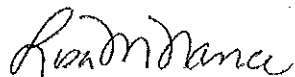
We intend for this report to be used by the Department's management and certain state officials and agencies as listed in Tex. Gov't Code Ann. § 403.071 (Vernon Supp. 2011). However, the audit report is a public record and its distribution is not limited.

We would like to request input from you or your designee on the quality of the audit process and the service provided by the audit staff while conducting this audit. Please use the website at <https://fm.x.cpa.state.tx.us/fm/survey/audit/> to provide feedback on the post-payment audit process. We have also attached a copy of the document for your convenience. We greatly appreciate your feedback.

Mr. Timothy Irvine
November 30, 2012
Page Two

The Department may inquire about and register for training related to the findings through the Fiscal Management Training Center website at <https://fmx.cpa.state.tx.us/fmx/training/index.php>. Thank you for your cooperation. If we can be of further assistance, please contact Ben Strauser at ben.strauser@cpa.state.tx.us or at 512-463-9019.

Sincerely,



Lisa Nance
Manager, Statewide Fiscal Services
Fiscal Management Division

Enclosure

cc: J. Paul Ozer, P.E., Board Chair, Texas Department of Housing and Community Affairs
David Cervantes, Director, Financial Administration, Texas Department of Housing and
Community Affairs
Sandra Donoho, Director, Internal Audit Division, Texas Department Housing and
Community Affairs
Ben Strauser, Auditor, Statewide Fiscal Services, Texas Comptroller of Public Accounts

Audit Scope

A stratified random sample of the Department's purchase, travel and payroll transactions that processed through USAS and USPS during the period beginning June 1, 2011 through May 31, 2012 was audited to determine compliance with applicable state laws. In addition, a limited review of voluntary payroll deductions, refund of revenue and grant transactions was conducted. The appendices to this report include schedules of the errors identified. The report includes a projection of the errors to estimate the amount of improperly paid transactions in the population.

We believe the audit provides a reasonable basis for the findings set forth in this report. The Department should implement the recommendations listed in the Detailed Findings of this report. It is the Department's responsibility to seek refunds for all overpayments, unless it determines it is not cost effective to do so. If necessary, the Texas Comptroller of Public Accounts (Comptroller's office) may take the actions set forth in Tex. Gov't Code Ann. § 403.071(h) (Vernon Supp. 2011) to ensure that the Department's documents comply in the future. The Department must ensure that the findings discussed in this report are resolved.

Texas law requires the Comptroller's office to audit claims submitted for payment through the Comptroller's office. All payment transactions are subject to audit regardless of amount or materiality.

Payroll Transactions and Deductions

Payroll transactions were audited for compliance with the General Appropriations Act (GAA), the *Texas Payroll/Personnel Resource (Payroll Resource)* and other pertinent statutes.

The audit identified:

- An incorrect longevity payment amount paid to an employee.
- Three personnel files missing prior state service documentation.

A limited sample of voluntary contributions was reviewed.

- No errors were identified.

Purchase Transactions

These transactions were audited for compliance with the GAA, *eXpendit*, the *State of Texas Procurement Manual* and other pertinent statutes.

The audit identified:

- No errors were identified.

Travel Transactions

Travel transactions were audited for compliance with the GAA, *Textravel*, and other pertinent statutes.

The audit identified:

- Seven transactions paid early resulting in interest loss to the state treasury.

Internal Control Structure

The Department's internal control structure was reviewed. The review was limited to obtaining an understanding of the Department's controls sufficient to plan the audit and did not include tests of control policies and procedures.

The review identified two issues:

- One employee had the ability to adjust payee instructions in the Texas Identification Number System (TINS) and approve paper vouchers.
- The Confidential Treatment of Information Acknowledgement (CTIA) form was not signed timely for one employee.

Refund of Revenue Transactions

Our audit included a limited review of the Department's transactions relating to refunds of revenue. This review consisted of verifying that the documentation provided reconciled with the payment amount in our sample.

- No errors were identified.

Grant Transactions

The audit included a limited review of the Department's transactions relating to grant payments. This review consisted of verifying that the payments did not exceed the authorized amounts. The review of these payments did not include an investigation of the Department's procedures for awarding the grants or monitoring payments made to grantees; therefore, we are not offering an opinion on those procedures.

- No errors were identified.

Fixed Assets

The audit included a limited number of fixed assets acquired by expenditures during our audit period to test for accurate reporting in the State Property Accounting system (SPA) and to verify existence of the assets.

- All of the assets tested were in their intended location and properly recorded in SPA.

Other Auditor Observations

A review was conducted of the Department's procedures to comply with the federal mandate to properly identify and handle payments involving the movement of funds internationally. We noted two instances where the Department used an outdated version of the direct deposit set-up form which did not adhere to the National Automated Clearing House Association rules requiring the identification of a direct deposit payment if it is an International Automated Clearing House Transaction. The Department was unaware of the new required form.

We recommend the Department return to the payee any form that does not comply with the federal mandate regarding foreign payments and instruct the payee to resubmit the corrected form. Additionally, if the Department receives an outdated version of an authorization form that does not include the foreign payment question, the form should be sent back to the payee along with an updated form or the payee should be directed to the online version of the form at <http://www.window.state.tx.us/directdep/> or txdirectdeposit.org.

Prior Post-Payment Audit and Current Audit Recurring Errors

A prior post-payment audit of the Department's payroll, purchase, and travel transactions was concluded on December 22, 2008.

During the current audit, there were three recurring errors:

- Missing prior state service documentation
- Incorrect longevity payment

Contact

Ben Strauser, MBA, CTP
512-463-9019

Contributing Auditors

Alberto Lañas, MBA, CTPM
Bill Hornstein, MBA, CTP
Stacey Minces

TABLE OF CONTENTS

Detailed Findings – Payroll

Incorrect Longevity Pay Amount.....	1
Prior State Service Verification Missing.....	2

Detailed Findings – Travel

Payment Scheduling Issues.....	3
--------------------------------	---

Detailed Findings – Expenditure Approvals

Control Weakness Over Expenditure Processing/CTIA Form Not Signed Timely....	4
--	---

Appendices

Summary of Errors Detected.....	Appendix 1
Projection of Scheduling Errors.....	Appendix 2
Schedule of Errors – Travel – Interest Loss to Treasury.....	Appendix 3
Audit Overview.....	Appendix 4

INCORRECT LONGEVITY PAY AMOUNT

Finding

We identified one employee with an incorrect state effective service date in USPS. The improper date resulted in an incorrect payment of longevity pay to the employee. The employee had an underpayment of longevity pay totaling \$100.

This error occurred due to the employee not receiving state service credit for time spent on leave without pay status. The leave without pay period started in the middle of one month, continued for a full month, and ended in the middle of the third month. The Department recorded this break in service as two separate periods of employment. Because of this, the employee did not receive state service credit for the first and third months of this period.

Gov't Code sec. 661.909(h) states, "A full or partial calendar month during which an employee is on leave without pay does not constitute a break in continuity of employment."

We provided the Department with the schedule and calculations of the incorrect payment amounts during the fieldwork. The schedule is not included with this report due to confidentiality.

Recommendation/Requirement

The Department must ensure that prior state service is properly verified and documented for its employees. The Department must also compensate the employee who was underpaid longevity pay. The Department must ensure that its internal operating procedures include quality control measures that will detect and underpayment of compensation to a state employee. The Department shall promptly correct the underpayment through a supplemental payroll. See 34 Tex. Admin. Code § 5.40(c)(2012).

Department's Response

Employee noted in finding had prior state service information entered into the Uniform Statewide Payroll System (USPS) based on the interpretation of the form received. The information has been corrected and the employee has been compensated.

The Department will take extra measures (reviews) to ensure proper processing for longevity pay. When the Verification of Employment form for prior state service is received by the payroll division, if there is any question as to the information on the form, payroll will verify with Human Resources in writing of what the payroll department's interpretation of the information is and verify that HR agrees with that interpretation. The Department's internal operating procedures include quality control measures that detect underpayment(s) of longevity pay.

PRIOR STATE SERVICE VERIFICATION MISSING

Finding

We identified three payroll transactions that were missing the documentation needed to determine whether the payments to the employees were made correctly. The Department obtained the verification documentation during the audit. The service dates matched the dates in USPS and resulted in no monetary impact to the employees' longevity payments. The Department stated that the documentation was missing due to oversight.

Agencies are required to maintain specific documentation to support the legality, propriety, and fiscal responsibility of each payment made out of the agency's funds. The Comptroller's office may require the documentation to be made available during a post-payment audit, a pre-payment audit, or at any other time. See the Payroll Resource. Specifically, https://fmnx.cpa.state.tx.us/fm/pubs/paypol/general_provisions2/index.php?section=documentation&page=documentation.

We provided the Department with the schedule relating to this finding during the exit meeting. It is not included with this report because of confidentiality.

Recommendation/Requirement

The Department must ensure that prior state service is properly verified and documented for its employees. The Department should review all personnel files to ensure that properly completed prior state service verification documentation is properly documented in the employees' files.

Department's Response

The Department has updated procedures to ensure that employees have the proper documentation in their files to support prior state service. Files pulled during the current audit where documentation was missing were from employees hired prior to last audit and before the current procedures had been implemented. The Payroll and Human Resources areas within the Department are currently working together to review all personnel files to ensure that Prior State Service forms in files match the information in USPS.

PAYMENT SCHEDULING ISSUES

Finding

Tex. Gov't Code Ann. Sec. 2155.382(d) (Vernon 2008) authorizes the Comptroller to allow or require state agencies to schedule payments that the Comptroller will make to a vendor. The Comptroller must prescribe the circumstances under which advance scheduling of payments is allowed or required; however, the Comptroller must require advance scheduling of payments when it is advantageous to the state.

We identified seven travel transactions that the Department paid early resulting in interest loss to the state treasury. These transactions were paid early because the Department was unaware that travel cards and direct bill invoices that exceed \$5,000 must be scheduled.

Recommendation/Requirement

To minimize the loss of earned interest to the state treasury, the Department must schedule all payments that are greater than \$5,000 for the latest possible distribution and in accordance with its purchasing agreements as described in the Comptroller's Prompt Payment and Scheduling Guide. The Department can pay according to the terms on the invoice only if those terms are included in the purchase agreement.

Department's Response

Prior to this audit, the Department's practice for travel direct bill payments was payment upon receipt of statement or services rendered. Prompt payment laws for travel direct bill payments had not been communicated to staff nor identified as findings in prior audits. The Department will schedule all payments that are greater than \$5,000 for the latest possible distribution and in accordance with its purchasing agreements as described in the Comptroller's Prompt Payment and Scheduling Guide.

DETAILED FINDINGS – EXPENDITURE APPROVALS

CONTROL WEAKNESS OVER EXPENDITURE PROCESSING/ CTIA FORM NOT SIGNED TIMELY

Finding

As part of our planning process for the post-payment audit, we reviewed certain limitations the Department placed on its accounting staff members' abilities to process expenditures. We reviewed the Department's security in USAS, USPS and TINS, and the voucher signature cards that were in effect during fieldwork. We did not review or test any internal or compensating controls that the Department may have relating to USAS/USPS/TINS security or internal transaction approvals.

The Department had one employee with security to adjust payee instructions in TINS and approve paper vouchers. To reduce risks to state funds, agencies should have controls over expenditure processing that segregates each accounting task to the greatest extent practical. Ideally, no individual should be able to alter payments or other accounting transactions within the state governmental accounting systems without another person's involvement.

As a routine part of our security review, we reviewed the Department's compliance with the requirement that all agency users of the Comptroller's state government accounting systems must complete a CTIA form. For employees and contractors who require access to the Comptroller's state government accounting systems, the agency's security coordinators must have a signed CTIA form from every user on file at their agency prior to granting access to the systems. A reviewing official also must sign the agreement, which the agency's security coordinator keeps on file for as long as the user has access to the systems plus five years. The Department did not obtain a signed CTIA form for one employee prior to granting access to the systems. According to the Department, this was due to the oversight of the agency.

Recommendation/Requirement

The Department should review the controls over expenditure processing and segregate each task to the extent possible to ensure that no individual is able to process payments without oversight. In addition, the Department must enhance its controls to ensure the CTIA forms are completed in a timely manner.

Department's Response

The Department acknowledges this isolated incident caused by a transition from a previous security coordinator to a newly trained staff member. This oversight allowed one employee with security to enter/update in TINS and approve payments in USAS. Since the finding, the Department has changed the TINS access to inquiry. In the future, management will periodically review the State Comptroller's Office Control Reports to confirm security status.

To improve controls related to CTIA forms, management will audit the master file to ensure all CTIA forms are accounted for.

APPENDICES

APPENDIX 1

**Summary of Sample Payment Errors Detected
Texas Department of Housing and Community Affairs**

Audit period: June, 1, 2011 through May, 31, 2012

GROUP 1 (USPS) PAYROLL TRANSACTIONS

Stratum Letter	Low Range	High Range	Audited Transactions	Errors Detected (A)	Sample Base (B)	Error Rate (C)	Population Base (D)	Projected Errors (E)	
B	\$0.00	\$2,100.00	100	\$0.00	\$55,112.89	.000000000	\$5,850,624.80	\$0.00	
C	\$2,100.01	\$9,011.00	125	\$0.00	\$488,862.89	.000000000	\$14,988,311.69	\$0.00	
D	\$9,011.01	\$999,999,999.99	26	\$0.00	\$302,614.27	.000000000	\$302,614.27	\$0.00	
(F)						(G)		(H)	
\$846,590.05						.000000000		\$21,141,550.76	\$0.00

GROUP 1 (USAS) PURCHASE TRANSACTIONS

Stratum Letter	Low Range	High Range	Audited Transactions	Errors Detected (A)	Sample Base (B)	Error Rate (C)	Population Base (D)	Projected Errors (E)	
A	\$0.00	\$120.00	100	\$0.00	\$1,590.61	.000000000	\$496,730.50	\$0.00	
B	\$120.01	\$12,000.00	100	\$0.00	\$71,063.16	.000000000	\$2,793,099.30	\$0.00	
C	\$12,000.01	\$999,999,999.00	49	\$0.00	\$1,659,823.44	.000000000	\$1,659,823.44	\$0.00	
(F)						(G)		(H)	
\$1,732,477.21						.000000000		\$4,949,653.24	\$0.00

GROUP 2 (USAS) TRAVEL TRANSACTIONS

Stratum Letter	Low Range	High Range	Audited Transactions	Errors Detected (A)	Sample Base (B)	Error Rate (C)	Population Base (D)	Projected Errors (E)	
A	\$0.00	\$300.00	100	\$0.00	\$6,604.07	.000000000	\$618,363.26	\$0.00	
B	\$300.01	\$950.00	100	\$0.00	\$41,564.65	.000000000	\$339,451.84	\$0.00	
C	\$950.01	\$999,999,999.00	2	\$0.00	\$2,633.00	.000000000	\$2,633.00	\$0.00	
(F)						(G)		(H)	
\$50,801.72						.000000000		\$960,448.10	\$0.00

GROUP 3 (USAS) GRANT TRANSACTIONS

Low Range	High Range	Audited Transactions	Errors Detected	Population Base	No projections were made from this group
\$0.00	\$999,999,999.00	30	\$0.00	\$584,456,912.94	

GROUP 4 (USAS) EDUCATION/TRAINING/LEGAL TRANSACTIONS

Low Range	High Range	Audited Transactions	Errors Detected	Population Base	No projections were made from this group
\$0.00	\$999,999,999.99	35	\$0.00	\$3,145,590.85	

GROUP 5 (USAS) REFUND OF REVENUE TRANSACTIONS

Low Range	High Range	Audited Transactions	Errors Detected	Population Base	No projections were made from this group
\$0.00	\$999,999,999.00	14	\$0.00	\$236,416.40	

Legend

Sample Error Rate (C) = (A) ÷ (B)
Projected Errors (E) = (C) X (D)
Group Error Rate (F) = (H) ÷ (G)
Group Population Base (G) = sum of Population Bases (D)
Group Projected Errors (H) = sum of Projected Errors (E)
Total Population Base (I) = sum of Group Population Bases (G)
Total Projected Errors (J) = sum of Group Projected Errors (H)

Note:

All dollar amounts rounded to the second decimal place.

All error rates rounded to the sixth decimal place.

Total Population Base (I)	Total Projected Errors (J)
\$27,051,652.10	\$0.00

APPENDIX 2

**Projection of Scheduling Errors
Texas Department of Housing and Community Affairs**

Audit period: June, 1, 2011 through May, 31, 2012

GROUP 2 (USAS) TRAVEL TRANSACTIONS - INTEREST LOSS TO THE TREASURY

Stratum Letter	Low Range	High Range	Audited Transactions	Errors Detected (A)	Sample Base (B)	Error Rate (C)	Population Base (D)	Projected Errors (E)
A	\$0.00	\$300.00	100	\$0.18	\$6,604.07	.000027256	\$618,363.26	\$16.85
B	\$300.01	\$950.00	100	\$1.34	\$41,564.65	.000032239	\$339,451.84	\$10.94
C	\$950.01	\$999,999,999.00	2	\$0.00	\$2,633.00	.000000000	\$2,633.00	\$0.00
					(F)	(G)	(H)	
					\$50,801.72	.000028934	\$960,448.10	\$27.79

Legend

<p>Sample Error Rate (C) = (A) ÷ (B) Projected Errors (E) = (C) X (D) Group Error Rate (F) = (H) ÷ (G)</p>
--

Note:

All dollar amounts rounded to the second decimal place.
 All error rates rounded to the sixth decimal place.

SCHEDULE OF ERRORS

Travel - Interest Loss to Treasury

Stratum	Doc #	Suffix	Vendor Name	Prompt Pay Date	Distribution Date	Days Early	Transaction Amount	Interest Loss to Treasury
A	10361720	023		20111228	20111230	28	\$118.75	\$0.08
A	10353771	015		20110808	20110810	28	\$154.98	\$0.10
B	10361720	020		20111228	20111230	28	\$399.80	\$0.26
B	10361720	015		20111228	20111230	28	\$382.80	\$0.25
B	10352710	019		20110726	20110727	29	\$531.40	\$0.36
B	10357399	036		20111011	20111019	22	\$493.40	\$0.25
B	10353771	023		20110808	20110810	28	\$339.40	\$0.22
Total Interest Loss to Treasury								\$1.52

* Prompt Pay date is the latest of the 3 days used for prompt payment as defined in Tex. Gov't Code Ann. secs. 2251.001-2251.043 (Vernon 2008).

* Distribution Date is the first day the payment was available to the vendor.

A state agency may request the Comptroller's office to pay a claim against the agency only by submitting the appropriate payment voucher to the Comptroller's office. TEX. GOV'T CODE ANN. §§ 404.046, 404.069 (Vernon 2005), §§ 2103.003, 2103.0035, 2103.004 (Vernon 2008). State law prohibits the Comptroller's office from paying a claim against a state agency unless the Comptroller's office audits the corresponding voucher. TEX. GOV'T CODE ANN. § 403.071(a) (Vernon Supp. 2010), § 403.078 (Vernon 2005) § 2103.004(a)(3) (Vernon 2008).

State law allows the Comptroller's office to audit a payment voucher before or after the Comptroller's office makes a payment in response to that voucher. TEX. GOV'T CODE ANN. § 403.071(g)-(h) (Vernon Supp. 2010). In addition, state law authorizes the Comptroller's office to conduct pre-payment or post-payment audits on a sample basis. TEX. GOV'T CODE ANN. §§ 403.011(a)(13), 403.079 (Vernon 2005), TEX. GOV'T CODE ANN. § 2155.324 (Vernon 2008).

The Expenditure Audit section of the Comptroller's office Statewide Fiscal Services conducts these audits.

Audit objectives

The primary objectives of a post-payment audit are to:

- Ensure that payments are documented so that a proper audit can be conducted.
- Ensure that payment vouchers are processed according to the requirements of the uniform statewide accounting and payroll systems.
- Verify that payments are made in accordance with certain applicable state laws.
- Verify that assets are in their intended location and are properly recorded in the SPA system.
- Verify that the voucher signature cards and systems security during the audit period were consistent with applicable laws, rules, and other requirements.

Methodology

The expenditure audit section uses generally recognized sampling techniques to conduct a post-payment audit. The computer audit menu system software is used to generate a stratified random sample of payment vouchers for the audit, with a confidence level of 95 percent. The vouchers are audited in detail, and the results of the audit are projected to estimate the amount of claims that were unsubstantiated or improperly paid. Limited samples are also utilized where applicable.

Field Work

Each auditor in the expenditure audit section is required to approach the field work phase of each audit with an appropriate level of professional skepticism based upon the results of the initial planning procedures. If an auditor suspects during an audit that fraud, defalcations, or intentional misstatement of the facts has occurred, then the auditor will meet with his or her supervisor or the Statewide Fiscal Services manager, or both, to decide what course of action or additional procedures would be appropriate.

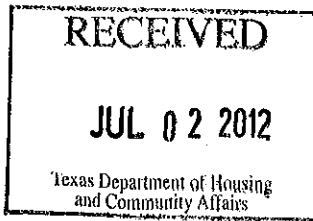
Reporting

Each auditor audits the payment vouchers included in a sample according to established policies and procedures. The audit findings are reported to the audited agency in the form of a report.

The audit report discloses the total dollar amount of any unsubstantiated payments or overpayments noted in the sample. In addition, the report shows the result of projecting those payments to the appropriate population. Finally, the report includes recommendations and requirements for the audited agency.

Each auditor discusses the management issues noted during the audit at the exit and communicates details of these issues to the chief fiscal officer.

8b



FEMA

June 26, 2012

David Cervantes, Director of Financial Administration
 Texas Department of Housing and Community Affairs
 PO Box 13941
 Austin, TX 78711-3941

Dear Mr. Cervantes:

The purpose of this letter is to report the results of the monitoring visit conducted by the Federal Emergency Management Agency (FEMA), Region 6 Grants Business Management Branch, on May 14 – May 18, 2012. As you are aware, the team of financial staff met with select Texas Department of Housing and Community Affairs (TDHCA) staff members to review the following grants:

Grant Number	Program Name	Award Amount
EMW-2007-GR-0868	Alternative Housing Pilot Program	\$ 16,471,725.00

FEMA's on-site monitoring provided a detailed review and account of the expenditure of funds for the TDHCA grant. The purpose of this letter is to provide guidance and recommendations to enhance TDHCA's efforts in managing federal funding.

The following is a summarized list of findings and associated recommended corrective actions resulting from our visit to your office:

Finding	Recommended Corrective Action(s)	CFR Reference	Award(s) Affected	Target Due Date
1. Procurement The Heston contract was not procured properly by TDHCA. Several copies of an unsigned 'sole source justification' letter were found in the Grantee's electronic files, however, an approved and signed copy was never produced.	The Grantee must create/amend and implement policies to ensure that Federal procurement regulations as outlined in 44 CFR 13.36 are followed for all Federal awards. The grantee must ensure that at a minimum a cost analysis is performed with every purchase/procurement/modification funded under future Federal awards.	44 CFR 13.36	AHPP	90 Days
2. Contracting a) The contract executed between TDHCA and Heston did not contain a firm fixed-price or cap as required by 44 CFR 13.36(b)(10). Time	a) The Grantee must create/amend and implement policies and procedures to ensure that all future contracts funded with Federal grant	44 CFR 13.36(b)(10)	AHPP	90 Days

Finding	Recommended Corrective Action(s)	CFR Reference	Award(s) Affected	Target Due Date
<p>and Material contracts are only allowed "if contract includes a ceiling price that contractor exceeds at his own risk". The Grantee also failed to include restrictions on travel costs, which allowed the contractor to charge amounts that exceeded both the General Services Administration's (GSA) and the State's allowable per diem and lodging rates. The Grantee has attempted to review/reevaluate the contractor's submitted expenditures and has disallowed some of these costs.</p> <p>b) The TDHCA and Heston contract did not require Heston to abide by State or Federal bid laws when acquiring sub-contractors if the Contractor complied with Historically Underutilized Business requirements pursuant to Texas Government Code, Chapter 2261. This is in violation of 44 CFR 13.36, if the contractor did not request bids or some other type of cost analysis.</p> <p>c) We found that the procurement of contracts is administered differently when contracts are funded under Federal awards. All non-Federal contracts are handled out of the Finance Office, however the Grantee stated that the responsibility of Federal grant contracting falls to the Program staff in the Disaster Recovery Unit instead of the Finance office.</p>	<p>awards have contract caps as required by 44 CFR 13.36(b)(10). We further recommend the Grantee create/amend policies and procedures to require contractors to comply with State and GSA travel policies.</p> <p>b/c) The Grantee will follow the same policies and procedures it uses for its non-Federal funds and the Grantee will ensure that every contract will include any clauses required by Federal regulations as written in 44 CFR 13.36 when entering into a contract funded with Federal funds.</p>	44 CFR 13.36	AHPP	90 Days
<p>3. Questioned Costs Ineligible and excessive expenditures charged to the grant by Heston: The Grantee has demonstrated their review for reasonableness of Heston's documentation by providing several spreadsheets of disallowed charges and other file notations. However, FEMA reviewers found that the Grantee's allowances of some costs were very lenient, as the TDHCA reviewers were unsure what could be considered excessive or unallowable in accordance with 2 CFR, Part 225 Cost Principles. Examples of some of the expenditures found by FEMA reviewers as</p>	<p>As agreed upon with the Grantee during the exit interview, we will allow the Grantee the opportunity to reevaluate financial documentation based on some of the concerns and recommendations noted by FEMA during the visit. We feel the amount previously found unallowable by TDHCA does not adequately reflect all project costs that should be returned to TDHCA by Heston. Our recommendation to the Grantee is to reevaluate the costs</p>	2 CFR Part 225, Appendix B, Section 8, 14, 43 Improper Payments Information Act of 2002 (IPIA), Public Law 107-107	AHPP	90 Days

Finding	Recommended Corrective Action(s)	CFR Reference	Award(s) Affected	Target Due Date
<p>unallowable related to entertainment (movie purchases) charged to hotel bills and drug screenings for Heston employees. Samples of excessive expenditures submitted by Heston included travel and lodging to Houston and Austin which exceeded State per diem and lodging rates. We also noted that Heston's President's annual salary was \$177,300 per year in 2009, which exceeded the amount of the approved budget for year two by \$87,300.</p>	<p>noted on the enclosed disk, and confirm or contest the amounts as unallowable, excessive, and/or duplicative. The Grantee should provide a revised amount of possible repayment of grant funds by Heston.</p>	<p>Improper Payments Elimination and Recovery Act of 2010 (IPERA), Public Law 111-204</p>		

Please provide a schedule for resolving each of these recommendations within 90 days from receipt of this letter.

In addition to the above Findings, the following **Observations** were noted:

- a. The file review and staff interviews, revealed a lack of contract management and project oversight of the Heston contract in some areas. For example, we found on page 10 of the Heston contract the Grantee specified that "sub-contracting shall not exceed 65% of the total cost of the contract"; however, program staff stated that this amount was not being monitored or tracked. We also did not find evidence within the contract that any type of performance or construction reporting was required to be submitted by the contractor. Requiring the contractor to submit regular progress reports (such as on a weekly, monthly, or quarterly basis) would assist in project management and oversight.
- b. During our review of time sheets, we found that salaries for unrelated grant activities performed by Candace Anderson had been charged to AHPP due to a lack of funding. Once the Grantee received the expected funding the charges were reversed. This type of financial administration is not allowed.
- c. Our review also found that FEMA headquarters staff responsible for reviewing and monitoring the AHPP Program were remiss in requesting back-up documentation when SF 270 Request for Advance or Reimbursement forms were submitted for payment. Had FEMA staff been more consistent when reviewing payment requests, the issues with the contractor (Heston) may have been indentified prior to the payment of grant funds. We also found confusion on the Grantee's part with regards to procurement. TDHCA was under the impression that FEMA had chosen the contractor, Heston in this case, and they did not have a choice or the requirement to follow Federal or State procurement procedures. Additional guidance regarding procurement from FEMA headquarters may have resulted in the award going to a better qualified contractor and thus a successful outcome as opposed to the termination of the contract and program.

Mr. David Cervantes
June 26, 2012
Page 4

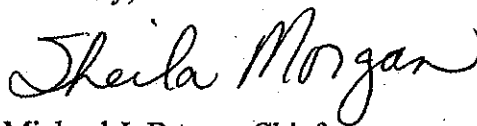
As the oversight and management of federal grant resources is critical, it is important to continue to strengthen internal controls, and resolve any grant management and administration deficiencies. Please know the FEMA Region 6 team is available to respond to questions you may have about this matter. We would like to take this opportunity to thank you and the TDHCA staff for being helpful and cooperative in providing us with information requested on short notice prior to the visit. We would also like to acknowledge everyone at TDHCA who went above and beyond to assist the FEMA personnel during the visit. It was a pleasure working with you and your team.

All correspondence related to this matter should be addressed to:

ATTN: Ann Furbay, Grants Management Specialist
U.S. Department of Homeland Security
FEMA Region 6
Grants Business Management Branch
800 North Loop 288
Denton, TX 76209-3698

If you have any questions, regarding information included in this review please contact Lydia Brooks, Grants Management Specialist, at (940) 383-7266, lydia.brooks@fema.dhs.gov, or Ann Furbay, Grants Management Specialist, at (940) 383-7248, ann.furbay@fema.dhs.gov.

Sincerely,



Michael J. Brown, Chief
Grants Business Management Branch
DHS/ FEMA Region 6



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oser, *Chair*
Tom H. Gann, *Vice Chair*
Leslie Bingham-Escareño
Lowell A. Keig
Juan S. Muñoz, PhD
J. Mark McWatters

September 26, 2012

(512) 475-3296
tim.irvine@tdhca.state.tx.us

Ms. Ann Furbay, Grants Management Specialist
U.S. Department of Homeland Security
FEMA Region 6
Grants Business Management Branch
800 North Loop 288
Denton, TX 76209-3698

RE: RESULTS OF MONITORING REVIEW CONDUCTED MAY 14 – MAY 18, 2012

Dear Ms. Furbay:

The Federal Emergency Management Agency (FEMA) conducted a review of the Alternative Housing Pilot Program (AHPP); grant number EMW-25007-GR-0868, on May 14 – May 18, 2012. The Texas Department of Housing and Community Affairs (TDHCA or Department) received the results of the review on July 2, 2012 that included three findings and three observations. TDHCA's responses to each finding and concern are included in this correspondence below.

We look forward to FEMA's review of our monitoring response so that we can finalize grant close out. If you have any questions, please do not hesitate to contact me at 512.475.3964 or via email at tim.irvine@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine".

Timothy K. Irvine
Executive Director

cc: Jerry Patterson, Commissioner, General Land Office
Jorge Ramirez, Director, Disaster Recovery Program, General Land Office



TDHCA RESPONSE

Finding

1. Procurement

The Heston contract was not procured properly by TDHCA. Several copies of an unsigned “sole source justification” letter were found in the Grantee’s electronic files, however, an approved and signed copy was never produced.

Response:

Sole Source Justification/Proprietary Justification Letter with Executive Director Michael Gerber’s original signature was located. (See Attachment)

TDHCA was awarded over \$16 million dollars under an application to the FEMA Alternative Housing Pilot Program. FEMA selected the Heston Group’s model to study as an alternative to the FEMA trailer. TDHCA understood that the Heston product was required as a condition of the award, therefore a sole source letter was used to procure Heston.

Finding

2. Contracting

a) The contract executed between TDHCA and Heston did not contain a firm fixed-price or cap as required by 44 CFR 13.36(b) (10). Time and Material contracts are only allowed “if contract includes a ceiling price that contractor exceeds at his own risk.” The Grantee also failed to include restrictions on travel costs, which allowed the contractor to charge amounts that exceeded both the General Services Administration’s (GSA) and the State’s allowable per diem and lodging rates. The Grantee has attempted to review/reevaluate the contractor’s submitted expenditures and has disallowed some of these costs.

Response:

The Contract did not clearly state the type and set up regarding Firm Fixed Price or Time and Material. Future contracts will be more explicit as type as well as provide clear line item budget references. The Department will also incorporate into future contracts travel provisions requiring contractors to comply with State and GSA travel policies and restrictions.

b) The TDHCA and Heston contract did not require Heston to abide by State or Federal bid laws when acquiring sub-contractors if the Contractor complied with Historically Underutilized Business requirements pursuant to Tx Gov’t Code, Chap 2261. This is in violation of 44 CFR 13.36, if the contractor did not request bids or some other type of cost analysis.

Response:

Historically Underutilized Business clauses were not included within this contract; however in the future the HUB subcontracting language will be included.

c) We found that the procurement of contracts is administered differently when contracts are funded under Federal awards. All non-Federal contracts are handled out of the Finance Office, however the Grantee stated that the responsibility of Federal grant contracting falls to the Program staff in the Disaster Recovery Unit instead of the Finance Office.

Response:

Contract language and guidelines will be included for both Non-Federal and Federal contracts to ensure that all aspects are properly covered. Going forward, the Department will ensure that the purchasing division will process all contracts and requests for bids, or proposals in a manner which ensures a consistent process is applied when procuring contracts of all types.

Finding

3. Contracting

Ineligible and excessive expenditures charged to the grant by Heston: The Grantee has demonstrated their review for reasonableness of Heston's documentation by providing several spreadsheets of disallowed charges and other file notations. However, FEMA reviewers found that the Grantee's allowances of some costs were very lenient, as the TDHCA reviewers were unsure what could be considered excessive or unallowable in accordance with 2 CFR, Part 225 Cost Principles. Examples of some of the expenditures found by FEMA reviewers as unallowable related to entertainment (movie purchases) charged to hotel bills and drug screenings for Heston employees. Samples of excessive expenditures submitted by Heston included travel and lodging to Houston and Austin which exceeded State per diem and lodging rates. We also noted that Heston's President's annual salary was \$177,300 per year in 2009, which exceeded the amount of the approved budget for year two by \$87,300.

Response:

TDHCA agrees there were ineligible and excessive expenditures charged to the grant by Heston and that the TDHCA initial review of costs was lenient. TDHCA staff reviewed the disk provided by FEMA and disallowed or questioned additional expenditures charged to the grant by Heston. An additional \$56,987.83 in costs was disallowed as unsupported, ineligible or excessive expenditures. TDHCA analysis reflects a new amount due to TDHCA from Heston of \$236,220.32. Heston will be officially notified of the modified grand total. Any questioned cost reimbursed to TDHCA by Heston as a result of questioned or disallowed costs will be remitted to FEMA.

Observations

a) The file review and staff interviews, revealed a lack of contract management and project oversight of the Heston contract in some areas. For example, we found on page 10 of the Heston contract the Grantee specified that "sub-contracting shall not exceed 65% of the total cost of the contract"; however, program staff stated that this amount was not being monitored or tracked. We also did not find evidence within the contract that any type of performance or construction reporting was required to be submitted by the contractor. Requiring the contractor to submit regular progress reports (such as on a weekly, monthly, or quarterly basis) would assist in project management and oversight.

Response:

TDHCA agrees that the Heston contract was not sufficiently monitored to ensure compliance with the contract provision that stated "sub-contracting shall not exceed 65% of the total cost of the contract." Project oversight and contract management activities will be improved in future contracts and agreements.

TDHCA staff worked very closely with FEMA regarding the management of the AHPP award. TDHCA and FEMA staff conducted weekly conference calls where Heston provided the current project status. At one point in the process, Heston was required to provide daily updates to TDHCA. According to the

contract and the Statement of Work, Heston was required to provide progress reports. These required written progress reports were only sporadically provided by Heston outside of the daily/weekly conference calls. TDHCA notified Heston of the failure to comply with the contract provisions by letter dated May 12, 2009. TDHCA ultimately terminated the Heston contract.

b) During our review of time sheets, we found that salaries for unrelated grant activities performed by Candace Anderson had been charged to AHPP due to lack of funding. Once the Grantee received the expected funding the charges were reversed. This type of financial administration is not allowed.

Response:

During the fall of 2008 the coastline of Texas was hit by two major hurricanes, Ike and Dolly. Employees of TDHCA who were already working on hurricane related issues from the Katrina/Rita disasters were called into action to help out with the recovery from Ike and Dolly. The employee noted was employed by the department in a role that was necessary to the recovery efforts and was, at that time, continually working on the AHPP grant. This employee traveled during the month of December 2008 working on the AHPP grant and helping with the Ike/Dolly recovery efforts. She was reimbursed by the agency for her travel expenses utilizing funds from her usual grant funding at that time which was the AHPP grant. Once the agency was able to sort out the expenses according to the grants, the travel that had previously been charged to the AHPP grant was redirected to the Ike/Dolly grant. Due to payroll changes being reconciled at a later date, salaries were not affected by this issue.

c) Our review also found that FEMA headquarters staff responsible for reviewing and monitoring the AHPP Program were remiss in requesting back-up documentation when SF 270 Request for Advance or Reimbursement forms were submitted for payment. Had FEMA staff been more consistent when reviewing payment requests, the issues with the contractor (Heston) may have been identified prior to the payment of grant funds. We also found confusion on the Grantee's part with regards to procurement. TDHCA was under the impression that FEMA had chosen the contractor, Heston in this case, and they did not have a choice or the requirement to follow Federal or State procurement procedures. Additional guidance regarding procurement from FEMA headquarters may have resulted in the award going to a better qualified contractor and thus a successful outcome as opposed to the termination of the contract and program.

Response:

TDHCA review of payment requests and monitoring reviews identified the lack of documents to support advance payment and reimbursement requests. In a letter dated July 10, 2009, TDHCA placed all reimbursements on hold. As a result of these reviews as well as the contract close out review, costs were questioned and denied when Heston failed to provide documentation necessary to support the expenditures.

TDHCA agrees Heston did not have the capacity to provide the contract services. TDHCA staff worked very closely with FEMA regarding the payment of costs under the AHPP award. Both TDHCA and FEMA tried hard to give Heston the tools, technical assistance and the opportunity to succeed under the award, however, Heston was not able to comply with the contractual obligations.



FEMA

October 10, 2012

Timothy K. Irvine, Executive Director
 Texas Department of Housing and Community Affairs
 P. O. Box 13941
 Austin, TX 78711-3941

Dear Mr. Irvine:

The purpose of this letter is to respond to your Corrective Action Plan (CAP) submission dated September 26, 2012 regarding the Recommended Corrective Actions for the findings included in the FEMA letter dated June 26, 2012. FEMA's CAP was submitted in response to the FY 12 Site Visit conducted on the Financial Management and policies of the Texas Department of Housing and Community Affairs (TDHCA) award as follows:

Finding	Recommended Corrective Action(s)	Award(s) Affected	Target Due Date
<p>1. Procurement The Heston contract was not procured properly by TDHCA. Several copies of an unsigned 'sole source justification' letter were found in the Grantee's electronic files, however, an approved and signed copy was never produced.</p>	<p>The Grantee must create/amend and implement policies to ensure that Federal procurement regulations as outlined in 44 CFR 13.36 are followed for all Federal awards. The grantee must ensure that at a minimum a cost analysis is performed with every purchase/procurement/modification funded under future Federal awards.</p>	<p>AHPP</p>	<p>Resolved</p>
<p>2. Contracting a) The contract executed between TDHCA and Heston did not contain a firm fixed-price or cap as required by 44 CFR 13.36(b)(10). Time and Material contracts are only allowed "if contract includes a ceiling price that contractor exceeds at his own risk". The Grantee also failed to include restrictions on travel costs, which allowed the contractor to charge amounts that exceeded both the General Services Administration's (GSA) and the State's allowable per diem and lodging rates. The Grantee has attempted to review/reevaluate the contractor's submitted expenditures and has disallowed some of these costs.</p>	<p>a) The Grantee must create/amend and implement policies and procedures to ensure that all future contracts funded with Federal grant awards have contract caps as required by 44 CFR 13.36(b)(10). We further recommend the Grantee create/amend policies and procedures to require contractors to comply with State and GSA travel policies.</p>	<p>AHPP</p>	<p>Resolved</p>

Finding	Recommended Corrective Action(s)	Award(s) Affected	Target Due Date
<p>b) The TDHCA and Heston contract did not require Heston to abide by State or Federal bid laws when acquiring sub-contractors if the Contractor complied with Historically Underutilized Business requirements pursuant to Texas Government Code, Chapter 2261." This is in violation of 44 CFR 13.36, if the contractor did not request bids or some other type of cost analysis.</p> <p>c) We found that the procurement of contracts is administered differently when contracts are funded under Federal awards. All non-Federal contracts are handled out of the Finance Office, however the Grantee stated that the responsibility of Federal grant contracting falls to the Program staff in the Disaster Recovery Unit instead of the Finance office.</p>	<p>b/c) The Grantee will follow the same policies and procedures it uses for its non-Federal funds and the Grantee will ensure that every contract will include any clauses required by Federal regulations as written in 44 CFR 13.36 when entering into a contract funded with Federal funds.</p>	AHPP	Resolved
<p>3. Questioned Costs Ineligible and excessive expenditures charged to the grant by Heston: The Grantee has demonstrated their review for reasonableness of Heston's documentation by providing several spreadsheets of disallowed charges and other file notations. However, FEMA reviewers found that the Grantee's allowances of some costs were very lenient, as the TDHCA reviewers were unsure what could be considered excessive or unallowable in accordance with 2 CFR, Part 225 Cost Principles. Examples of some of the expenditures found by FEMA reviewers as unallowable related to entertainment (movie purchases) charged to hotel bills and drug screenings for Heston employees. Samples of excessive expenditures submitted by Heston included travel and lodging to Houston and Austin which exceeded State per diem and lodging rates. We also noted that Heston's President's annual salary was \$177,300 per year in 2009, which exceeded the amount of the approved budget for year two by \$87,300.</p>	<p>As agreed upon with the Grantee during the exit interview, we will allow the Grantee the opportunity to reevaluate financial documentation based on some of the concerns and recommendations noted by FEMA during the visit. We feel the amount previously found unallowable by TDHCA does not adequately reflect all project costs that should be returned to TDHCA by Heston. Our recommendation to the Grantee is to reevaluate the costs noted on the enclosed disk, and confirm or contest the amounts as unallowable, excessive, and/or duplicative. The Grantee should provide a revised amount of possible repayment of grant funds by Heston.</p>	AHPP	Resolved

Mr. David Cervantes
October 10, 2012
Page 3

Response:

FEMA Region 6, Grants Business Management Branch (GBM), has reviewed the submitted information and finds the following:

Finding 1: Resolved

Finding 2: Resolved

Finding 3: Resolved-If questioned costs are remitted to TDHCA by Heston the funds must be immediately returned to FEMA.

We would like to take this opportunity to thank you for your timely response and thank your staff again for all the hard work that went in to the preparation and resolution of the Corrective Action Plan (CAP).

If you have any questions, please contact Ann Furbay, Grants Management Specialist at (940) 383-7248 Ann.Furbay@fema.dhs.gov or Lydia Brooks, Grants Management Specialist at (940) 383-7266 Lydia.Brooks@fema.dhs.gov.

Sincerely,



Michael J. Brown, Chief
Grants Business Management Branch
DHS/FEMA Region 6

cc: David Cervantes
Sandy Donoho

8c



U.S. Department of Housing and Urban Development
Fort Worth Regional Office, Region VI
Office of Community Planning and Development
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102
Phone (817) 978-5933 -- Fax (817) 978-5559
www.hud.gov

AUG 02 2012

Timothy K. Irvine, Executive Director
Texas Department of Housing and
Community Affairs
PO Box 13941
Austin, TX 78711-3941

Subject: HUD Technical Assistance and Monitoring Review – Compliance for Property Acquisition, Rehabilitation, Demolition and Displacement for HOME Investment Partnerships Program Activities


Dear Mr. Irvine:

Sara Neira, HUD Regional Relocation Specialist, conducted a monitoring review of the State of Texas HOME program for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), section 104(d) of the Housing and Community Development Act of 1974 (section 104(d)), and related program requirements the week of June 18 – June 22, 2012. The Department extends its gratitude for you and your staff's time and cooperation during this monitoring process.

The enclosed monitoring report provides the results of the review, which were generally discussed at an exit conference on June 22, 2012. The report provides a description of the areas reviewed, conclusions, and required corrective actions for three Findings and one Concern. We ask that you respond to the report within 30 days from the date of this letter. Please contact Ms. Neira at (817) 978 – 5937 with questions.

Sincerely,

A handwritten signature in cursive script that reads "Shirley J. Henley".

 Shirley J. Henley
Director

cc:
Sara Newsom

RECEIVED
AUG - 2 2012
HOME DIVISION

**STATE OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
UNIFORM RELOCATION ACT (URA) AND SECTION 104(D) COMPLIANCE REVIEW**

This review assessed compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), section 104(d) of the Housing and Community Development Act of 1974 (section 104(d)), and applicable regulations of the HOME program as they pertain to land acquisition, rehabilitation, demolition and displacement activities. The analysis considered (1) a comprehensive review of policies and procedures, from application through monitoring phases; (2) timely issuance of relocation notices and advisory services; (3) accuracy of relocation payments; and (4) a random sampling of records for permanently and temporarily relocated households. As a result of the Department's review, there are three Findings and one Concern.

Finding 1: Failure to provide required relocation notices in a timely manner.

Condition: Records for the rehabilitation of Crestmoor Park South Apartments identified tenants that were issued two different Notices of Nondisplacement in February 2009 instead of a General Information Notice (GIN) followed later by either the Notice of Eligibility for Relocation Assistance or Notice of Nondisplacement (NND). The HOME agreement was not executed until September 10, 2009 whereas construction commenced shortly after closing on June 24, 2010. In the HOME application, the rent roll identified only one vacancy of the 68 units. Comparisons of the January 2009, July 2010, and June 2011 rent rolls identified 25 households in occupancy at the time the project was proposed who were no longer in occupancy in July 2010. Unless a project sponsor has screened a household for their ability to meet resident occupancy criteria, it is difficult to issue an accurate notice providing a reasonable guarantee to remain at the development. The Notices of Nondisplacement were not issued in a timely manner nor were tenants advised as to the location of available units for the duration of their temporary relocation.

For the HPD Red Oak project, no tenants were found to have received either a GIN or NND. The HOME application included a rent roll listing 5 tenants of the Western Oak property who did not appear to be eligible for continued occupancy and were not provided either notice as required. A review of income certifications and new leases executed upon completion of the rehabilitation could not confirm all tenants were allowed to remain on-site, based on the rent roll dated February 28, 2010.

Criteria: 49 CFR 24.20, 24 CFR 92.353 – The URA requires that persons who are scheduled to be permanently displaced must be provided with a General Information Notice as soon as feasible. HUD projects often involve persons who will be permanently and temporarily displaced. All occupants, therefore, must be provided with a GIN as soon as feasible when a site-specific project is proposed. This is generally linked with submission of an application for HUD financial assistance.

The "Initiation of Negotiations" (ION) date is the project milestone setting eligibility for relocation assistance, including moving and replacement housing payments. For the HOME program, where displacement is a direct result of a private-owner rehabilitation, demolition, or acquisition the ION date is the execution of the agreement covering the activity. Issuance of

either a Notice of Eligibility for Relocation Assistance or Notice of Nondisplacement is required as of this date. For the Crestmoor Park South Apartments project all tenants should have received either notice, as applicable based on household data, as of September 10, 2009. With HPD Red Oak, the ION date corresponds to August 30, 2010.

Cause: The Texas Department of Housing and Community Affairs (TDHCA) Development Program Forms Library website only includes a Notice of Nondisplacement, which may cause applicants to issue this notice in lieu of a GIN upon submission of an application for HOME funds. TDHCA has additional URA resources referenced under their Program Services Division webpage, but these resources are not linked and could be better coordinated. Although the TDHCA tax credit program has public notice requirements, these do not match URA and HOME requirements for notices to individual households.

Further, the Multifamily Uniform Application and 2012 Multifamily Programs Procedures Manual does not contain guidance for applicants in determining whether or not the URA or section 104(d) applies, as not all applicants seek funding subject to these requirements. Staff interviews also identified that TDHCA's operational structure is not designed to monitor compliance with technical aspects of the URA, except in projects where relocation costs are obligated and reimbursed. Grantee monitoring and corrective action appeared focused on reimbursement of unsupported or ineligible costs rather than mitigating inadequate replacement housing or underpayments as required in accordance with HUD policy.

Effect: To minimize unintended displacements, HUD policy considers all occupants within a proposed project involving acquisition, rehabilitation or demolition as scheduled to be displaced for purposes of issuing a GIN. HUD presumes that a permanent, involuntary move on or after the ION date is a displacement "for the project," unless the State determines otherwise. To exclude a person on this basis, HUD must concur in that determination.

When a person moves permanently after the Initiation of Negotiations without being provided required notices, it is considered an involuntary displacement subject to URA permanent relocation assistance benefits since the person was not given timely information essential to making an informed judgment. Exceptions to this standard are:

1. Tenants issued a written notice of the expected permanent or temporary displacement prior to occupying the property (otherwise known as a Move-In Notice);
2. Tenants in planned project sites that are not in compliance with their lease or have repeated offenses prior to or after the ION date who received a modified General Information Notice and/or Notice of Eligibility for Relocation Assistance. Notices should document the existing condition/situation/violations and advise that eviction for cause may negate their eligibility for relocation assistance if deficiencies are not corrected.
3. Tenants issued a Notice of Nondisplacement who remain in the property in accordance with the reasonable terms and conditions of such notice.

Corrective Action: Where occupants vacate the project before being appropriately advised of their eligibility or ineligibility for relocation assistance, the grantee must initiate reasonable procedures to locate all former occupants who should have received notice. Each occupant's file must be documented with attempts to make contact and the results. The State must determine the eligibility or ineligibility for relocation assistance for each former occupant who is located and assist such

persons with advisory services and relocation payments. TDHCA must submit to HUD the dates each occupant listed on the Crestmoor Park South Apartments rent roll dated January 2009 vacated the following units and the reason for their displacement. Persons who moved permanently after September 10, 2009 must be evaluated for their eligibility for URA assistance, for which HUD must concur with the State's assessment.

100	101	106	107	109	110	117	118	119	123	124	127	131
136	140	141	143	145	151	153	159	161	162	163	164	

TDHCA must submit to HUD a listing by unit number to identify the final location of all tenants listed on the rent roll included with the HOME application for HPD Red Oak. All tenants who vacated the three sites after August 30, 2010 and did not execute a lease agreement upon completion of renovations must be located and for the purposes of offering permanent relocation assistance under the URA. HUD must concur with the State's determinations.

For future funding cycles, the State must develop and submit to HUD policies and procedures that identify how it will implement and monitor technical compliance with the URA for its HOME-funded multi-family rehabilitation/reconstruction program.

Finding 2: Incorrect replacement housing payment calculations; improper disbursement and failure to evidence receipt of replacement housing payments; failure to provide referrals to decent, safe, and sanitary replacement dwellings; and failure to ensure persons were permanently relocated to same.

Condition: In projects where tenants were found to receive a Notice of Nondisplacement, the letter did not include the locations of potential units available for temporary housing. Sponsors were not observed to have provided any follow-up notification advising of same at a later date, closer to the actual time of temporary relocation. It is unclear to HUD the extent of advisory services provided in general.

The HPD Red Oak project resulted in at least two permanent displacements. In both cases, technical aspects of the relocation were not in accordance with URA regulations and HUD policy. The tenant of unit 109 was issued a Notice of Eligibility for Relocation Assistance due to being over-income. The project rent roll identified the household as having two persons in occupancy of a two-bedroom unit. Prior to displacement, it appeared the household was comprised of three persons. Although the household was offered a rental assistance payment, it was computed on the cost of one-bedroom dwellings that would not satisfy either the functional equivalency or decent, safe, and sanitary criteria under the URA definition of "comparable." Additionally, there are varying indications as to the exact amount of monthly rent and utilities paid by the tenant at the displacement dwelling. No decent, safe, and sanitary inspection was conducted on the tenant's replacement dwelling to verify it met the condition requirements to be eligible for payment, nor was any conducted on the dwellings used in the calculation as required. Rental assistance was disbursed to the tenant in two installments, both issued within a 40-day period. However, it is unclear if the expenditure was done in accordance with this plan since there was no evidence the tenant actually received moving and rental assistance payments.

In the case of unit 14, the tenant was displaced due to her status as a full-time student without dependents. Project records contained conflicting data as to her actual amount of monthly rent and utilities, but according to the Notice of Eligibility for Relocation Assistance the tenant paid no rent at Vermillion Square. While she was offered a rental assistance payment based on the costs of one-bedroom dwellings, the amount of the payment was improperly capped at \$5,250. None of the dwellings listed in her relocation notice were confirmed to be decent, safe and sanitary nor was her replacement unit. This tenant appears to have received an unknown amount in rental assistance based on a written statement to lease the upstairs portion of her father's home at a cost of \$600 per month. No market analysis was conducted to assess whether or not this was truly an arms-length rental lease or if the amount charged for this type of housing arrangement was reasonable.

Criteria: 49 CFR 24.2(a)(6), 24.2(a)(8), 24.9, 24.205(ii)(B), 24.402 – 404 – For a dwelling to be “comparable”, it must meet a number of criteria including being adequate in size to accommodate the occupants and perform the same function or utility. Comparable and actual replacement housing must be inspected to assure it meets applicable standards. Records must be maintained to evidence compliance with these actions, including actual receipt of payments.

In general, a permanently displaced tenant is entitled to a payment for rental assistance provided they lawfully occupied the displacement dwelling and rented and occupied a decent, safe, and sanitary replacement dwelling within 1 year after the date they moved. Per TDHCA's Residential Antidisplacement and Relocation Assistance Plan, rental payments will be made in at least 3 installments except where lump sum payments for down payment assistance, moving costs or closing expenses are allowable. This is in accordance with the URA and HUD policy.

Although statutory caps are imposed for replacement housing payments of both owners and tenants, the URA also authorizes payments in excess of these thresholds in a category called “Housing of Last Resort.” Whenever comparable replacement dwellings are not available within the monetary limits as specified in the payment computation, the agency must provide additional or alternative assistance. In most cases, alternative means of assistance are not reasonable and the tenant is entitled to a financial payment in excess of the statutory threshold. There is no actual financial cap on replacement housing payments. Rather, these amounts exist in order to compel an agency to consider the viability of replacement housing alternatives besides additional financial assistance on a case-by-case or project-level.

Cause: No technical assistance was provided to HPD Red Oak, who appears to have limited experience with URA compliance. In the response to TDHCA, counsel for the project sponsor cites only limited provisions of the URA which disregard or misinterpret key aspects of the regulations. TDHCA does not monitor technical compliance.

Effect: Tenants were not offered the full amount of rental assistance in order to provide sufficient funds to rent a decent, safe, and sanitary replacement dwelling and minimize financial hardship resulting from the project.

Corrective Action: For HPD Red Oak, TDHCA must initiate a recalculation of the replacement housing payments for units 14 and 109. Tenants must be made aware of the revised calculation, which must be approved by HUD. Any underpayment for which a tenant may be otherwise entitled

must be issued to the tenant. For unit 109, since the tenant was not offered a comparable replacement dwelling before leasing and occupying the replacement, the revised payment must be based on the cost of the actual replacement chosen by the displacee provided it is otherwise decent, safe, and sanitary. Technical assistance will be provided for unit 14 upon request, given the tenant received a replacement housing payment but did not actually enter into a written lease agreement.

TDHCA must also include a process in which all URA replacement housing and moving payments will be approved by designated staff prior to issuance of a Notice of Eligibility for Relocation Assistance.

Finding 3: Failure to comply with one-for-one replacement and relocation requirements for certain projects involving demolition and/or reconstruction.

Condition: The Housing Authority of the City of Kingsville submitted a request for HOME funds in conjunction with a demolition application to HUD approved under section 18 of the of the U.S. Housing Act of 1937. Although these regulations eliminated the requirement for a Public Housing Authority to provide for one-for-one replacement of demolished units, no such exemption exists for the use of HOME funds. This project resulted in the net loss of 14 lower-income dwelling units in the community, since the reconstruction proposed six fewer 3-bedroom units and eight fewer 4-bedroom units.

The Heights at Corral project records contained no rent rolls, General Information Notices or written referrals to comparable replacement properties. Persons appear likely to have moved permanently to decent, safe, and sanitary units given the project was carried out by the Housing Authority of the City of Kingsville using Housing Choice Vouchers. However, no documentation was provided to evidence the displacing agency evaluated whether or not the voucher payment standard was sufficient to cover all rent and utility costs at the replacement unit beyond the out-of-pocket costs paid at the displacement site.

Criteria: 24 CFR 42.375, 24 CFR 970.21(e)(2) – If Federal financial assistance under the HOME program is used in connection with the demolition or disposition of public housing, the project is subject to section 104(d) of the Housing and Community Development Act of 1974, including the relocation payment and anti-displacement provisions, which require that comparable replacement dwellings be provided within the community for the same number of occupants as could have been housed in the units demolished. When a project is undertaken pursuant to section 18 of the United States Housing Act of 1937 and the use of HOME funds makes section 104(d) applicable, the notice requirements at 24 CFR 970.21(e) apply. Such notice must also explain to the tenant the assistance available under section 104(d) (which includes offering the choice of assistance calculated at section 104(d) or URA levels).

Cause: TDHCA does not monitor for compliance with section 104(d) requirements. Staff interviews advised that given HUD's approval of the demolition action, TDHCA did not believe additional requirements would be imposed. It does not appear there was coordination between the State and its subrecipient regarding requirements imposed by HOME funds that mitigated exemptions afforded by the section 18 action.

Effect: The use of HOME funds in this project resulted in a net loss to the lower-income housing stock to the community under a program that is obligated to ensure none will occur as a result of its activities. It is possible tenants did not receive maximum relocation assistance.

Corrective Action: TDHCA must provide evidence the Housing Authority of the City of Kingsville made direct payment or reimbursement for all disconnection and reconnection of necessary utilities (i.e., water, sewer, gas, and electricity). Additionally, TDHCA must submit to HUD an examination of each tenant's eligibility for a replacement housing "gap" payment. Gap payments are often made to a displaced subsidized tenant to defray the additional cost for rent/utilities associated with his/her move from a public housing unit to a Housing Choice Voucher unit. TDHCA must make public and submit to HUD a one-for-one replacement plan for this project.

Finally, TDHCA must submit to HUD its proposed procedures for implementing and monitoring section 104(d) compliance. Technical assistance may be provided upon request.

Concern 1: Acquisitions for projects undertaken by an entity that receives Federal financial assistance but does not have authority to acquire property by eminent domain do not disclose information to the seller as required.

Condition: TDHCA's Rental Housing Development HOME Forms Library website includes a sample Voluntary Arms' Length Purchase Offer that contains the required statements from the buyer as to its estimate of market value and that it will be unable to purchase the property if negotiations fail to result in an agreement. However, in the multi-family HOME development program applicants submit evidence of site control which is often in the form of a purchase option or contract. No evidence of the disclosures to the seller was identified in applications, as part of the contract terms or via separate notice.

Cause: Given the complexity of these type of projects, buyers and sellers may be affiliated entities or otherwise sophisticated and knowledgeable parties. Failure to comply with this aspect of the URA appears to be an oversight.

Effect: Where a buyer has entered into a purchase option or contract for an acquisition but has not satisfied all applicable requirements of a voluntary acquisition, HUD policy requires the buyer to provide the seller the opportunity to withdraw from the existing agreement. After the seller has been so informed in writing, the seller may elect to void or affirm the original agreement in writing. Although this is a relatively minor technical requirement for these types of projects, the disclosures are intended to serve as a transparent protection to the buyer and should be incorporated into all HOME-assisted projects where land acquisition occurs.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oser, *Chair*
Tom H. Gann, *Vice Chair*
Leslie Bingham-Escareño
Lowell A. Keig
Juan S. Muñoz, PhD
J. Mark McWatters

October 31, 2012

Writer's direct phone # 512-475-3296
Email: tim.irvine@tdhca.state.tx.us

Shirley J. Henley
Director
U.S. Department of Housing and Urban Development
Fort Worth Regional Office, Region VI
Office of Community Planning and Development
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102

RE: RESPONSE TO HUD TECHNICAL ASSISTANCE AND MONITORING REVIEW – COMPLIANCE FOR
PROPERTY ACQUISITION, REHABILITATION, DEMOLITION AND DISPLACEMENT

Dear Ms. Henley:

The Texas Department of Housing and Community Affairs ("TDHCA") is in receipt of the letter dated August 2, 2012, regarding the monitoring review by Sara Neira, HUD Regional Relocation Specialist. TDHCA submits the attached detailed Review Response; the TDHCA Relocation Handbook; and the relocation monitoring scope and testing tool to demonstrate the actions taken to address the findings related to compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), section 104(d) of the Housing and Community Development Act of 1974 ("Section 104(d)") and related requirements.

The Review Response details the actions taken by TDHCA to ensure URA and Section 104(d) compliance concerning the three properties identified during the monitoring review: HPD Red Oak, Crestmoor Park South Apartments, and The Heights at Corral. The response also identifies specific policies and procedures, as requested by HUD. TDHCA is committed to a comprehensive follow-up with the three properties to ensure full compliance; and TDHCA will provide updates on the progress to HUD.

TDHCA has also made substantial progress in establishing robust relocation policies and procedures. TDHCA rules, Notices of Funding Availability (NOFAs), applicant certifications, and/or written agreements for funds subject to URA and Section 104(d) shall include required references of federal regulations and state compliance mandates, as appropriate. TDHCA has created a Relocation Handbook (attached) to communicate relocation policies, procedures, and state and federal mandates. The TDHCA relocation website at <http://www.tdhca.state.tx.us/program-services/ura/index.htm> distributes training materials; provides direct links to URA and Section 104(d) regulations; and provides



RESPONSE TO HUD TECHNICAL ASSISTANCE AND MONITORING REVIEW – COMPLIANCE FOR PROPERTY ACQUISITION, REHABILITATION, DEMOLITION AND DISPLACEMENT

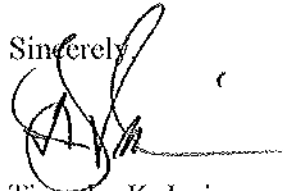
October 31, 2012

Page 2

a link to the HUD Handbook 1378. TDHCA will provide, and in some cases mandate, the use of TDHCA spreadsheet templates to capture occupancy data and tools to assist in the calculation of tenant relocation payments and project relocation budgets. TDHCA used HUD guidelines to create templates for the most common relocation notices. TDHCA will offer relocation trainings during the spring of 2013. Lastly, the attached TDHCA relocation monitoring scope and tools will test for compliance of URA and Section 104(d) during on-site and desk reviews.

TDHCA appreciates the opportunity to continue to improve our URA and Section 104(d) policies by working in cooperation with, and with the benefit of technical assistance from, your office at HUD. Please feel free to contact Carmen Roldan, Relocation Specialist, at (512) 475-2215 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy K. Irvine', written over a horizontal line.

Timothy K. Irvine
Executive Director

cc: Sara Neira, HUD Relocation Specialist
Carmen Roldan, TDHCA Relocation Specialist
Brenda Hull, Director of Program Services, TDHCA

**Texas Department of Housing and Community Affairs
Uniform Relocation Act and Section 104(d) Compliance Review Response**

Finding 1: Failure to provide required relocation notices in a timely manner.

Crestmoor Park South Apartments

Corrective Action: Where occupants vacate the project before being appropriately advised of their eligibility or ineligibility for relocation assistance, the grantee must initiate reasonable procedures to locate all former occupants who should have received notice. Each occupant's file must be documented with attempts to make contact and the results. The State must determine the eligibility or ineligibility for relocation assistance for each former occupant who is located and assist such persons with advisory services and relocation payments. TDHCA must submit to HUD the dates each occupant listed on the Crestmoor Park South Apartments rent roll dated January 2009 vacated the following units and the reason for their displacement. Persons who moved permanently after September 10, 2009 must be evaluated for their eligibility for URA assistance, for which HUD must concur with the State's assessment.

100	101	106	107	109	110	117	118	119
123	124	127	131	136	140	141	143	145
151	153	159	161	162	163	164		

TDHCA requested, on August 16, 2012 (attached as TDHCA Letter August 16, 2012), from Crestmoor Park South's development owner (hereinafter referred to as "Crestmoor"):

- A listing by unit number identified under Finding 1 to identify the location of all tenants listed on the January 2009 rent roll included with the HOME application for Crestmoor.
- A listing by unit number identified under Finding 1 to identify the location of all tenants listed on the September 10, 2009 rent roll, which is the date the HOME Contract was executed by the Crestmoor ownership.
- All tenants who vacated Crestmoor, after September 10, 2009 and did not execute a lease agreement upon completion of renovations must be located. Examples of reasonable procedures to locate former occupants include:
 - Certified mail to forwarded address;
 - Public notice i.e. newspaper advertisement;
 - Contacting the Emergency Contacts noted in applications; etc.
- Determination of eligibility for permanent relocation assistance under the URA, with backup documentation.

TDHCA informed Crestmoor that all persons who moved permanently after September 9, 2009 must be evaluated for their eligibility for relocation assistance by completing an Excel spreadsheet created by TDHCA staff for this purpose.

Crestmoor responded on September 25, 2012 (attached as Crestmoor Response - September 25, 2012) providing incomplete or unsatisfactory support documentation. The

response was determined to be inadequate, and on October 10, 2012 (attached as TDHCA Email – October 10, 2012), TDHCA requested the information above again. On October 17, 2012 (attached as Crestmoor Response – October 17, 2012), Crestmoor responded to Finding 1 providing documentation summarized below.

January 2009 Rent Roll- General Information Notice (GIN)

Crestmoor provided the requested TDHCA URA Rent Roll spreadsheet (attached as TDHCA URA Rent Roll – January 2009) and Crestmoor January 2009 Rent Roll (attached as Crestmoor January 2009 Rent Roll). Twenty one (21) of 25 units identified under Finding 1 were documented on the January TDHCA rent roll. Crestmoor submitted five NND's (attached as NND's – attached with Jan Rent Roll) for tenants not listed on the rent roll; however, move-in date confirmation to completed project was not provided. Last, Crestmoor listed unit 140 on the rent roll as well as provided a separate NND for the same unit. The tenant names differ; therefore, clarification follow-up is required.

Crestmoor provided the following explanations including support documentation for the 21 units listed on the TDHCA rent roll:

- Tenant occupancy assessment
 - Two evictions – units 100 and 109
 - One abandonment – unit 153
 - Three tenants moved to nursing home or rehab or senior complex– units 123, 161 and 159
 - Eight with reason “not given”– units 101, 106, 117, 119, 140, 127, 141, and 143
 - Five tenants provided “reasons for move” – 107,110, 145, 162 and 163
 - One tenant “no paper work” - 136
- Copies of 21 out of 25 Security Deposit Refund (Move-out) Determinations signed by Property Manager
- Copies of six letters advising tenants of potential relocation assistance eligibility including certified mail receipts (attached as Certified Mail Receipts and Letters) with “return to sender” stamped sent to tenants who could not be located. The six units identified are:
 - 100 (eviction)
 - 107 (move-out notice)
 - 109 (eviction)
 - 131 (move-out without notice)
 - 143 (move-out w/o notice)
 - 145 (move-out with notice)
- Certification signed by Property Manager including copy of Notice (GIN) advising tenants was hand delivered to residents on February 12, 2009 (attached as GIN Delivery – Property Manager Certification)

TDHCA is in the process of sending a response to Crestmoor requesting support documentation for tenants who received NND's and returned to the completed project. TDHCA

will also require verification of all tenants listed as evictions, unit abandonment and/or “no paperwork”. TDHCA will also seek guidance from HUD Relocation Specialist to determine if further actions are required.

September 10, 2009 Rent Roll - Initiation of Notice (ION)

Crestmoor completed the requested TDHCA URA Rent Roll spreadsheet (attached as TDHCA URA Rent Roll – September 2009) and Crestmoor September 2009 Rent Roll (attached as Crestmoor September 2009 Rent Roll). Twenty (20) of 25 units identified under Finding 1 were listed on the September 2009 TDHCA rent roll. Crestmoor submitted five separate NND’s (attached as NND’s attached to September 2009 Rent Roll) for tenants not listed on the rent roll; however, move-in date confirmation to completed project was not provided.

Additionally, of the 25 units listed under Finding 1, ten (10) tenants were also listed as occupants in both the January and September 2009 rent rolls. These tenants are no longer occupants. Crestmoor submitted copies of certified mail return receipts stamp “return to sender” (attached as Certified Mail Receipts and Letters). Crestmoor also published an ad in the local paper ad (attached as TDHCA October 11, 2012 Email, Instructions for Newspaper Ad, Text and Ad Invoice) that included 24 of 25 tenant names listed on the September 2009 rent roll with a response due date of December 1, 2012. [REDACTED] (Unit 123) is not included in the published ad; however, the rent roll lists this tenant as being moved to a nursing home on April 23, 2010.

Determination of relocation assistance is required for all 20 names listed unless Crestmoor submits support documentation verifying relocation assistance ineligibility for five of the 20 names listed, which would reduce relocation assistance to 15 tenants. The following are reasons why these tenants may not be eligible to receive assistance:

- Tenant relocation assistance ineligibility assessment:
 - [REDACTED] – Evicted on August 31, 2009 – documentation required and confirmation of vacant unit status on September 10, 2009.
 - [REDACTED] – Evicted on September 15, 2009 – documentation required.
 - [REDACTED] – In nursing home with move-out date of April 23, 2010 – documentation required.
 - [REDACTED] - Evicted on August 23, 2009 – documentation required and confirmation of vacant unit status on September 10, 2009.
 - [REDACTED] – Deceased with move-out date of September 29, 2011 – verification required.
 - [REDACTED]) – Evicted on May 7, 2010 –documentation required.

TDHCA is in the process of sending a response to Crestmoor requesting support documentation for tenants who received NND’s and returned to the completed project. In addition, Crestmoor must confirm eligibility or ineligibility relocation assistance for tenants who were evicted, are in nursing homes or deceased on September 9, 2009. Crestmoor must submit documentation verifying response or no response for tenants listed on the newspaper published

ad. For those tenants that respond and are determined eligible to receive relocation assistance, verification of full compliance with URA and Section 104(d) is mandated.

HPD Red Oak

Corrective Action: TDHCA must submit to HUD a listing by unit number of the final location of all tenants listed on the rent roll included with the HOME application for HPD Red Oak. All tenants who vacated the three sites after August 30, 2010 and did not execute a lease agreement upon completion of renovations must be located and for the purposes of offering permanent relocation assistance under the URA. HUD must concur with the State's determinations.

TDHCA requested, on August 17, 2012, from HPD Red Oak's development owner (hereinafter referred to as "Red Oak"):

- A listing by unit number to identify the final location of all tenants listed on the rent roll included with the HOME application for HPD Red Oak.
- All tenants who vacated the three sites, after August 30, 2010 and did not execute a lease agreement upon completion of renovations must be located. Examples of reasonable procedures to locate former occupants include:
 - Certified mail to forwarded address;
 - Public notice i.e. newspaper advertisement;
 - Contacting the Emergency Contacts noted in applications; etc.
- Determination of eligibility for permanent relocation assistance under the URA, with backup documentation.

TDHCA informed Red Oak that all persons who moved permanently after August 30, 2010 must be evaluated for their eligibility for relocation assistance by completing an Excel spreadsheet created by TDHCA staff for this purpose.

Red Oak responded on September 7, 2012 (all correspondence is attached). The response was not determined to be adequate, and on September 12, 2012, TDHCA requested the information above again. On October 5, 2012, Red Oak responded to the finding and stated that they did not believe that lack of issuance of notification was sufficient cause to deem the households who did not reoccupy the property displaced and eligible for relocation assistance. On October 16, 2012, TDHCA requested that Red Oak submit the information to clear this deficiency as initially requested on August 17, 2012. The attorney for Red Oak, [REDACTED] submitted a letter detailing the reasoning behind their determination that URA is not applicable to these tenants on October 22, 2012. TDHCA is in the process of drafting a response to this most recent communication.

TDHCA will take every measurable action to ensure compliance with URA and to rectify the issue of noncompliance detailed in the monitoring letter. TDHCA will continue to work closely with Red Oak to clear the finding. The development owner has been awarded funds by the TDHCA board for another development, and has not, and may not; execute a loan commitment until this finding is resolved to the satisfaction of HUD and TDHCA. Additionally, failure to comply with TDHCA requests to clear this finding may result in loss of future awards to members of this development team.

Policies and Procedures

Corrective Action: For future funding cycles, the State must develop and submit to HUD policies and procedures that identify how it will implement and monitor technical compliance with the URA for its HOME-funding multifamily rehabilitation/reconstruction program.

TDHCA rules, Notices of Funding Availability (NOFAs), applicant certifications and/or written agreements for funds subject to URA and Section 104(d) shall include required references of federal regulations and state compliance mandates, as appropriate. TDHCA created a Relocation Handbook to communicate relocation policies, procedures and state and federal mandates to recipients of funds subject to URA and Section 104(d). Additional resources can be found at the TDHCA relocation website at <http://www.tdhca.state.tx.us/program-services/ura/index.htm>. The site distributes training materials; direct links to URA and Section 104(d) regulations; and provides a link to the HUD Handbook 1378 to adequately advise recipients of state and federal mandates. TDHCA provides, and in some cases mandates, the use of TDHCA spreadsheet templates to capture occupancy data and excel tools to assist in the calculation of tenant relocation payments and project relocation budgets. TDHCA used HUD guidelines to create templates for the most common relocation notices. Additional guidance will be made available during webinar and in-person trainings. Last, the TDHCA relocation monitoring scope and tools will test for compliance of URA and Section 104(d) during on-site and desk reviews.

Finding 2: Incorrect replacement housing payment calculations; improper disbursement and failure to evidence receipt of replacement housing payments; failure to provide referrals to decent, safe and sanitary replacement dwellings; and failure to ensure persons were permanently relocated to same.

HPD Red Oak

Corrective Action: For HPD Red Oak, TDHCA must initiate a recalculation of the replacement housing payments for units 14 and 109. Tenants must be made aware of the revised calculation, which must be approved by HUD. Any underpayment for which a tenant may be otherwise entitled must be issued to the tenant. For unit 109, since the tenant was not offered a comparable replacement dwelling before leasing and occupying the replacement, the revised payment must be based on the actual replacement chosen by the displacee provided it is otherwise decent, safe, and sanitary. Technical assistance will be provided for unit 14 upon request, given the tenant received a replacement housing payment but did not actually enter into a written lease agreement.

TDHCA requested, on August 17, 2012, from HPD Red Oak the following information for the two displaced households identified in the monitoring letter:

Unit 109: [REDACTED]

- Recalculation and documentation of corrected rental assistance payment.
- Verification of the exact amount of monthly rent and utilities paid by the tenant at the displacement dwelling.
- Certification that the displacement dwelling met decent, safe, and sanitary standards.
- Evidence the tenant received moving cost and rental assistance payments.

Unit 14: [REDACTED]

- Recalculation and documentation of corrected rental assistance payment.
- Certification that the displacement dwellings met decent, safe, and sanitary standards.
- Documentation verifying arms-length rental lease and a comparable unit study to ensure cost reasonableness.

Red Oak responded on September 7, 2012 (documentation attached). TDHCA accepted, for both households, the income documentation and decent safe and sanitary replacement dwelling inspection forms. TDHCA also accepted the market study of comparable units and lease agreement for Unit 14- [REDACTED]. Photographs of the rental unit leased by the [REDACTED] household were also submitted for TDHCA review.

On October 4, 2012, TDHCA requested further information (correspondence attached). TDHCA calculated the allowable rental assistance payments to the [REDACTED] households and provided further instruction on disbursement. On October 5, 2012, Red Oak submitted additional response which included acceptance of the TDHCA relocation budget worksheets and copies of both the initial payments already made to the households and copies of checks to be disbursed upon TDHCA approval. On October 8, 2012, TDHCA placed a call to Red Oak in which it was determined that claim forms should be submitted by both the [REDACTED] and [REDACTED] households as verification that the households were aware of and would

receive proper payment. TDHCA sent the HUD claim form templates to Red Oak on that date. The completed forms have not been submitted to TDHCA as of October 23, 2012, but we anticipate that the forms will be submitted in the very near future, at which point we will advise Red Oak to disburse the funds to the households.

Policies and Procedures

Corrective Action: TDHCA must also include a process in which all URA replacement housing and moving payments will be approved by designated staff prior to issuance of a Notice of Eligibility for Relocation projects involving demolition and/or reconstruction.

The TDHCA Relocation Handbook requires recipients of funds subject to URA and 104(d) to submit, at Initiation of Negotiations, copies of the Notices of Non-Displacement and Notices of Eligibility for each tenant that is supported by the Household Relocation Assistance Budget Calculator (See Appendix 6 in the Relocation Handbook). TDHCA will review and approve the documentation for accuracy and consistency with all federal and state relocation requirements. The approval will occur prior to the initial disbursement of federal funds.

Finding 3: Failure to comply with one-for-one replacement and relocation requirements for certain projects involving demolition and/or reconstruction.

The Heights at Corral

Corrective Action: TDHCA must provide evidence the Housing Authority of the City of Kingsville made direct payment or reimbursement for all disconnection and reconnection of necessary utilities (i.e., water, sewer, gas, and electricity). Additionally, TDHCA must submit to HUD an examination of each tenant's eligibility for a replacement housing "gap" payment. Gap payments are often made to a displaced subsidized tenant to defray the additional cost for rent/utilities associated with his/her move from a public housing unit to a Housing Choice Voucher unit.

TDHCA requested, on August 27, 2012 (attached as TDHCA Letter – August 27, 2012), from The Heights at Corral's development owner (hereinafter referred to as "The Heights"):

- Evidence that the Kingsville Housing Authority made direct payment or reimbursement for all disconnection and reconnection of necessary utilities.
- An examination of each tenant's eligibility for a replacement housing "gap" payment (payment made to a displaced subsidized tenant to defray the additional cost for rent/utilities associated with his/her move from a public housing unit to a Housing Choice Voucher unit).

TDHCA informed The Heights that they should use TDHCA's Relocation Budget Assistance Calculator to determine 1) if a tenant was eligible for a replacement housing "gap" payment, and 2) if the voucher payment standard was sufficient to cover all rent and utility costs at the replacement units beyond the out-of-pocket costs paid at the displacement site.

The Heights responded on September 17, 2012. Of the 57 tenants that occupied Brown Villa (to be known as The Heights at Corral after demolition and reconstruction), 36 tenants moved to privately managed properties, 6 moved to another public housing property, 11 tenants voluntarily vacated the property, and 4 tenants were either evicted or terminated for cause. TDHCA will require "The Heights" to submit documentation of the 11 "voluntary moves" and four evictions to determine if the 15 tenants were properly evaluated for eligibility or ineligibility to receive relocation assistance.

Regarding reimbursement for disconnection and reconnection of necessary utilities and moving expenses, The Heights provided the same documentation that they submitted in June 2012. Since they provided the same documentation from June in response to our September request for evidence that direct payment or reimbursement was made for disconnection and reconnection of necessary utilities, TDHCA determined the resubmission of the same documentation as unsatisfactory. TDHCA seeks further guidance from the HUD Relocation Specialist concerning the acceptable type of documentation required of The Heights to ensure full compliance is met.

Regarding examinations of each tenant's eligibility for a replacement housing "gap" payment, The Heights submitted 20 TDHCA Relocation Assistance Budget Calculators (attached as 20- TDHCA Relocation Assistance Calculators). However, when compared to the supporting

documentation, data contained on the forms did not match or was incomplete. To assure receipt of documentation that substantiates the appropriateness of tenant relocation payments, The Heights received instructions to resubmit a TDHCA Relocation Budget Assistance Calculator and attach verification of payments for each tenant. The Heights submitted 20 of the 36 TDHCA forms for tenants who received Housing Choice Vouchers. However, the Calculators were incorrectly completed as they entered the number of rooms in the Total Moving Expense cell instead of the dollar amount and did not contain the requested support documentation. With exception of the 6 tenants who moved to public housing (attached as Six PHA Leases, Security Deposit receipts and misc relocation receipts), TDHCA will require The Heights to resubmit corrected forms for all 36 tenants who moved to privately managed units including substantiation of payment. Contingent on documentation received for the remaining 11 “voluntary moves” and four “evictions” in question, additional relocation assistance forms may be required. The Heights also provided HUD-50058 (Family Report) forms (samples attached as HUD 50058 forms Sampling of 36 tenant forms received) and leases for all thirty-six tenants who received vouchers, as well as a list of the six tenants who moved to another public housing authority property, demonstrating each tenant’s eligibility for the housing “gap” payment.

TDHCA is in the process of drafting a response to the Heights after this most recent submission of documents.

TDHCA will take every measurable action to ensure compliance with URA and Section 104(d) and to rectify the issue of noncompliance detailed in the monitoring letter. TDHCA will continue to work closely with The Heights to clear the finding. Additionally, failure to comply with TDHCA requests to clear this finding may result in loss of future awards to members of this development team.

Policies and Procedures

Corrective Action: TDHCA must make public and submit to HUD a one-for-one replacement plan for this project. Finally, TDHCA must submit to HUD its proposed procedures for implementing and monitoring section 104(d) compliance. Technical assistance may be provided upon request.

TDHCA will request documentation from The Heights to support the elimination of eight 4-bedroom units. Verbal communication with the Kingsville Housing Authority indicates that of the eight 4-bedroom units, four were leased to families being overhoused, two units were used for Headstart and Family Planning, and two units were vacant. The Heights also indicated that other Kingsville Housing Authority properties (Canal Villa and Maple Circle) are experiencing lack of demand for 4-bedroom units.

TDHCA has adopted and published the following language in the 2013 Uniform Multifamily Rule (pending Board approval) for what constitutes an **ineligible proposed development** at application:

“A Development utilizing a Direct Loan that is subject to the Housing and Community Development Act, §104(d), requirements and proposing Rehabilitation or Reconstruction, if the Applicant is not proposing the one-for-one replacement of the existing unit mix.”

The following language is in the HOME Certification submitted with the application:

“Before receiving a commitment of HOME funds for a project that will directly result in demolition or conversion, the project owner will make the information public in accordance with 24 CFR Part 42 and submit to TDHCA the following information in writing [...] Information demonstrating that any proposed replacement of housing units with similar dwelling units (e.g. a 2-bedroom unit with two 1-bedroom units) or any proposed replacement of efficiency or SRO units with units of a different size is appropriate and consistent with the housing needs of the community.”

TDHCA rules, Notices of Funding Availability (NOFAs), applicant certifications and/or written agreements for funds subject to URA and Section 104(d) shall include required references of federal regulations and state compliance mandates, as appropriate. TDHCA created a Relocation Handbook to communicate relocation policies, procedures and state and federal mandates to recipients of funds subject to URA and Section 104(d). Additional resources can be found at the TDHCA relocation website at <http://www.tdhca.state.tx.us/program-services/ura/index.htm>. The site distributes training materials; direct links to URA and Section 104(d) regulations; and provides a link to the HUD Handbook 1378 to adequately advise recipients of state and federal mandates. TDHCA provides, and in some cases mandates, the use of TDHCA spreadsheet templates to capture occupancy data and excel tools to assist in the calculation of tenant relocation payments and project relocation budgets. TDHCA used HUD guidelines to create templates for the most common relocation notices. Additional guidance will be made available during webinar and in-person trainings. Last, the TDHCA relocation monitoring scope and tools will test for compliance of URA and Section 104(d) during on-site and desk reviews.

Concern 1: Acquisitions for projects undertaken by an entity that receives Federal financial assistance but does not have authority to acquire property by eminent domain do not disclose information to the seller as required.

The Relocation and Acquisition Disclosure - Seller Voluntary Arms Disclosure Agreement form (Appendix 2 of the Relocation Handbook) is required at time of application in order to comply with disclosure requirements related to the acquisition of the property.

8d



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office, Region VI
Office of Community Planning and Development
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102
Phone (817) 978-5933 - Fax (817) 978-5559
www.hud.gov

AUG 17 2012

Mr. Timothy Irvine
Executive Director
Texas Department of Housing and
Community Affairs
PO Box 13941
Austin, TX 78711-3941

RECEIVED
AUG 22 2012
HOME DIVISION

Dear Mr. Irvine:

**SUBJECT: Affordable Housing Monitoring and Technical Assistance Visit
HOME Program State of Texas - M-11-MC480100**

This letter provides the results of HUD's on-site monitoring of the state's affordable housing programs by Melodee Humbert, Senior Affordable Housing Specialist, and Stephen Eberlein, Program Manager, on June 18-22, 2012. An exit conference was held with you and your staff on June 22, 2012.

Besides yourself, state staff attending the exit conference were: Brooke Boston, Deputy Executive Director; Sara Newsom, Director, HOME Program; Brenda Hull, Director, Program Services; Cameron Dorsey, Director, Multifamily Finance; Nicole Elizando, Internal Auditor; Jennifer Molinari, Manager, HOME Division; Abigail Versyp, Team Lead, HOME Program; and, Patricia Murphy, Chief, Monitoring Inspections and Quality Control.

Additionally, Mr. Eberlein met with Cari Garcia, Director of Asset Management on June 20, 2012, to address the remaining unresolved non-compliant HOME-assisted multifamily rental projects. These non-compliant projects were cited as FINDING NO. 2 during HUD's monitoring visit in March 2009.

An on-site review was conducted on June 19th at the Park Ridge rental project in Llano, Texas. Ms. Newsom and Ms. Wendy Quackenbush accompanied Ms. Humbert and Mr. Eberlein on this review.

Park Ridge project staff contacted during this review were: Mark Mayfield, Texas Housing Foundation; Lucy Weber, Vice President of Affordable Housing Programs; and, Randy Moncebaiz, Texas Housing Foundation. The results of the review are described in the enclosed monitoring report and the results were discussed in detail with state staff and with the staff of Park Ridge.

A Limited Civil Rights Review was also conducted. The review and copies of the supporting documentation have been forwarded to our Office of Fair Housing and Equal Opportunity (FHEO) for their review. If the FHEO staff have any questions or concerns, they will contact the state directly.

The following items are enclosed with this letter:

- Attachment I. This report contains 6 findings and 6 concerns covering the state's administration of its HOME-funded affordable housing programs. Several recommendations by HUD were also presented to staff. Although the state is not required to respond to concerns, it may provide a response if it wishes.
- Copies of the Park Ridge on-site unit inspection report. The quality of the completed work was very good.

However, as discussed with staff both during prior monitoring visits and again during this monitoring visit, the state should include a component in its application process that specifically requires all applicants for funding under the state's Notice of Funding Availability (NOFA) to include the action(s) the applicants will implement to assure that adequate local monitoring and oversight will be completed on an ongoing, daily basis during the term of each contract.

Based on our monitoring and interviews with staff, HUD concluded that the state has the continuing capacity to implement and deliver its affordable housing and rehabilitation programs at current levels and to manage its financial responsibilities. The state has significantly improved the quality of its monitoring and has implemented a process to complete the required annual monitorings of its subrecipients and CHDOs. A review of a sample of the state's monitoring reports indicates the results of these reviews are being transmitted in writing to the state's recipients and staff is following-up to correct the findings (federal and state) cited.

Please submit a written response to the findings and the specified concerns within 30 days of the date of this letter. If the state needs additional time to complete its response for any item, it may request an extension for the applicable finding.

We appreciate the helpfulness and cooperation of the state and Park Ridge staff that assisted in this review and we look forward to our continued relationship with the state. It is the intent of this office to continue to work with the state by providing any needed technical assistance and guidance. If you have any questions or concerns, please contact Ms. Humbert at 817/978-5960, or at: melodee.m.humbert@hud.gov.

Sincerely,

~~Shirley J. Henley~~

 ~~Shirley J. Henley~~

Shirley J. Henley
Director

Enclosures

cc:

Sara Newsom

Jennifer Molinari

MONITORING REPORT – FISCAL YEAR 2011

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
(TDHCA)

HOME INVESTMENT PARTNERSHIPS PROGRAM

All of the following findings, concerns and recommendations were discussed with staff during monitoring and at an exit meeting held on June 22, 2012.

Except as provided in this report, specific details as to file deficiencies, recommendations, comments, etc., relative to (1) individual file reviews, and (2) reviews of contracts and agreements executed between the state and program recipients are not included in this transmission. These issues have been discussed with the state's staff and management. HUD staff is available to discuss these issues in more detail and provide more information at the state's request.

I. OVERALL HOME ACCOMPLISHMENTS/PERFORMANCE

The HOME Deadline Compliance Status Report for the period ending May 31, 2012, provides that the state **has met** its statutory 24-month total commitment/reservation deadline for its FY 2010 HOME allocation and its statutory 5-year expenditure deadline for its FY 2007 HOME allocation.

A. Overall Commitments/Disbursements

The August 3, 2012, HOME Status of Funds Report (PR27) shows that from FY 1992 through FY 2012, the state has received HOME allocations totaling \$790,434,123. Of that amount, it has committed \$728,606,792 or 92.1 percent of its total HOME commitment requirement. For FYs 1992 through 2004 100% of the allocations have been committed to activities. The table below provides a recapitulation of the funds remaining to be committed. The state's performance in this area is marginally acceptable.

Commitment Table

FY	Total Authorization	Total Committed	% of Authorized Commitment	Bal Avail to Commit
2006	\$ 41,308,832.00	\$ 39,851,402.40	96.4	\$1,457,429.60
2007	\$ 41,420,803.00	\$ 40,495,421.02	97.7	\$ 925,381.98
2008	\$ 40,043,225.00	\$ 35,603,942.04	88.9	\$ 4,439,282.96
2009	\$ 43,933,530.00	\$ 38,628,983.54	87.2	\$ 5,304,546.46
2010	\$ 43,593,825.00	\$ 39,017,263.20	89.5	\$ 4,576,561.80
2011	\$ 39,180,788.00	\$ 20,161,977.72	51.4	\$19,018,810.28
2012	\$ 24,284,836.00	\$ 2,610,598.60	10.7	\$21,694,037.40
TOTAL	\$273,765,639.00	\$216,369,588.52	79.0	\$57,396,050.48

In the area of overall cumulative disbursements, the Status of Funds (PR27) report indicates that of the total amount of funds committed in IDIS, the state has disbursed \$627,459,728.94 or 79.3 percent of its total cumulative authorization. The state's overall performance in this area is unacceptable.

Disbursement Table

FY	Total Disbursement Requirement	Disbursed	Returned	Net Disbursed	Disbursed Pending Approval	Total Disbursed	% Net Disb	Balance Available to Disburse
2006	\$ 41,308,832.00	\$ 36,613,477.95	(\$ 49,273.71)	\$ 36,564,204.24		\$ 36,564,204.24	88.5	\$ 4,744,627.76
2007	\$ 41,420,803.00	\$ 34,824,354.68	(\$ 13,482.18)	\$ 34,610,872.50		\$ 34,610,872.50	83.5	\$ 6,809,930.50
2008	\$ 40,043,225.00	\$ 24,344,442.63	(\$ 19,884.07)	\$ 24,324,558.56		\$ 24,324,558.56	60.7	\$ 15,718,666.44
2009	\$ 43,933,530.00	\$ 14,072,615.14	(\$ 1,497.00)	\$ 14,071,118.14		\$ 14,071,118.14	32.0	\$ 29,862,411.86
2010	\$ 43,933,825.00	\$ 7,016,806.37	(\$ 9,057.29)	\$ 7,007,749.08	\$ 19,044.00	\$ 7,026,793.08	16.1	\$ 36,567,031.92
2011	\$ 39,180,788.00	\$ 1,999,000.00	-0-	\$ 1,999,000.00		\$ 1,999,000.00	5.1	\$ 37,181,788.00
2012	\$ 24,284,636.00	\$ -0-	-0-	\$ -0-		\$ -0-	-0-	\$ 24,284,636.00
Total	\$273,765,639.00	\$118,670,696.77	(\$93,194.25)	\$118,577,502.52	\$19,044.00	\$118,596,546.52	43.3	\$155,169,092.48

Factors that may be contributing to the state's slow commitment and expenditures are: 1) the state's new 'reservation system' and 2) the large amount of CHDO and other state-recipient funds that are uncommitted/unreserved and/or undisbursed.

1) The state has implemented a new process for reserving HOME allocations in IDIS; the "reservation" system. While the state continues to reserve contracts/agreements for 'lump sum' amounts in IDIS, under the new process an entity's request for funding for specific activities is approved but a total dollar amount is not established. Only when the entities have an executed a written agreement with a HOME-eligible recipient for a specified amount, does the state enter that project/activity information and dollar amount into IDIS. This process was implemented to address some of the major problems previously encountered with canceling and/or reducing prior awards and then reallocating the funds to other entities. This reallocation process took an inordinate amount of time and generally had to have Board approval before new or revised agreements/contracts could be executed. For entities funded under the 'reservation system' the new process eliminates the old recapture and reallocation requirements and gives the entities the ability to fund projects without the limitation of a cap on the amount of funds that will be available. The new process rewards good performers and allows those entities that have capacity to fund as many activities as they can instead of being limited to a maximum dollar amount and number of units.

Because funds are no longer reserved up-front in IDIS for specific amounts, the state must assure that it has procedures in place to adequately track the progress of all state-approved entities funded under the 'reservation system' to ensure that commitments to individual projects/activities are being made in a timely manner so that the state can continue to meet its statutory 24-month commitment/reservation and 5-year expenditure deadlines.

2) The state **has not met** the statutory requirement that **cumulatively**, 15% of the state's HOME allocation must be awarded to one or more CHDOs. Even though the state awarded more than the required 15% set-aside in FY 2008, the Status of HOME Grants Report (PR27) provides that through FY 2011, the state is at only 98.1 percent for this requirement. When funds for FY 2012 are added, this percentage falls to 94.6 percent.

Administrative Funds Table

FY	Authorized Amount	Amt Authorized From PI	Amount Reserved	% Auth Rsvd	Total Disbursed	% Rsvd Disb	Available to Disburse
2008	\$ 4,254,491.92	\$ 312,153.73	\$ 3,977,658.80	87.1	\$3,608,805.80	90.7	\$ 368,853.00
2009	\$ 4,593,568.68	\$ 346,047.43	\$ 4,393,353.00	88.9	\$ -0-	-0-	\$ 4,393,353.00

FY	Authorized Amount	Amt Authorized From PI	Amount Reserved	% Auth Rsvd	Total Disbursed	% Rsvd Disb	Available to Disburse
2010	\$ 4,359,382.50	\$ 428,250.18	\$ 4,359,382.50	91.0	\$ -0-	-0-	\$ 4,359,382.50
2011	\$ 3,918,078.80	\$ -0-	\$ 3,918,078.80	100.0	\$ -0-	-0-	\$ 3,918,078.80
2012	\$ 2,428,463.60	\$ -0-	\$ 2,428,463.60	100.0	\$ -0-	-0-	\$ 2,428,463.60
TTL	\$19,553,985.50	\$1,086,451.34	\$19,076,935.90	92.6	\$3,608,805.80	18.9	\$15,468,130.00

Actual 'Balance to Reserve' for FYs 2008 and 2009 – NOT Including Amounts Authorized from PI

\$19,553,985.50
 (\$19,076,936.70)
 \$ 477,048.80 Balance to Reserve

The state needs to review the actual balances available for reservation and/or disbursement for FYs 2008 and 2009 as noted above.

The state needs to draw the applicable balances from its FY 2010 and FY 2011 administrative allocations. The large amount of undisbursed funds in these and prior FYs has a negative effect on the state's drawdown percentages.

Reservations to State Recipients and Sub-Recipients (SU)

CONCERN NO. 1: The PR27 Report indicates that from FYs 2005 through 2012, the state has numerous open contracts with state recipients and/or sub-recipients (SUs). There are undisbursed funds remaining available from allocations dating to 2005.

DISCUSSION: Included as a subset of the Total Authorization, Total Commitment and Total Disbursement amounts are reservations and disbursements to individual state recipients and sub-recipients (SUs). See the chart below. HUD has not attempted to identify these recipients individually in this report.

State Recipients and Sub-Recipients (SU) Table

FY	Amount Reserved to Other Entitles (OE)	Amount Committed	% Rsvd Cmttd	Balance to Commit	Total Disbursed	% Disb	Available to Disburse
2006	\$ 35,736,760.50	\$ 34,581,899.75	96.7	\$ 1,154,870.75	\$32,449,562.34	90.8	\$ 3,287,198.16
2007	\$ 29,037,768.18	\$ 27,639,133.79	95.1	\$ 1,398,634.39	\$23,153,219.66	79.7	\$ 5,884,548.52
2008	\$ 23,532,927.34	\$ 17,444,297.43	74.1	\$ 6,088,629.91	\$12,622,396.86	53.6	\$10,910,530.48
2009	\$ 25,901,002.70	\$ 14,473,872.56	55.8	\$11,427,130.14	\$ 5,736,490.30	22.1	\$20,164,512.40
2010	\$ 21,961,341.58	\$ 4,852,370.28	22.0	\$17,108,971.30	\$ 872,836.04	3.9	\$21,088,505.54
2011	\$ 9,502,521.00	\$ 2,001,000.00	21.0	\$ 7,501,521.00	\$ 1,999,000.00	21.0	\$ 7,503,521.00
FY	Amount Reserved to Other Entitles (OE)	Amount Committed	% Rsvd Cmttd	Balance to Commit	Total Disbursed	% Disb	Available to Disburse
2012	\$ -0-	\$ -0-	----	\$ -0-	\$ -0-	----	\$ -0-
Total	\$145,672,321.30	\$100,992,573.81	69.3	\$44,679,757.49	\$76,833,505.20	52.7	\$68,838,816.10

RECOMMENDED ACTION: The state needs to follow up and identify those state recipients or SUs that have funds uncommitted and/or undisbursed and take the actions necessary to get projects completed, funds drawn, or cancel the remaining balances and reallocate the funds. It is imperative that these older funds be committed and expended as quickly as possible.

Note: While a response to a Concern is normally not required, the state is requested to provide a written reply to this concern in its response to this monitoring report identifying the actions the state proposes to take.

B. HOME Expiring Funds Report:

Since the date of the monitoring the state has committed/expended all remaining FY 2005 HOME funds. There are no funds subject to recapture.

C. CHDO Performance:

CHDO Set-Aside Funds

The state is required to reserve, at a minimum, 15 percent of each FY's allocation for Community Housing Development Organizations (CHDOs). The state's cumulative CHDO reservation (CR) requirement for FYs 1992 through 2011 was \$100,964,459.40. No FY 2011 or 2012 CHDO funds have been reserved as of the date of the monitoring.

CONCERN NO. 2: The state **has not met** its statutory cumulative CHDO Reservation (CR) requirement. See CHDO Table below.

DISCUSSION: Even though the state reserved more than the required 15 percent set-aside in FY 2008, cumulatively, through FY 2011, the state reserved \$99,045,929.82 or 98.1 percent of its CHDO CR requirement. When the FY 2012 funds are added, the total CR is \$104,607,154.80, and the percentage reserved falls to 94.6.

RECOMMENDED ACTION: The state needs to work to get its CHDO set-aside reserved and to work with its current CHDOs to assure that the CHDOs get those funds committed and expended in a timely manner.

Note: While a response to a Concern is normally not required, the state is requested to provide a written reply to this concern in its response to this monitoring report.

PR27 - CHDO Table

FY	CHDO Requirement	Authorized Amount	Amount Reserved	Unreserved CHDO Amount	Amount Committed	Bal to Commit	Total Disbursed	Available to Disburse
2009	\$ 6,590,029.50	\$ 6,590,029.50	\$ 6,579,259.58	\$ 10,769.92	\$ 6,579,259.58	\$ -0-	\$ 6,579,259.58	\$ -0-
2010	\$ 6,539,073.75	\$ 6,539,073.75	\$ 5,778,303.59	\$ 760,770.16	\$ 4,447,628.72	\$ 1,330,674.87	\$ 3,636,507.95	\$ 2,141,796.54
2011	\$ 5,877,118.20	\$ 5,877,118.20	\$ -0-	\$ 5,877,118.20	\$ -0-	\$ -0-	\$ -0-	\$ -0-
2012	\$ 3,642,695.40	\$ 3,642,695.40	\$ -0-	\$ 3,642,695.40	\$ -0-	\$ -0-	\$ -0-	\$ -0-
TTL	\$22,648,916.85	\$22,648,916.85	\$12,357,563.17	\$10,291,353.68	\$11,026,888.30	\$1,330,674.87	\$10,215,766.6	\$2,218,926.54

Other CHDO Comments

PR25 – Status of CHDO Funds

CONCERN NO. 3: The state has a significant amount of CHDO Operating (CO) and CHDO Reserve (CR) funds that remain uncommitted and/or undisbursed.

DISCUSSION: As provided on the tables below, the state has a significant amount of uncommitted and/or unreserved and unexpended CHDO set-aside funds. These balances are having a negative effect on the state's commitment and expenditure rates.

RECOMMENDED ACTION: The state needs to complete a review and assessment of the open contracts with its CHDOs and take whatever action is necessary to cancel contracts with non and/or slow performers and reallocate the funds to other CHDOs that can commit and expend the funds in a timely manner.

1) - CHDO Operating (CO) Funds

FY	CHDO Name	FT	Amount Reserved	Amount Committed	Balance to Commit	% Cmtd/ Rsvd	Amount Disbursed	% Undisb/ Committed
2010	Architecture for Charity	CO	\$ 50,000.00	\$ 50,000.00	\$ -0-	100.0	\$ -0-	100.0
	Crossroads Housing	CO	\$ 50,000.00	\$ 50,000.00	\$ -0-	100.0	\$31,250.00	62.5
	Midland CDC	CO	\$ 50,000.00	\$ -0-	\$50,000.00	-0-	\$ -0-	-0-
TTL 2010		CO	\$150,000.00	\$100,000.00	\$50,000.00	66.6	\$31,250.00	31.2
2011	WREM Literacy Group	CO	\$ 50,000.00	\$ 50,000.00	\$ -0-	100.0	\$ -0-	-0-
TTL 2011		CO	\$ 50,000.00	\$ 50,000.00	\$ -0-	100.0	\$ -0-	-0-
Grand TTL	2010-2011	CO	\$200,000.00	\$150,000.00	\$50,000.00	75.0	\$31,250.00	20.1

2) - CHDO Reserve (CR) Funds

FY	CHDO Name	FT	Amount Reserved	Amount Committed	Balance to Commit	% Cmtd/ Rsvd	Amount Disbursed	% Undisb/ Committed	Available to Disburse
2010	Architecture for Charity	CR	\$ 681,600.00	\$ -0-	\$ 681,600.00	-0-	\$ -0-	-0-	\$ -0-
	Center for Hsng & Econ Devel	CR	\$ 790,261.71	\$ 790,261.71	\$ -0-	100.0	\$ 790,261.71	100.0	\$ -0-
	CDC – Brownsville	CR	\$ 941,000.00	\$ 924,126.13	\$ 16,873.87	98.2	\$ 775,614.46	83.9	\$148,511.37
	Crossroads Housing	CR	\$2,000,000.00	\$2,000,000.00	\$ -0-	100.0	\$2,000,000.00	100.0	\$ -0-
	Midland CDC	CR	\$ 534,811.00	\$ 202,610.00	\$ 332,201.00	37.9	\$ -0-	-0-	\$202,610.00
	PWA Coalition of Dallas, Inc	CR	\$ 70,630.88	\$ 70,630.88	\$ -0-	100.0	\$ 70,630.88	100.0	\$ -0-
	San Antonio CDC	CR	\$ 450,000.00	\$ 450,000.00	\$ -0-	100.0	\$ -0-	-0-	\$450,000.00
	Statewide CDC	CR	\$ 10,000.00	\$ 10,000.00	\$ -0-	100.0	\$ -0-	-0-	\$ 10,000.00
	WREM Literacy Group	CR	\$ 300,000.00	\$ -0-	\$ 300,000.00	-0-	\$ -0-	-0-	\$ -0-
	GRND TTL 2010		CO	\$5,778,303.59	\$4,447,628.72	\$1,330,674.87	77.0	\$3,636,507.05	81.8

3) - Funds NOT Sub-granted to CHDOs (CR)

FY		FT	Amount to Reser
2009	CHDO Reserve	CR	\$ 10,769.92
2010	CHDO Reserve	CR	\$ 760,770.16
2011	CHDO Reserve	CR	\$ 5,877,118.20
2012	CHDO Reserve	CR	\$ 3,642,695.40
TTL 2009-2012	Funds Not Sub-granted To CHDOs	CR	\$10,291,353.68

4) - Funds NOT Sub-granted to CHDOs (CO)

2011	CHDO Operating	CO	\$243,856.00
2012	CHDO Operating	CO	\$182,135.00
TTL 2011	Funds Not Sub-granted To CHDOs	CO	\$425,991.00

D. State's Designation of CHDOs:

Review of two CHDO Designation files, CDC Brownsville and Architecture for Charity of Texas, Inc., indicated that overall, the state is following the requirements for designating and certifying non-profits as CHDOs.

However, as noted in the Open Activities Report, some are not performing in a timely manner as evidenced by low or lack of timely commitments, expenditures, and completions. Additionally, the state has over \$10,000,000 in CR funds from FY 2009 through 2012 that have not been awarded to CHDOs. Failure to commit and expend these funds could negatively affect the state's ability to meet its statutory commitment and expenditure deadlines. Additionally, these funds can become subject to being recaptured by the U. S. Treasury under the Expiring Funds Criteria if they remain unexpended for eight (8) years.

E. CHDO Written Agreements (Owner/Developer/Sponsor)

Review of the CHDO written agreements, project and operating funds, executed between the state and its CHDOs contained all of the required HOME provisions. The following agreements were reviewed:

- CDC Brownsville – Villa Cavazos Subdivision, \$941,000
- Architecture for Change, \$648,000

F. State Recipient Written Agreements

Overall the state's written agreements contain all of the required components. Staff has previously been provided with copies of some sample agreements that it can use to further improve these documents.

Because the state has moved to a 'first-served' reservation system for owner-occupied rehabilitation activities, there is no way a firm dollar amount can be included in the master agreement. A supplemental commitment agreement is executed for each project prior to the commitment being entered into IDIS.

G. Program Income (PI)

CONCERN NO. 4: No program income has been receipted in IDIS by the state in FYs 2011 and 2012.

DISCUSSION: The PR27 Report, as of June 26, 2012, provides that from 1992 through 2012, the state received a total of \$38,318,327.39 of PI into IDIS. The state has expended 100 percent of all HOME PI received.

However, as of the date of this monitoring the report indicates that the state received no PI into IDIS in FYs 2011 or FY 2012. Given the amount of PI received historically into IDIS during prior FYs, it does not appear reasonable that no PI would have been received by the state since 2010.

RECOMMENDED ACTION: The state needs to review its records and make applicable corrections and adjustments in IDIS. **NOTE:** While a response to a Concern is normally not required, the state is requested to provide a written reply to this concern in its response to this monitoring report.

H. Compliance with the 90 percent rule

Section 214(1) of the HOME statute and the HOME regulations at §92.216 provide that not less than 90 percent of the HOME funds expended for rental assistance or rental projects must be used for units initially occupied by persons/families with incomes at or below 60 percent of the median family income for the area, adjusted for family size. Based on the HOME Lower Income Benefit Report (PR16), the state **is in compliance** with this statutory requirement as 98 percent of the HOME funds expended for its rental activities were for units initially occupied by persons/families having incomes at or below 60 percent of median.

I. Match

Under the HOME Program each PJ must make contributions from non-federal sources to housing that qualifies as affordable housing. The contributions must total not less than 25 percent for project funds drawn from its HOME Investment Trust Fund drawn during the federal fiscal year.

Since the inception of the HOME Program, the state has received a 50 percent match reduction (to 12 ½ percent) under the category of 'fiscal distress' to the statutory 25 percent match liability requirement in accordance with §92.222. Review of the source documentation maintained by the state indicated that the match claimed was from eligible sources and the amounts claimed were supported with proper source documentation. The state is commended for its efforts to assure that only match from eligible sources is recorded on the required HOME Match Log.

Based on the latest census data, the state now qualifies for a match reduction for both 'fiscal distress' and 'severe fiscal distress.' The result of this new calculation is that for FY 2012 and for the following FY (2013), the state has a 100 percent reduction to the match liability requirement. At this time the state will **not** be required to provide any match for funds drawn from its HOME Treasury Account. The state is reminded, however, that the analysis for the above reduction categories is calculated annually by our Headquarters Office and is subject to change.

J. Data Entry Into IDIS

While the state has made significant improvement in this area and HUD recognizes the state's efforts, HUD still has a concern in this area.

CONCERN NO. 5: As provided on the enclosed **PR48 – Open Activities Report**, there still are numerous activities for which: 1) final draws have been made but the project completion data has not been entered; and, 2) activities that have been funded in FY 2012 and prior FYs, for which no draws have been made.

DISCUSSION: These issues were discussed with staff during the monitoring visit. The majority of the activities in question are single-family first-time homebuyer (HBA) and owner-occupied rehabilitation (HRA) activities. For example: the initial funding date for **HBA** project #34672 (IDIS #), was 7/21/2011 in the amount of \$17,750. This project was funded under the state's contract with CDC Brownsville. As of the date of the review almost a full year has passed yet it appears no unit has been purchased by this first-time homebuyer. **HBA** project #34530, also with CDC Brownsville, was initially funded on 6/27/2011 in the amount of \$10,000; same as above.

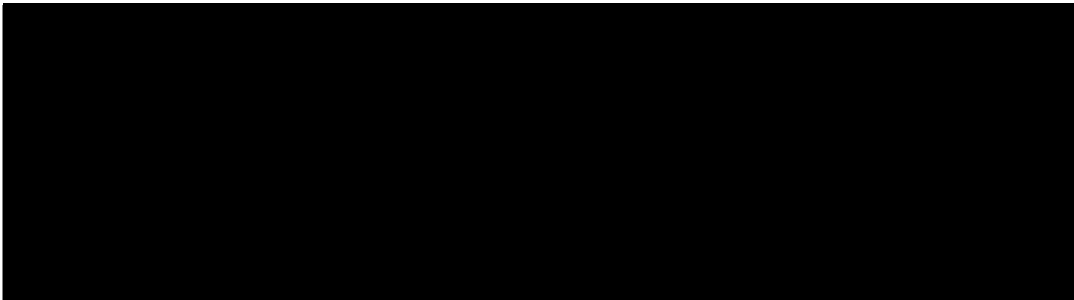
For **HRA** project #34200, the initial funding date was 5/3/11 in the amount of \$42,471.00. A draw was made on 4/11/12 of \$24,942.12 (58.59% drawn). This project was also funded through CDC Brownsville. It does not seem reasonable that it has taken over one year to complete a \$42,000 rehabilitation activity for an existing homeowner. **HRA** project #34523, City of Floydada, was initially funded on 6/23/11 in the amount of \$72,000. A draw was made on 2/2/12 in the amount of \$2,190.30 (3.04%). Even if this were a 'reconstruct', it does not appear it should take over a year to demolish the existing structure and rebuild the replacement unit and, if a regular rehabilitation project, it could have been completed in less time.

RECOMMENDED ACTION: The state needs to implement a process to more closely track the progress of its state recipients, subrecipients and CHDOs relative to the timely commitment and completion of the activities for which funding was provided. While it is understood that the progress of large rental projects or activities may take longer, there should be no reason for significant delays to occur in the single-family activities. It should not take a new homebuyer over a year to find an acceptable existing unit; perhaps the solution could be to set a time-limit on how long, after approval, the funds will remain available. For example, if the applicant has not found a unit within "xxx" months, the approval will be canceled and the funds awarded to another eligible homebuyer.

The state should also research why the entities that are completing rehabilitation and/or reconstruction activities are not drawing funds in a timely manner. If they are funding all of the costs locally and not requesting draws to reimburse their local accounts, perhaps they do not need the federal assistance.

K. Lead-Based Paint (LBP)

Review of the files documented that projects completed by the state in the file sample are in full compliance with the LBP requirements as provided at 24 CFR Part 35. Files reviewed for compliance with LBP were:





L. Documentation of Project Commitment Dates:

Review of the IDIS Project Set-Up Entries for individual projects/activities indicated that the state has not committed HOME funds prior to the execution of the written agreements.

**M. Procurement of Consultants by State Recipients;
Subrecipients; CHDOs; and/or Contractors**

FINDING NO. 1: Our review of TDHCA HOME-funded owner-occupied rehabilitation activities undertaken by state recipients included an examination of the procurement practices utilized by those recipients for their HOME-funded activities and their compliance with the requirements of 24 CFR 85.36.

STANDARD: 24 CFR 85.36

DISCUSSION: The following state recipients were reviewed:

- Aqua Dulce
- Lyford
- Marlin
- Smyer

In the case of the Aqua Dulce contract it appears that the city selected a contract grant administrator, Grant Works, that was involved in the preparation of the city's application to TDHCA for HOME funding. Based upon consultation with HUD's Office of General Counsel this would be a violation of 24 CFR 85.36(b)(3) as Grant Work's involvement in the preparation of the application placed them in the role of acting as an agent for the city which would preclude them from competing for the grant administrator contract. The use of non-federal funds to pay for preparation of the application or even voluntary assistance in the preparation of the application are immaterial in this case. Copies of previous guidance from the Office of General Counsel on this subject in 2000 and 2001 were provided to TDHCA staff.

REQUIRED CORRECTIVE ACTION: The state must take steps to ensure that its recipients of HUD funds that are subject to the procurement requirements of either Part 85.36 or Part 84.42 are aware that entities involved in the preparation of applications for HUD assistance, project specifications, work write-ups, requests for bids or proposals and other matters related to the procurement of goods and services are prohibited from participating in the procurement process as potential recipients, contractors or consultants for the funded activities. TDHCA should incorporate this requirement into its policies and procedures as well as into its monitoring of entities to which it provides HUD funds.

CONCERN NO. 6: During our review of the procurement solicitations undertaken by the state recipients it was noted that in several instances grant administrator awards were made where only one response to the original solicitation was received. The files reviewed did not contain any information on any additional outreach that was conducted to ensure that adequate competition took place after the initial solicitations were made. It was also noted that the solicitations that were made for grant administrators did not contain sufficient detail with respect to program scope for a respondent to provide a detailed response. The solicitations lacked information on the anticipated number of units to be undertaken and the projected period of performance.

RECOMMENDED ACTION: TDHCA should ensure that its funded entities are conducting adequate outreach so that sufficient competition takes place during the procurement process and that this is documented prior to a sole source contract being awarded. Discussions were held with TDHCA staff on ways to expand outreach for procurements where the field of potential qualified applicants, such as grant administrators, are not located locally. These steps could include maintaining a list of certified grant administrators and utilizing a list-serve notification when proposals are sought.

It is also recommended that the state examine its state recipients' scoring processes to ensure that geographic preferences are not being utilized and that scoring criteria are objective and applied in a manner that is clearly supported.

N. Limited Civil Rights and Section 504 Review

A limited review of the state's compliance with the Civil Rights and Section 504 requirements was completed. A copy of the completed checklists and supporting documentation was forwarded to Mr. Garry Sweeney, Director, Fair Housing and Equal Opportunity (FHEO) in the Fort Worth Regional Office. If the FHEO office has any questions or concerns in this area, they will contact the state directly.

O. Limited Labor Standards Review

Because the Park Ridge multifamily project in Llano contained 13 HOME-assisted units, a limited review of the state's compliance with Davis-Bacon was completed.

The review found that there were four (4) workers who were paid less than the Davis-Bacon rates: [REDACTED]

[REDACTED] The state cited this violation during its March 10, 2011 onsite monitoring of this project.

Based on the documentation in the state's monitoring report, the above employees were located and restitution was made for the affected periods. Copies of the checks payable to the employees along with the revised payrolls to reflect the current wage rates were provided to TDHCA. Based on this information, the state cleared this finding in its letter of June 1, 2011, to Mr. Mark Mayfield, President, Park Ridge, Ltd.

Based on HUD's limited review of the supporting documentation, it appears that the state is in compliance with the Davis-Bacon wage rates requirements. A copy of this review has been forwarded to

Ms. Jerlinda Banks, Labor Relations Officer, in the Fort Worth Regional Office. If there are any questions or concerns regarding this project, the Labor Relations staff will contact the state directly.

II. MONITORING

P. Review of State-Issued Monitoring Reports:

Since HUD's last monitoring the state has made significant improvements in this area and staff is commended for its efforts.

HUD reviewed the state's monitoring reports transmitted to:

- City of Socorro – Desk review 12/13/11
- City of Paris - Onsite review 3/12/11; Desk Review, 9/14/11 and a follow-up Desk Review 5/24/12
- Easter Seals of Central Texas – Onsite review, Part 1 Inspections, 2/22/12

Based on the information reviewed the state transmitted its written monitoring reports to the recipients in a timely manner. Staff also followed up to assure that the recipients submitted documentation to address the state's issues and finally, issued written responses closing all findings and concerns contained in the initial reports.

OPEN FINDING NO. 2 FROM HUD'S 2009 MONITORING:

FINDING NO. 2 – 2009 Monitoring Report: Review of the multifamily portfolio report indicated there are numerous projects that are out of compliance with the HOME Program requirements.

STANDARD: 24 CFR 92.201(b)(3)(ii); §92.203(a)(1); §92.216; §92.251(c); §92.252; §92.253; §92.351; 92.503; 92.504(a), (c)(1),(2)&(3) and (d)

NEW DISCUSSION – 2012 Monitoring: On June 20, 2012, Stephen Eberlein met with Tim Irvine, Executive Director and Sara Newsom, Director, HOME Program, to discuss issues and progress in resolving the defaulted activities listed in HUD's FY 2009 Monitoring Report. Following is a recapitulation of the meeting.

- **St. John Colony Park** a/k/a, Del Meadows, Dale, TX – IDIS #4001– All issues have been resolved
- **Thomas St. Apartments**, 925 Thomas St, Linden, TX – IDIS #2727 – All issues have been resolved
- **Colonias Del Valle**, Pharr, TX – IDIS #2710 – All issues have been resolved
- **Mexia Homes** – Mexia, TX – IDIS #2637 – *Enforcement action underway by State Administration Penalties Office*
- **Juan Linn Apartments** – Victoria, TX – IDIS #4369 - *New owner in place. Progress is being made to reestablish the LURA*

- **Carriage Square Apartments** – Dickinson, TX – IDIS #2670 – *Property was demolished. The land is being marketed for sale and redevelopment*
- **Red River** – Wharton, TX – IDIS # 7607 - *State is working with new owner to reestablish the LURA*
- **Palisades at Belleville** – Belleville, TX – IDIS #2647 – *State is working with new owner to reestablish the LURA. Note: This owner also owns the Red River Project directly above.*
- **Gardens of DeCordova** – Granbury, TX – IDIS #26281- *Owner defaulted on construction loan. The private lien holder has maintained compliance with LIHTC/Board requirements and the state is optimistic that he will accept the HOME requirements. The state is scheduled to monitor this project in July 2012.*
- **Community Action of South Texas** – Three projects – All of the LURAs have been extended and all other issues resolved.
- **Duncan Place** – Hillsboro, TX – IDIS # - **State will request a grant reduction**
- **Flamingo Bay Apartments (Lakeside Center)** – 200 Garfield, LaPorte, TX – IDIS # 1529 - **State will request a grant reduction**

The following projects noted in the FY 2009 monitoring report have been brought into compliance and no further action is required at this time.

Lincoln Court Apartments – IDIS #2631
Port Velasco Apartments – IDIS #2636
Colorado City Homes – IDIS #2676
Colorado City Homes II – IDIS #2677
Southeast Texas Community Development – IDIS #2680
Ebenezer Senior Housing – IDIS #2681
Spur Triplex – IDIS #2694
Sterling Park Square - IDIS #2696
Tyler Community Homes (Path) – IDIS #2699
Weldon Blackard Rental – IDIS #2706
Railroad Street Rental Housing – IDIS #2711
Sunrise Villas Apartments – IDIS #2723
Alamo Plaza Apartments – IDIS #3200
Villa De Reposo – IDIS #4002
Alta Vista Village Retirement Community – IDIS #4006
Spring Garden Apartments IV – IDID #4007
Plainview Duplex – IDIS #4008

REQUIRED CORRECTIVE ACTION: Because two projects noted in FY 2009 report remain unresolved, this old finding **remains open**. Once the remaining issues for *Duncan Place and Flamingo Bay (Lakeside Center)* are resolved through repayment of the HOME Investment to the state's HOME Treasury Account; approval of a grant reduction; or otherwise brought into compliance, this finding can be cleared. The state needs to continue to work to bring the *Juan Linn and Red River* projects into compliance.

These final corrections need to be completed on or before February 28, 2013. If compliance cannot be achieved via one of the above-referenced options, the state must repay its HOME Treasury Account for the full amount of the HOME Investment for these projects from non-federal funds. The state should also provide a monthly update on the status of the above noncompliant projects with the first report being due on or before September 5th, and by the 5th day of each month thereafter.

III. FILE REVIEWS AND ONSITE INSPECTIONS

Q. Multifamily Rental Files Reviewed

All three projects noted below contained Management Plans executed between the Owner(s) or Owner's Representative(s) and the Agent(s) for the Housing Management Corporation(s). The following could be areas of possible concern:

- While the Management Plans contained all of the provisions required by the state, **Section X, Recordkeeping** should be amended to add the specific HOME requirements for record maintenance.
- **Section 7, Item C** of the HOME Contract contains 'reporting requirements' but as noted above, it needs to be amended to add the specific HOME requirements for record maintenance. However, **Section 4.13, Reports**, of the Land Use Restriction Agreement (LURA), contains a more comprehensive listing of the reports required to be submitted. If all of the documents contained the same information it would eliminate any confusion as to what exactly is required.

The state should review all open rental project Management Plans and Contracts to assure that the above sections are amended accordingly and that in the future, all Plans and Contracts will contain the HOME recordkeeping requirements as provided in the LURA.

A review of the project files noted below contained a detailed and comprehensive underwriting report completed by the state's Real Estate Analysis Division. The reports were completed by the state's initial underwriter(s) and were reviewed and approved by both the Reviewing Underwriter(s) and the Director of Real Estate Analysis. It was noted that an actual Market Study or Analysis was not completed. Since this will be required if included in the new HOME regulations that may become effective this fall, the state may wish to consider developing preliminary criteria for the submission of this information.

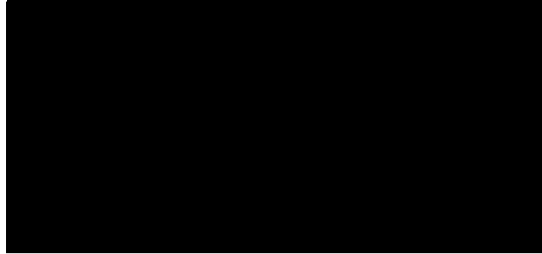
- **Park Ridge Apartments**, 100 Legend Hills Boulevard, Llano, TX.
An onsite file review was conducted for the Park Ridge multifamily rental project at 100 Legend Hills Boulevard, Llano – Contract #1001075. The onsite inspection of the HOME-assisted units at the Park Ridge Apartments was completed by Stephen Eberlein, Program Manager, Fort Worth Field Office. The files contained documentation that the newly constructed units met all local and state codes applicable to new construction, including the energy conservation requirements contained in Chapter 11, Energy Conservation, of the State's International Residential Code (IRC).

This is a newly constructed 64-unit project consisting of 10 market rate; 13 designated HOME-assisted; and 41 LIHTC units, contained in 16 4-unit structures. Initially, eight (8) of the HOME-assisted units were occupied; however, at the time of the monitoring, two tenants had moved.

No deficiencies were noted in the sampled individual tenant files and the prohibited provisions in the leases were negated by the fully executed state form "Lease Contract Addendum for Units Participating in Government Regulated Affordable Housing Programs." The files were complete, contained all required tenant information

and were neatly organized. The staff at this project is commended for their performance in this area.

Tenant Files Reviewed



- **Area of Possible Concern:** During the review the Property Manager reported that there is some difficulty in leasing up the three-bedroom units. There appears to be low market demand for 60 percent and below three-bedroom units. Management has had to reject a number of over-income applicants. The state needs to follow-up with the Property Manager on a regular basis until these units are occupied by income-eligible tenants. Had a Market Study/Analysis been completed for this project, it may have alerted the state that the demand for three-bedroom units in that area was not strong.

Reviews of the following projects were completed using the information contained in the state's online data base. No deficiencies were noted in the sampled individual unit records and the files contained documentation that the newly constructed units met all local and state codes and ordinances applicable to new construction, including the energy conservation requirements contained in Chapter 11, Energy Conservation, of the State's International Residential Code (IRC).

- **HVM Alta Vista, Ltd.**, 1001 Pecan Valley Drive, Marble Falls, TX – Contract #1001076. This is an acquisition/rehabilitation project built in 1983. The project contains 64 units of which seven (7) are designated as floating HOME units. Total development cost was \$4,225,811 (\$2,936,283 tax credits + \$889,000 Rural Development + the HOME Investment of \$400,528). The HOME per-unit subsidy of \$50,218.29/unit is within the 221(d)(3) subsidy limits applicable for the period of time in which the assistance was provided.
- **Hyatt Manor Apartments**, 1701 Waco Street, Gonzales, TX – Contract #1001138. This is an acquisition/rehabilitation project built in 1980. The project contains 65 units of which 15 are designated as floating HOME units. Total development cost was \$4,065,485 (\$2,551,331 tax credits + \$568,072 Rural Development + the HOME Investment of \$946,081). The HOME per-unit subsidy of \$37,871.47/unit is within the 221(d)(3) subsidy limits applicable for the period of time in which the assistance was provided.

R. Subrecipient Management

The state has numerous subrecipients that administer one or more HOME activities on behalf of the state. For FY 2011, the state reserved \$9,501,500 for its subrecipients. As of the date of the monitoring, the subrecipients had committed \$2,000,000 to individual activities and expended \$1,999,000.

As discussed with staff, the state needs to work with its subrecipients to significantly improve their performance in committing and expending their HOME allocations. As a start, the state has implemented a new 'reservation' system as opposed to the old system of awarding contracts up front to its subrecipients. Under the new system, a unit of local government submits an application and if the application is approved, the entity is advised accordingly. No 'contract award' is made; the entity submits information only when it has an applicant approved for assistance, e.g., FTHB; owner-occupied rehabilitation; reconstruction, etc. Each activity is entered into IDIS at that time and there is no limit as to the amount of HOME funds a subrecipient can access. If the subrecipient is a good performer and manages the process well it can receive funding for a significant number of projects instead of being limited to a maximum of \$500,000 per contract which may cover four to six units. The slow and/or non-performers may find that there are insufficient funds available to fund their activities.

This process is beneficial for good performers but the downside is reservations or commitments are entered into IDIS only when there is an approved HOME-eligible recipient. This process tends to understate the state's commitment and disbursement progress which is why the state needs to work with its subrecipients to assure that all projects are completed and that the completion data necessary to close the activities in IDIS are transmitted to the state in a timely manner.

The state is reminded that the use of grant administrators by state recipients and subrecipients to administer HOME-funded activities does not relieve the funded entities from their responsibility to monitor the day-to-day activities of their contractors. The state is also reminded that during its monitoring of state recipients and subrecipients it must document that those entities have the capacity to oversee the activities of their contractors and that they are monitoring those activities and maintaining proper file documentation.

Technical Assistance (TA)/Training Provided by the State to its Subrecipients

During FY 2011, the state provided technical assistance/training on various components of the HOME Program to 57 of its subrecipients. Following is a sample of the types of technical/training provided.

<u>Event</u>	<u>Division Providing the TA/Training</u>	<u>Purpose</u>
First Thursday – Income Eligibility Training (Held the 1 st Thursday of every month)	Compliance & Asset Management & Oversight	General Training
TBRA Training (Lewisville)	HOME	Training
Owner-Occupied Technical Assistance visit – Socorro	HOME	Capacity Building
Owner-Occupied Technical Assistance Visit & Regional CHDO NOFA Presentation	HOME	Presentation & Capacity Building
Grimes County Fair (Navasota)	HOME	Presentation – HOME Program Information

<u>Event</u>	<u>Division Providing the TA/Training</u>	<u>Purpose</u>
City of Weimer – Homeowner Rehabilitation Assistance Implementation	HOME	Training
Hill Country Opportunities – Homeowner Rehabilitation	HOME	Technical Assistance

The state is commended for its efforts in this area.

The following subrecipients are administering HOME programs on behalf of the state.

- New Braunfels Housing Authority, New Braunfels, TX
Tenant-Based Rental assistance (TBRA) - Contract #1001263

FINDING NO. 3: The state has not established a minimum rent contribution.

STANDARD: 24 CFR 92.209(h)(2)

DISCUSSION: The regulations require that the participating jurisdiction (PJ) must establish a minimum tenant contribution to rent. Section (3)(i) and (ii) of §92.209(h) sets forth the basis for the rent standard on which the minimum tenant contributions must be based. At a minimum, the amount of the monthly assistance that a PJ may pay to, or on behalf of, a family may not exceed the difference between a rent standard for the unit size *established by the PJ* and 30 percent of the family's monthly adjusted income.

Since the state has never established the minimum rent contributions, it appears that the HOME Program has over-subsidized all TBRA rental payments previously made and currently being made.

REQUIRED CORRECTIVE ACTION: The state must immediately establish a minimum tenant contribution to rent. It is possible that the amount of the contribution may vary from jurisdiction to jurisdiction. In order not to penalize the tenants currently receiving TBRA assistance, no changes are to be made in their current rents. However, the applicable adjustments for all TBRA recipients shall be made at the time of their lease renewals, including the requirement that they must then pay their required minimum tenant contribution. This may result in the amount of the TBRA payments being reduced by the amount(s) of the tenant contributions. For new recipients, the amount of the TBRA monthly assistance shall be calculated based on the above. In both instances each tenant file must contain documentation of the amount of the minimum tenant contribution and that the TBRA payment reflects the correct amount based on the above.

In its response, the state must provide its written certification that it will establish a minimum rent standard and that: 1) for current TBRA recipients the applicable adjustments will be made upon the renewal of or issuance of a new lease; and, 2) for all new TBRA recipients, the amount of the TBRA assistance will be calculated in accordance with §92.209(h).

The following TBRA files were reviewed:

- All tenants receiving TBRA assistance are required to participate in a two-year self sufficiency plan as noted under Section IV, Required FSS Class Attendance of the Self Sufficiency Plan. The form is incomplete, most of the information was not entered and while executed by [REDACTED] it was not executed and dated by the Housing Authority (HA) Staff
- A sample of other documents that are incomplete and/or not executed by HA staff are:
 - The Notification of Applicant Eligibility Determination is incomplete and was not executed by the HA staff
 - The TBRA Applicant Briefing document was not executed by HA staff
 - The HA application form dated January 11, 2011 was not executed by HA staff
 - The Project Revision Request form not executed by all applicable parties

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The state needs to work with all subrecipients to assure that all forms, applications, notifications, etc., are fully completed and dated and signed by all applicable parties. This is to assure that in case of a dispute or default, the state will be able to enforce all terms and conditions as applicable to the individual parties under which the assistance was provided.

- **City of Paris – Owner-Occupied Rehabilitation – Contract #1001273**

The owner-occupied rehabilitation file for [REDACTED] Paris, TX was reviewed. This project is a 'reconstruct' and at the time of the monitoring was under construction. Review of the file noted the following discrepancies.

FINDING NO. 4: A) The actual bid amount for the above project could not be determined and cost reasonableness could not be verified. B) The staff cost estimate in the file was not signed or dated by the person completing the estimate and the estimated cost of the project, as broken out by trades, exactly totaled the state's cap of \$73.00/sq. ft. or \$80,000, whichever is less. The estimate included an estimated demolition cost of \$6,000 plus \$37,000 for unidentified 'miscellaneous costs'.

STANDARD: 24 CFR 92.505(a); 24 CFR 85.22; and OMB Circular A-87, Attachment A, Section C.2

DISCUSSION: A) Based on a review of various documents in the file it was not possible to determine what the amount of the actual bid should have been. Based on the work write-up/cost estimate document in the file, the total estimated hard costs including demolition and miscellaneous costs were \$80,000 plus "maximum allowable soft costs" of \$10,572 for a total of \$90,572. The document notes that that the 'total budgeted project (hard) costs cannot exceed \$73.00/sq. ft. or \$80,000.' The total amount of the HOME assistance provided was \$90,564.

Only one bid, Whitaker Homes, was received for this project. There was no information as to why other contractors did not return bids or what the city did to try and obtain additional bids. The proposal and bid from Whitaker Homes contained amounts for three options, but it could not be determined which option was selected. Additionally, some of the alternates did not include a dollar amount; e.g., "culvert, 30 LF". The amounts of all of Whitaker's proposals were considerably less than the state's maximum \$80,000 cap including the contractor's additional alternates of his own.

<u>Base Bid</u>		<u>Base Bid-Design 1</u>	
<u>Design 1:</u>	\$49,570	<u>w/Alternate 1:</u>	\$51,870
Plus: Alt #4	230	Plus: Alt #4	230
Alt #5	670	Alt #5	670
Alt #6	no amt	Alt #6	no amt
Alt #7	135	Alt #7	135
Alt #8	80	Alt #8	80
Alt #9	35	Alt #9	35
Alt #10	400	Alt #10	400
Alt #11	440	Alt #11	440
Alt #12	200	Alt #12	200
Alt #13	300	Alt #13	300
Alt #14	390	Alt #14	390
Alt #15	5,465	Alt #15	5,465
Alt #15b	<u>475</u>	Alt #15b	<u>475</u>
Sub Total	\$58,390	Sub Total	\$60,690

PLUS: Additional items
added by the contractor

Survey	550	550	
Toilets	350	350*	
Curb Removal	380	380	
Limb Removal	100 each	100 each	- did not provide the estimated number to be removed
Culvert	no amt	no amt	- only provided a cost of \$30/LF
Add'l Light Fixtures	75 each	Add'l Light Fixtures	75 each - did not provide the proposed number of additional fixtures
Pull Down Stairs	<u>150</u>	<u>150</u>	
Sub Total	\$ 1,605	Sub Total	\$ 1,605
Total:	\$59,995	Total:	\$62,295

<u>Base Bid</u>		<u>Base Bid-Design 2</u>	
<u>Design 2:</u>	\$51,567	<u>w/Alternate 2:</u>	\$53,867
Plus-above Alternates	\$ 8,820		\$ 8,820
Plus-Contractor's Additional Items	<u>\$ 1,605</u>		<u>\$ 1,605</u>
Total	\$61,992	Total	\$64,292

<u>Base Bid</u>		<u>Base Bid-Design 3</u>	
<u>Design 3:</u>	\$54,189	<u>w/Alternate 3:</u>	\$56,489
Plus-above			
Alternates	\$ 8,820		\$ 8,820
Plus-Contractor's			
Additional Items	<u>\$ 1,605</u>		<u>\$ 1,605</u>
Total	\$64,614	Total	\$66,914

This bid is unacceptable as it is missing dollar amounts and contains alternates for items which appear to be included in the base bid. For example, on the contractor's detailed bid sheet, he includes \$4,250 for plumbing, but his additional alternates include \$350 for toilets and an additional \$80 for a 'chair height' toilet; it would appear that toilets would be an item that would be included in a standard plumbing bid. HUD understands that for newly constructed units site plans, blue prints, drawings, floor plans, etc., are used as opposed to the traditional 'work write-up/cost estimate' that is used for the rehabilitation of *existing* units. However, alternates and/or proposed additions or deletions must be clearly identified, justified and properly priced.

The contractor's three 'detailed bid' pages which were attached to the proposal and bid document noted that the "flat work" was bid as an alternate. Why would this be an alternate item if the construction includes a concrete walkway; concrete parking slab; driveway; and, approach? The document also identified a cost in the miscellaneous line item as 'additional lumber.' There was no explanation as to what necessitated additional lumber.

Based on the 'Bid Opening' sheet, the opening took place on April 4, 2012. However, the form was unexecuted and undated so it cannot be documented that the actual bid opening occurred on that date. The recap contained only one completed column which noted only the amounts of the three base bids, and base bid alternates. There was no information noted as to which design was to be completed; the actual amount of the bid to be awarded; and a determination of cost-reasonableness.

As noted on the above bid designs, the total amount of the most expensive base bid and alternates was \$66,914. As provided on the "After Rehabilitation Value Estimate" the cost of the construction was \$68,000. On the initial staff cost estimate the total construction cost is limited to no more than \$73/sq. ft. or \$80,000, whichever is less. To that amount, an additional \$10,572 in soft costs was added bringing the total HOME investment to \$90,572. However, no information was provided as to what soft costs made up the additional \$10,572. Based on the contractor's most expensive alternative, it appears that the cost per square foot was less than the maximum allowed. There was no explanation or documentation to support the expenditure of the maximum amount allowable plus the additional soft costs.

B) Based on the information in the cost-estimate document, the property contains 1,120 sq. ft. At a maximum of \$73.00/sq. ft. the construction cost would be \$81,760 plus an additional \$9,700 for demolition and unidentified miscellaneous costs for a total estimated cost of \$91,460. As noted above, the highest bid amount from the contractor was \$66,914. It could not be determined how the cost of this project increased to a final amount of \$90,564 of HOME assistance as provided by the state in Exhibit 7-3.

REQUIRED CORRECTIVE ACTION: The state and the City of Paris are reminded that regardless of the entity the city contracts with to deliver the program, it is the city and ultimately the state that remains responsible for the work completed on those projects for which federal funds are used.

A) While the above costs may be legitimate for this project, the state must complete a review and analysis of the circumstances surrounding this bid award and provide documentation relative to the cost-reasonableness of this project. The review should also include the process the city and the grant administrator are using to procure bids and what is done if only one bid is received. The state's response should also include: **1)** how the construction work was monitored on an ongoing daily basis by the City of Paris and **2)** what steps will be taken to assure that all state-recipients are monitoring the activities being completed in their communities on an ongoing daily basis.

The state is also reminded that while it continues to advise that all work is completed to meet the Texas **Minimum** Construction Standards (TMCS), the **quality of the completed work** must also be acceptable. For example, a slab for an entrance is installed. If the slab has not been poured correctly, is not on a proper footing, is chipped/broken, is splashed with an overspray of paint from spraying the exterior; the ground under the slab is eroding away, etc., it is **not** an acceptable installation even though it may meet the "minimum" standard simply by the fact that it is there.

B) In its response the state needs to provide how it will change or amend the process or its requirements relative to how its state recipients, subrecipients, CHDOs, and hired "grant administrators" will complete and document cost estimates. For newly constructed or reconstructed projects, the entities should continue to use floor plans, specifications, drawings, blue prints, as is standard and applicable for new construction. For rehabilitation projects, line-item cost estimates and bid documents should be utilized that clearly define all work to be completed along with the corresponding cost.

In all instances, the files must be documented for cost reasonableness, eligibility and the allowability of the costs. In cases where there are unusual or extenuating circumstances that are out of the ordinary, the files must be documented to support any additional costs or other actions that may be needed to assure that upon completion the projects are **1)** in compliance with the state's property standards for rehabilitation activities or **2)** new construction or reconstruction projects, all local and state standards applicable to new construction including, at a minimum, compliance with Chapter 11, Energy Conservation (EC), of the state's International Residential Code (IRC). If the energy conservation requirements of the individual localities meet or exceed the requirements of the IRC, the locality's EC standards can be used.

FINDING NO. 5: For the above [REDACTED] file and other files, there was no or insufficient documentation that: **A)** all trade contractors and/or all subcontractors, as applicable, were cleared through GSA's Excluded Parties List System (EPLS) under both their business or 'doing business as' (D/B/A) names and under the individual names of the owners and/or all other principals associated with the business names.

STANDARD: 24 CFR 92.350(a); §92.505(a); §92.508(a)(7)(viii) – HOME, §85.20(a)(6) and §85.36(b)(2)

DISCUSSION: For the [REDACTED] file, the contractor was cleared as '[REDACTED]' and as '[REDACTED]'. [REDACTED] but there was no clearance under the contractor's name, [REDACTED]. The signature on the 'Affidavit of Prime Contractor' provides that [REDACTED] is a partner in the company. There was no information provided relative to who the other partners in the Limited Partnership are. All individuals of the limited partnership, including any additional persons who may have an interest in the limited partnership should also have been cleared. Additionally, the above clearance requirement includes all subcontractors also by individual and business name and all other persons who have an interest in the subcontractors' business.

The city and the CHDO did not clear the trade contractors or subcontractors, as applicable, and/or all other principals associated with the business names (e.g., wife, if applicable, business partner, etc.). Because it is prohibited to award federal funds to individuals who may be on HUD's suspended and debarred list, all owners and principals of a firm or business should have been cleared by name *in addition to* the clearance of the business or organization. The Federal requirements set forth in 24 CFR Part 5, subpart A, are applicable to participants in the HOME program. These requirements include a prohibition against using debarred, suspended or ineligible contractors in HOME projects including all contractors or subcontractors for any *lower-tier* contracts and subcontracts funded with HOME funds. Based on our review, the city and the CHDO did not document that prohibited contractors and/or subcontractors, when applicable, were not used in its HOME-assisted projects. This requirement would also apply to any subrecipient or CHDO when such agencies contract with lower-tier contractors or subcontractors to complete some or all of the construction work.

The state also needs to remind the city and the CHDO that they must obtain lien waivers from the general contractor and all trade contractors and/or subcontractors such as HVAC, plumbers, electricians, etc., for all partial and final payments.

To protect the homeowners and/or homebuyers from liens or claims of nonpayment by general contractors, subcontractors, trade contractors and/or other parties a lien waiver is executed and dated by each party receiving payment each time a draw is processed. The document should clearly note whether the waiver is from the general contractor, a subcontractor/trade contractor or supplier (if applicable); whether the payment is an interim or final payment; and, the amount of the payment.. Such a document would also support that the funds disbursed were used to pay eligible costs on the project. The form could be prepared as an individual document for the completion and signature of each party or it could be included in one master document that contains lines for the date, name, amount and signature of each party receiving payment for that specific draw. This process would be completed each time a draw is made (partials and final). The state should discuss with its legal counsel as to whether these forms (individual or master) should be notarized and this information should be passed on to the CHDO.

REQUIRED CORRECTIVE ACTION: This is a non-correctible finding for the projects that have been completed. When clearing the selected contractors, trade contractors, and/or subcontractors through the EPLS, the city and its CHDOs and subrecipient(s) must also clear, by name, the individual owners and principals affiliated with the business. Copies of those EPLS clearance pages should be placed in each file along with the business clearances.

For projects that are underway and for future projects, the city and its CHDO must: **A)** clear all contractors and subcontractors, and other principals of the firm or business as noted under the Discussion section, and; **B)** obtain lien waivers from all general contractors and trade and subcontractors for each partial and final payment disbursed.

The state, its subrecipients, and its CHDOs must review the contractors and subcontractors used on all active contracts against the GSA list of debarred, suspended, or ineligible contractors. *If any contractor or subcontractor is on this list, the state must contact this office to discuss a corrective action.* In its response the state must: **i)** provide its written assurance that it will develop and implement procedures to ensure that it, its CHDOs and subrecipients, will not use debarred, suspended, or ineligible contractors in any affordable housing project assisted with federal funds; and **ii)** obtain lien waivers or releases executed by all contractors (general, trade and subcontractors) for each partial and final payment.

FINDING NO. 6: The state is not correctly calculating the after-rehabilitation value of owner-occupied units that are reconstructed.

CITATION: 24 CFR 92.254(b)(1); Building HOME, Chapter 4

DISCUSSION: The state has been correctly determining the after-rehabilitation value of its regular owner-occupied rehabilitation projects. The issue arises when units are reconstructed as these become a newly constructed unit even though they are classified in IDIS as a ‘rehabilitation’ activity.

The state has been entering the construction cost of these units as the ‘after-rehabilitation value’ in IDIS. The construction cost is not synonymous with value; it is possible to expend more funds than a unit would be worth upon completion or, depending on market conditions, a unit could be worth less than the investment of the cost of construction. Typically, most Appraisal Districts will not enter their ‘value’ of a newly constructed unit when it is completed; it generally takes about a year for the value to be established and applicable property tax to be assessed.

It is not possible to use or base the after value on the Appraisal Districts current ‘value’ of the old unit. Because of the condition of these units the current ‘value’ is minimal and the existing unit will be demolished which leaves only the value of the land

As provided in Building HOME, “The after-rehabilitation value must be established prior to any work being performed”.

- **Estimates of Value:** Estimates of value by the PJ or subrecipient may be used. Project files must contain the estimate of value and *document the basis for the value estimates*.
- **Appraisals:** Appraisals, whether prepared by a licensed fee appraiser or by a staff appraiser of the PJ may be used. Project files must *document the appraised value and the appraisal approach used*.
- **Tax Assessments:** Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value **if** the assessment is current and accurately reflects *market value after* rehabilitation.

REQUIRED CORRECTIVE ACTION: This finding is non-correctible for units that have been completed. In its response the state must provide the process or method it will use to determine the estimated market value of units that are reconstructed.

Other Areas – [REDACTED] file: 1) The state advised that the DPL has an occupancy requirement of 15 years (question #14 on Exhibit 7-3), and that the amount of the HOME assistance was \$90,564 (question #13 on Exhibit 7-3). However, the ‘Conditional Grant Agreement’ executed between the State, the City of Paris, and [REDACTED] provides that the occupancy requirement is 10 years (Article V) and that the amount of the HOME assistance is \$80,000 (Article IV).

2) The state has included both recapture and resale provisions in its ‘Conditional Grant Agreement’. **a)** Article VII, Item A., **Due on Sale Provision**, begins by stating that: “...if the owner sells the property prior to the expiration of the Agreement Term and the purchasing household does not provide evidence that it qualifies for assistance in accordance with the HOME Program rules, the department will **recapture** the penalty amount out of the *shared net proceeds* available from the sale of the property based on the federal recapture requirements as defined at 24 CFR 92.254 of the HOME Regulations”.

Under “Recapture” there is no federal requirement that a subsequent buyer must be HOME income-eligible to subsequently purchase any HOME-assisted unit; the recapture provisions only require

that the applicable portion of the HOME investment that provided the direct subsidy, be recaptured in accordance with the option selected by the PJ. This means that the owner can sell to any willing buyer for any agreed upon amount and the PJ receives all or a prorated portion of the assistance from the net sales proceeds.

b) This section of the Agreement goes on to provide that: "...the Property must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority. In the event that the Property is sold without the prior written consent of the Department for an amount less than the current appraised value (as then appraised by the appropriate governmental authority), the Department will **recapture the entire amount of assistance** under this Agreement". *It appears that the state added the above requirements for the purpose of imposing a 'penalty' if the existing homeowners to not receive written permission from the state prior to selling their properties or if the properties are sold for an amount that is less than the state's appraised value. The state may wish to consider revising this section to assure that enforcement of these requirements does not result in an unintended consequence of requiring its existing homeowners to repay excessive penalties under both its 'recapture' and 'resale' provisions..*

Under '**resale**,' §92,254(a)(5), the property must be sold to a buyer who qualifies as a low-income family and will use the property as its principal residence. The resale requirement must also ensure that the price at resale *provides the original HOME-assisted owner a fair return on investment (including the homeowner's investment and any capital improvements)* and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. Additionally, if you impose resale requirements, a deed restriction, covenant running with the land, or another similar mechanism must be used to impose the resale requirements. Under resale, no funds are returned to the PJ. The new purchaser agrees, in writing, to abide by all of the required HOME requirements for the remaining term of the Agreement. For example: the initial term of the Agreement is 10 years. The homeowner sells the property in year six. The new purchaser would agree to abide by all HOME requirements for the remaining four years. At the end of the four years, compliance is met and the homeowner is no longer under any obligation to the state.

*As provided above, it appears that existing owners may have to pay an excessive penalty if they do not comply with both of the above requirements. It is recommended that the state amend this section to reflect only the actual recapture requirements; that is, "If the property is sold during the state's Agreement Term, the Department will **recapture** the penalty amount out of the *shared net proceeds* available from the sale of the property based on the federal recapture requirements as defined at 24 CFR 92.254 of the HOME Regulations". For those projects that have been previously completed, it is recommended that the state issue a general policy notice that it is amending Item A, Due on Sale Provision, under Article VII of the Conditional Grant Agreements as noted above, and that it applies to all previously HOME-assisted owner-occupied units. A copy of the policy could be inserted into the state's data-base files for each homeowner/homebuyer project. *If acceptable to the state's legal counsel, this would be in lieu of amending and recording all prior Agreements/legal documents as the latter option would appear to be infeasible given the number of homeowner and/or homebuyer projects that are still subject to the required periods of affordability, federal and/or state, as applicable.**

3) Under Article XI, of the Conditional Grant Agreement, Property Insurance, it is recommended that the State amend this section to add: "The State of Texas shall be added as an additional loss-payee on the homeowner's property insurance policies." This will assure that if the insurance coverage lapses or is cancelled the state will be notified so that follow-up action(s) can be initiated.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oxer, *Chair*
Tom H. Gann, *Vice Chair*
C. Kent Conine
Leslie Bingham-Biscarño
Lowell A. Keig
Juan S. Muñoz, PhD

September 17, 2012

(512) 475-3296
tim.irvine@tdhca.state.tx.us

Ms. Shirley J. Henley, Director
U.S. Department of Housing and Urban Development
Fort Worth Regional Office, Region VI
Office of Community Planning and Development
801 Cherry Street, Unit #45, Suite 2500
Fort Worth, Texas 76102

RE: RESULTS OF MONITORING REVIEW CONDUCTED JUNE 18-22, 2012

Dear Ms. Henley:

The Department of Housing and Urban Development (HUD) conducted a review the state's affordable housing programs under the HOME program on June 18-22, 2012. The Texas Department of Housing and Community Affairs (TDHCA/Department) received the results of the review on August 17, 2012 that included six findings and six concerns. TDHCA's responses to each finding and concern are included in this correspondence.

We appreciate the cooperation of HUD staff that assisted with this monitoring review. We look forward to HUD's review of our monitoring response and our continued relationship with HUD. If you have any questions, please do not hesitate to contact me at 512.475.3964 or via email at tim.irvine@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine", written over a horizontal line.

Timothy K. Irvine
Executive Director

cc: Stephen Eberlein, Program Manager
Melodee Humbert, Senior Affordable Housing Specialist

TDHCA RESPONSE

FINDING 1

Our review of TDHCA HOME-funded owner-occupied rehabilitation activities undertaken by state recipients included an examination of the procurement practices utilized by those recipients for their HOME-funded activities and their compliance with the requirements of 24 CFR §85.36.

Response

The Department agrees that based on the documentation provided during the monitoring review, it appears that HOME administrators may not be properly procuring consulting services in all instances. The Department will highlight language in the application that notifies applicants that a conflict of interest exists when an employee, officer or agent participates in the selection, award, or administration of a contract funded under the HOME program. The term "agent" includes grant consultants completing applications on behalf of the applicant if they are later selected to administer the HOME award. The Department also plans to provide additional training to improve compliance with state and federal procurement requirements. The training will focus on, among other things, the requirements of 24 CFR §85.36(3) that prohibits an employee, officer or agent of the grantee or subgrantee from participating in selection, or in the award, or administration of a contract if a conflict of interest, real or apparent, would be involved. The Department has scheduled the training to occur September 26, 2012. The consultants for the administrators identified in this finding have committed to send staff members to the training. Finally, the Department will strengthen monitoring processes related to procurement.

FINDING 2

Review of the multifamily portfolio report indicated there are numerous projects that are out of compliance with the HOME Program requirements as identified in the 2009 Monitoring Report.

Response

The Department is providing an update on the multifamily portfolio as Attachment A.

FINDING 3

The state has not established a minimum rent contribution.

Response

The Department has established a minimum rent contribution. TDHCA's current processes require that each tenant provides at least 10% of their monthly adjusted income as a minimum rent contribution, which is an acceptable standard according to HUD's technical assistance guide Building HOME Chapter 7. The requirement is implemented through the Department's household set-up procedures and has been in place for several years. To further support this requirement, the 2012 proposed HOME rules codify the minimum tenant contribution requirement. The rules are currently out for public comment and are anticipated to be presented to the TDHCA Board for final approval at the October 9, 2012 Governing Board Meeting.

FINDING 4

The owner-occupied rehabilitation file for [REDACTED] was reviewed. This project is a 'reconstruct' and at the time of the monitoring was under construction. Review of the file noted the following discrepancies.

A) The actual bid amount for the above project could not be determined and cost reasonableness could not be verified. B) The staff cost estimate in the file was not signed or dated by the person completing the estimate and the estimated cost of the project, as broken out by trades, exactly totaled the state's cap of \$73.00/sq. ft. or \$80,000, whichever is less. The estimate included an estimated demolition cost of \$6,000 plus \$37,000 for unidentified 'miscellaneous costs'.

Response

The Department has completed a review and analysis of the circumstances surrounding this bid award and has provided documentation, including the final bid documents, relative to the cost-reasonableness of this project (Attachment B).

The Department's processes in the HOME Program require a building contractor's bid to be provided at project set-up and will accept either preliminary or final bid documents. The initial budget set-up is separate from the procurement of a builder, which allows for bidding to occur only on those households approved for assistance. In all cases, projects are properly bid prior to execution of a construction contract.

The documentation related to the [REDACTED] household that was reviewed during the monitoring visit included preliminary bid documents. It should be noted that the home was not under construction at the time of the review. The final bid was awarded prior to execution of the construction contract for an amount that was less than the maximum allowable for HOME HRA assistance, as is often the case with HOME assistance. Following construction completion and approval of contractor draws, a Grant Agreement or loan reduction occurs to reflect final construction costs. This process ensures that there is sufficient funding approved at project set-up to complete assistance and prevents unnecessary amendments and additional closing costs. The controls in place to provide reasonable assurance that project costs are eligible, reasonable, and necessary include the Department's draw processes including a draw workbook that includes itemized, final costs. Administrators may not request disbursement of funds for eligible costs incurred until the funds are needed for payment of eligible costs in accordance with the HOME requirements.

Beginning in November 2012, the Department will begin to require administrators to submit final bid documents prior to reimbursement of the first draw request. Additionally, the Department has developed training that focuses on developing work write-up, cost estimating, and inspection skills, particularly for rehabilitation activities.

FINDING 5

For the above [REDACTED] file and other files, there was no or insufficient documentation that: A) all trade contractors and/or all subcontractors, as applicable, were cleared through GSA's Excluded Parties List System (EPLS) under both their business or 'doing business as' (D/B/A) names and under the individual names of the owners and/or all other principals associated with the business names.

Response

The Department reviewed GSA's debarment records for all contractors and subcontractors that worked on the City of Paris' activities and found that none of these contractors and subcontractors were listed as suspended or debarred (Attachment C).

The Department has procedures in place to ensure that funds are not awarded to any person that has been debarred, suspended, proposed for debarment, or placed on ineligibility status by HUD and/or the Department including consultants hired to assist in any aspect relative to HOME activities. The requirement is applied at application for HOME funds, is included in the contract executed by HOME administrators, and is monitored by the Department's Asset Management and Analysis Division. Evidence of compliance is maintained in administrator files. Further, the Department provides regular training to administrators that include a discussion of the EPLS requirement.

Regarding lien waivers, the Department requires that every interim and final construction draw include a notarized Lien Waiver Affidavit that is executed by the contractor and subcontractor. The lien waiver total must correspond to the amount of HOME funds approved in the draw request. When submitting a draw request, administrators provide a certification stating that under penalty of perjury neither General Contractor, nor any agent of General Contractor, has been served with any notice, written or oral, that a lien will be claimed for any unpaid amount for materials delivered, labor performed, services provided, or materials provided in connection with the construction of the property and no basis exists for the filing of any mechanic's or materialman's liens. This process provides protection to homeowners from liens or claims of nonpayment by contractors, subcontractors, trade contractors, and any other party affiliated with the construction activities.

FINDING 6

The state is not correctly calculating the after-rehabilitation value of owner-occupied units that are reconstructed.

Response

TDHCA HOME rules found in 10 TAC Chapter 53, Subchapters A-H are currently under revision. One of the proposed changes to the HOME rule is a provision requiring appraisals when rehabilitation or homebuyer assistance is provided with HOME funds. Appraisals are necessary to establish that the post rehabilitated value of a property assisted with HOME funds is less than the per unit limitation established under section 221(d)(3)(ii) of the National Affordable Housing Act. After the public comment period, the proposed rules go to TDHCA Board for approval on October 9, 2012.

CONCERN 1

The PR-25 Report indicated that from FYs 2005 through 2012, the state has numerous open contracts with state recipients and/or sub-recipients (SUs). There are undistributed funds available from allocations dating to 2005.

Response

TDHCA agrees there are numerous open contracts and is striving to increase expenditure rates. The Department will take actions necessary to get projects completed, funds drawn, push to close

contracts, and will reallocate funds when necessary. As stated in the monitoring report, HUD recognized that TDHCA has committed/expended all remaining FY 2005 HOME funds.

The Technical Assistance and Contract Performance Procedures under the HOME Single Family Program were recently revised to contain provisions to ensure state recipients and sub-recipients perform in accordance with the performance benchmarks found in the HOME Contract Performance Statements. TDHCA Performance Specialists send reminder letters, schedule conference calls and provide one on one technical assistance regarding contract progress throughout the contract. Failure to meet deadlines and benchmarks results in de-obligation of any uncommitted or unexpended funds.

CONCERN 2

The state **has not met** its statutory cumulative CHDO Reservation (CR) requirement.

Response

The Department is aware of the current unreserved balance of CHDO funds and is proactive in its efforts to expend these funds. The Department only allows a reservation of CHDO funds at the time that a *bona fide* project is identified and approved for funding. This means that a commitment of the funds to a specific project occurs at the same time as the reservation and expenditure of funds should begin shortly thereafter. Due to the liability that might occur for any expenditure of HOME funds, the Department does not allow reservations without *bona fide* projects. This is one primary reason for the unreserved balances.

In an effort to identify and commit funds to CHDO projects, we have increased the amount available per project under our current CHDO Set-Aside. This change is expected to generate new interest in CHDO funds due to the associated increase in projects that become financially viable with the increase in allowable funding. The Department is also in the process of amending the rules associated with multifamily development and in some cases rolling back additional restrictions beyond those federally required. These changes are also expected to generate additional interest in CHDO funds. To the extent that additional measures are necessary to commit and expend CHDO funds prior to the upcoming deadlines, the Department is committed to proactively identifying solutions.

TDHCA has a technical assistance/training session scheduled for September 25, 2012 to encourage additional applicants and provide technical assistance to current CHDOs.

CONCERN 3

The state has a significant amount of CHDO Operating (CO) and CHDO Reserve (CR) funds that remain uncommitted and/or undisbursed.

Response

TDHCA rules contain specific benchmarks for contract performance, as well as extension limitations and departmental remedies when the benchmark is not met, including deobligation of funding. For all HOME activities, provisions that determine contract performance deadlines are located at 10 TAC §53.25 (c) and will be carried over in the revised rules as well:

(c) Contract Award Benchmarks. All Contract Administrators must submit to the Department complete Project setup information for the Commitment of Funds of all contractually required Households in accordance with the requirements herein within twelve (12) months from the effective date of the Contract. All remaining funds will be automatically deobligated and returned to the Department unless an amendment has been requested in writing prior to this date and is approved.

CONCERN 4

No program income has been receipted in IDIS by the state in FYs 2011 and 2012.

Response

The State received program income totaling \$3,460,474.37 in FY 2011 and \$4,686,259.69 in 2012. The Uniform Statewide Accounting System (USAS) maintains the current appropriation year and 2 previous years. Since loans were originated in prior years, PI is recorded in the oldest appropriation year open in USAS. Therefore, FY 2011 and 2012 PI were recorded in grant years 2009 and 2010 in IDIS.

CONCERN 5

As provided on the enclosed **PR48 – Open Activities Report**, there still are numerous activities for which: 1) final draws have been made but the project completion data has not been entered; and, 2) activities that have been funded in FY 2012 and prior FYs, for which no draws have been made.

Response

TDHCA has implemented processes to closely track the progress of administrators. Processes used by the Department include performance benchmarks, time limits for activity completion in written agreements, and time limits for the final draw of funds. Additionally, each HOME administrator has an assigned Performance Specialist who monitors the progress of contracts. The Department's HOME program is a reimbursement program and staff work diligently with administrators to submit timely draws. Reasons for delays in reimbursement are varied and include activities using leveraged funding sources, local staff turnover, and delinquent submission of audits to the Department. HOME funds are crucial part of the overall housing plan in many communities; the absence of HOME funding would result in hundreds of Texans statewide continuing to live in substandard housing conditions each year.

As it relates to multifamily contracts and as discussed with HOME staff, the Department recently implemented a table funding process that was intended to increase the Department's expenditure rate. Given that rental projects typically can take longer than a year to complete construction and lease up, the Department is revising that process to avoid infrequent draws while still ensuring timely completion of activities.

CONCERN 6

During our review of the procurement solicitations undertaken by the state recipients it was noted that in several instances grant administrator awards were made where only one response to the original solicitation was received. The files reviewed did not contain any information on any additional outreach that was conducted to ensure that adequate competition took place after the initial solicitations were made. It was also noted that the solicitations that were made for grant administrators did not contain sufficient detail with respect to program scope for a respondent to provide a detailed response. The

solicitations lacked information on the anticipated number of units to be undertaken and the projected period of performance.

Response

The Department agrees training is needed to improve compliance with state and federal procurement requirements. The Department understands the importance of training and is encouraging both new and experienced administrators to attend procurement training. Training topics include debarment requirements, procurement solicitations, ensuring sufficient responses to Requests for Proposals (RSPs) and program scopes. Training & Development Associates (TDA) is leading the procurement sessions which are scheduled for September 26, 2012. The Department will also incorporate procurement topics into future training opportunities for administrators.

9

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation and Discussion of the Status of Prior Audit Issues.

REPORT ITEM

Internal Audit tracks prior audit issues from both internal and external auditing or monitoring reports. These issues are followed up and cleared as time allows.

BACKGROUND

Of the 30 prior audit issues:

- 19 issues were reported by management as “implemented” and are reflected on the attached list. These will be verified and closed by internal audit once we have reviewed the supporting documentation. Of these:
 - 15 are for the Neighborhood Stabilization Program (NSP),
 - 2 are for the Community Affairs Division,
 - 1 is for the Financial Administration Division, and
 - 1 is for the Compliance Division.
- 11 issues are “pending” and are reflected on the attached list. Internal audit will verify and close these issues once they are reported as “implemented.” Of these:
 - 2 are for the Neighborhood Stabilization Program (NSP),
 - 4 are for the Homeless Housing and Services Program, and
 - 5 are for the HOME Multifamily Program.

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: There are no formal timing requirements or goals in place for loan closing. Based on workload estimates provided by NSP management, there is not enough staff to close all the loans by the August 31, 2011 initial closing deadline.

NSP has four staff for loan closers. However, two have additional responsibilities apart from closing loans. It is possible to process a homebuyer loan in 45 working days (or nine weeks) from underwriting to closure. This includes the 30 days required by legal for loan document preparation and review. In the private sector, it takes approximately two weeks to process a homebuyer loan and full-time loan processors can complete ten to fifteen closings each month. It is important to note that non-homebuyer transactions can be more complex and may require more time and effort for the loan processor. To assess the feasibility of meeting the August 31, 2011 deadline, we considered different staffing scenarios for processing the estimated 400 loans and concluded that it is highly unlikely that NSP will be able to meet the deadline with the current staffing level.

If NSP is unable to close the estimated number of loans by August 31, 2011, homebuyers awaiting closings could be without housing or incur additional expense in finding a temporary place to live.

Recommendation: The Department should re-evaluate the resources of the NSP and reallocate staff as necessary to ensure that there are an adequate number of loan closers to complete the anticipated influx of closings. In addition, NSP should redistribute responsibilities to ensure that employees who conduct homebuyer loan closings can focus primarily on that task.

Management Response: Management concurs and has re-allocated staff resources in order to ensure that homebuyer transactions are processed timely. Management will monitor workflow and as bottlenecks are forecast and identified, adjust resources to focus on the portion of the closing effort that is affected.

Target Implementation Date: 01/19/12

Actual Implementation Date: 01/19/12

Action for this finding was previously reported as implemented on August 17, 2011, but there had not been sufficient transactions to clear the item in the January, 2012 report.

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: Key support, such as contracts and environmental clearance certifications, are often missing from the loan files when NSP forwards the files to legal. NSP Loan Closing Specialists attach a "Request for Preparation of Loan Documents and Closing Instructions" form to loan files provided to legal. The form provides general information on the files' contents. We compared the NSP form to the documentation that legal needs for homebuyer loan preparation. The form did not include many of the items needed by legal, including subgrantee contract information, indication of environmental clearance, and indication that the purchase discount was satisfied or waived.

NSP has been largely focused on productivity. High production appears to have an impact on the quality of work. The risk of error is heightened by the lack of mitigating controls such as formalized policies and procedures.

The responsibility for ensuring the accuracy of the information in the files lies with the NSP. If information in the loan file is not correct and the error is not caught by legal, inaccurate or incomplete homebuyer loans could be closed and funded, NSP money could fund non-compliant transactions, or NSP may unknowingly report incorrect information to HUD.

Recommendation: NSP should:

- enhance quality assurance reviews on the front end of the homebuyer loan closing process to ensure that issues are caught and corrected before files are sent to legal, and
- amend the "Request for Preparation of Loan Document and Closing Instructions" form to include a comments section and checkboxes to indicate the file includes all of the items required by legal in order to prepare homebuyer loan documents.

Management Response: Management concurs. Management will ensure the standardization of documentation to be reviewed by Legal Services and existing checklists will be reevaluated and revised in coordination with Legal Services to ensure that files are complete for each transaction. The clarifications now being finalized will clearly delineate the documents that will be required (to enable subgrantees to gather them), the review to be performed by Legal Services, and the programmatic reviews that will be performed by NSP and/or Program Services.

Target Implementation Date: 02/29/12

Actual Implementation Date: 10/15/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: Although not required by HUD, the Department's NOFA set a minimum NSP contract amount of \$500,000 plus \$25,000 in administration fees for a total contract of \$525,000. However, of the 48 randomly selected contract files tested, one original contract was written for less than \$525,000. The NSP NOFA states that "In order to avoid allocating small amounts of funding that can have no meaningful impact on stabilizing of property values, the minimum award amount to an eligible entity cannot be less than \$500,000, excluding administration cost."

Although the Texas Administrative Code for NSP allows the Department to issue a waiver of certain contract terms required in the 2009 NSP NOFA, the stricter requirements of the NOFA may have deterred potential subgrantees from applying for grant funds and could have resulted in fewer areas served by the NSP.

Recommendation: The Department should abide by the NOFA to ensure the subgrantees understand the Department's intent and that all subgrantees are offered an equal opportunity to participate under the same set of rules.

Management Response: Management concurs and will ensure that any future subgrantee abides by the requirements of the applicable NOFA.

Target Implementation Date: 02/29/12

Actual Implementation Date: 01/19/12

The NSP1 NOFA, which included the \$525,000 minimum award, is no longer valid, and no further awards will be made under that authority. The current NSP1-PI NOFA, which allows access to the NSP Reservation System, does not include a minimum award amount.

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Pending

Finding: NSP does not have an established mechanism in place to track key elements of the program including contract milestone thresholds, cumulative budget transfer amounts, and homebuyer loan files.

Although the NSP Technical Guide states that the Department will evaluate compliance with contractual obligations to ensure progress toward meeting benchmarks. NSP is not consistently tracking the subgrantee's milestones. Subgrantees are not always meeting their milestones. HUD requires grantees to obligate and expend funds in an expeditious manner and HUD has imposed a deadline for expending grant funds. In one instance, the subgrantee should have expended 30% (\$600,000) of its demolition obligation by May 31, 2010 and 30% (\$153,397) of its purchase and rehabilitation obligation by August 31, 2010. As of January 10, 2011, all the contract activities entered into the Housing Contract System for this subgrantee are still in pending status. The subgrantee has not drawn any funds to support meeting the 30% expended funds. This is significant because if the NSP fails to expend the grant funds within the established timelines, the funds will be recaptured by HUD, the subgrantees' geographic area will not be served, and the Department may not achieve the program objectives. NSP is also not formally tracking incremental budget transfers. The NSP contract with subgrantees indicates that there is a 10% budget transfer ceiling. Transfers above 10% require an amendment or written authorization from the Department. Transfers above 25% require approval of the Department's governing board. When the cumulative amount of budget transfers is not monitored, program specialists and management may not identify incremental budget transfers that exceed the allowable limits and may neglect to obtain the appropriate level of approval.

There is no centralized mechanism to track the progression of homebuyer loans through the inter-divisional, multi-step closing process.

NSP does not have a system or report that captures the entire population of NSP transactions. No single resource can be used to determine the status of the program or to review complete information about a specific transaction.

If NSP does not sufficiently monitor these key elements, there is an increased risk that the program may not stay on track and that the program objectives will not be completely achieved. Missed milestones could result in the loss of funding. Budget transfers could exceed the 10% ceiling, which may prevent the amendment from receiving approval as required. Homebuyer loan files could fall through the crack and result in delayed closings or unnecessary re-work.

Recommendation: NSP should:

- establish a system for tracking key program elements,
- ensure grant funds are expended within the program guidelines and within the program timeframe, and
- monitor contract milestone thresholds, cumulative budget transfer amounts, and the status of homebuyer loan files

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Management Response: Management concurs. Management will establish a system for tracking key program elements and formally incorporate the procedures into an SOP by May 31, 2011 in order to better track subrecipient performance and compliance.

Management will prepare a budget transfer reconciliation report for the May 2011 TDHCA Board meeting and request, if necessary, authorization for any already identified transfers at that meeting and will establish a more uniform process to manage cumulative budget transfers by May 31, 2011.

Status: Management has not yet reported this recommendation as implemented.

Target Implementation Date: 01/31/12

Actual Implementation Date: N/A

Recommendation Age (in days): 244

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: NSP does not have detailed policies and procedures. The limited number of written policies and procedures NSP does have are all in draft form and have not been formally communicated to staff including SOPs for contract amendment requests, draw requests, set-up requests, contract administration, mortgage loan financing, home buyer assistance loans, and obtaining credit reports.

Without finalizing and formally communicating policies and procedures to the NSP staff, staff may not be performing their job duties as intended by management. NSP management's finalization of the policies are necessary to ensure that all program specialists are performing their duties in accordance with standardized instructions, that program specialists perform their duties consistently and effectively, and that risks are mitigated.

Recommendation: NSP management should finalize, communicate, and monitor compliance with the program's written policies and procedures.

Management Response: Management concurs. Management will reevaluate the four existing draft SOPs, edit or create new SOPs as appropriate and finalize and communicate the SOPs to staff by May 30, 2011. Management will provide training on the SOPs for staff once they have been finalized. Management will establish a process for periodic sampling and testing to ensure compliance with written policies and procedures by August 31, 2011.

Target Implementation Date: 01/31/12

Actual Implementation Date: 01/18/12

The NSP SOPs were finalized on August 17, 2011.

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: The Department may not be reporting accurate information to HUD. There were discrepancies in the total budgeted amounts recorded in the Department's Housing Contract System and the budgeted amounts recorded in the DRGR system. Of the 52 contracts that we compared in both the DRGR and Housing Contract System, differences were noted in 26 contracts (50.0%). Four contracts had differences of \$1 million or more. One contract differed by more than \$5 million. Two contracts were entered into the DRGR system but were not in the Housing Contract System and one contract was entered into the Housing Contract System but was not in DRGR. Overall, there was a total difference of \$2,313,071 more in the DRGR system than in the Housing Contract System.

HUD requires each grantee to report on its NSP funds using the DRGR system. HUD uses grantee reports to monitor for anomalies or performance problems that suggest fraud, waste, and abuse of funds and to reconcile budgets, obligations, fund draws and expenditures.

A reconciliation of the data in the DRGR system, the Housing Contract System, and the contract file does not occur on a regular basis. Only two reconciliations were performed as of November 25, 2010. Both were performed in connection with an external audit by HUD. However, in both of these reconciliations, the data was not reconciled in aggregate at the program level, only at the individual contract level. Without regular reconciliations, contract information in the Department's Housing Contract System will not be consistent with HUD's DRGR system or with the hard copy files.

The program manager is responsible for submitting program reports to HUD using the DRGR system. The program manager is also responsible for entering contract budget corrections into both DRGR and the Department's Housing Contract System. Ideally, these functions should be separated. When one person has the ability to enter data into the Housing Contract System and DRGR, there is a higher risk that data entry errors go undetected. Regular and routine reconciliations should identify data entry errors.

Lack of regular reconciliations may prevent management from having accurate performance information available for decision-making and for reporting to HUD. A regular reconciliation process ensures that data is accurate and that unauthorized changes have not occurred.

Recommendation: NSP should perform regular and routine reconciliations between the data in the Housing Contract System, the data in the DRGR system and the hard copy files. At a minimum, these reconciliations should include:

- reviewing source documents,
- verifying the accuracy and recording of the transactions in the Housing Contract System,
- identifying and resolving any discrepancies in a timely manner,

Texas Department of Housing and Community Affairs

Detailed Audit Findings

- documenting the performance of reconciliations,
- reviewing the reconciliations to ensure they are performed and any discrepancies are resolved, and
- ensuring the individual performing the reconciliation does not also enter data into either of the data systems being reconciled or have the ability to process transactions.

Management Response: Management concurs. Program Services staff is currently in the process of reconciling the contract system with DRGR, and the responsibility for completing HUD reporting from the DRGR system is being assigned to a staff member in Program Services. A full reconciliation is anticipated to be complete by April 30, 2011. Management will review existing draft SOPs to edit or create a new SOP to ensure that a process exists for the two systems to be reconciled on a monthly basis thereafter; associated SOPs will be finalized by May 30, 2011.

Target Implementation Date: 03/31/12
Actual Implementation Date: 03/20/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion. **Recommendation Age (in days):** N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: The contract status in the Housing Contract System does not always reflect the actual status of the contract. We randomly selected a sample of 48 NSP contracts for testing purposes. The status of 18 of the 48 (37.5%) contracts reviewed in the Housing Contract System (and using the hard copy contract files) was inaccurate. The status should be classified as "pending", "active", "closed", or "terminated for cause" depending on the situation.

We found that of the 18 inaccurately classified contracts:

- Ten contracts expired on November 30, 2010. According to NSP management, amendments are in process. These contracts should be classified as "pending amendment" or "inactive" but were still labeled "active".
- Four files were labeled as "closed" but there was no formal documentation scanned in the Housing Contract System to support closing the project.
- Two files were labeled "terminated for cause" but should be "closed".
- One file labeled "active" should be "closed".
- One contract was not yet entered into the Housing Contract System; therefore no status was available.

The status in the Housing Contract System should agree to the actual status of the contract. When triggering events such as contract expiration or contract termination occur, the status in the Housing Contract System should be revised and the correct classification should be used. Documentation supporting the triggering event should also be entered into the Housing Contract System.

NSP staff does not always update the Housing Contract System when triggering events occurred such as contract expiration or voluntary termination. As a result, program managers who use the data in the contract file and the Housing Contract System for decision-making may not be relying on the correct data.

Recommendation: NSP should ensure that the contract status in the Housing Contract System accurately reflects the status of the contract.

Management Response: Management concurs. Management will review and amend existing draft SOPs regarding contract status in the Housing Contract System to ensure that a clear procedure exists for timely and accurate updates to HCS and implement a monthly review as part of the monthly reconciliation process discussed as part of response to recommendation 2A.

Target Implementation Date: 01/17/12

Actual Implementation Date: 04/17/12

Texas Department of Housing and Community Affairs

Detailed Audit Findings

The NSP Setups and Draws SOP was amended to include verification of contract status prior to approval of draws and activity setups. The amended SOP was effective 3/20/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion. **Recommendation Age (in days):** N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: Data in the Housing Contract System is often unavailable. Documents supporting the contract setups and draws, and the actual amendments themselves were not always present in the Housing Contract System. For instance, imaged documents for the budget amendments were not available in the Housing Contract System for 17 of 28 (60.7%) sub-recipient contracts reviewed. As a result, accounting and other program personnel periodically have to track down documentation supporting executed amendments on a case-by-case basis.

Supporting documentation for setups was not available in the Housing Contract System. Examples of setup documents that were unavailable include:

- 26 of 48 files (54.2%) did not include evidence of review, (of these 26 files, 21 were TDRA files), and
- 5 of 48 files (10.4%) did not include contract termination documents, although the contracts were (or should have been) terminated.

The draft NSP procedures require that supporting documentation be entered into the Housing Contract System. Expecting program staff and other Department staff to track down documentation that should be available in the Housing contract System is time consuming and inefficient. As a result, users of the Housing Contract System may rely on incorrect data because the information in the system is incomplete or unavailable.

Recommendation: NSP should:

- ensure that all supporting documentation is submitted by both the Department and TDRA and available in the Housing Contract System, and
- finalize, communicate, and enforce the procedures that require supporting documentation to be entered into the Housing Contract System.

Management Response: Management concurs. Management will review and edit existing SOPs or create new SOPs to ensure that all required supporting documentation is submitted and available in the Housing Contract System. All checklists will be reviewed and edited, as necessary, to facilitate the process and provide clear understanding of the required documentation. Associated SOPs and checklists will be finalized and communicated to staff and subgrantees by May 31, 2011.

Target Implementation Date: 01/31/12

Actual Implementation Date: 03/20/12

Management will establish a process for periodic sampling and testing of the Housing Contract System by August 31, 2011 to ensure that all required supporting documentation is present.

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: NSP does not maintain a listing, outside of the Housing Contract System, of the addresses and/or household names that were used to obligate the NSP funds by the September 3, 2010, deadline for obligations. NSP relies on the information in the Housing Contract System to record obligations. However, the Housing Contract System is constantly in flux and does not maintain a complete historical record of information. Therefore, we were unable to determine accurately the original population of awards obligated by the September 3, 2010, deadline. Because we could not determine the obligation population, we could not confirm compliance with the HUD requirements.

The Housing and Recovery Act of 2008 requires grantees to use NSP funds within 18 months of when HUD signed its NSP grant agreement. For the Department, the 18-month period ended September 3, 2010. Funds are considered used when they are obligated by a grantee. HUD requirements include ensuring each obligation can be linked to a specific address. The obligation of each eligible use must be further evidenced by a specific event. For example, acquisition and landbank costs are considered obligated when the seller has accepted the purchase offer. Demolition costs can be reported as obligated when the subrecipient awards a demolition contract. A subrecipient's rehabilitation costs can be recorded as obligated when a construction contract is awarded for a specific property. To test the evidence of obligation, the population of obligations must first be identified. Because a listing of addresses and/or household names was not maintained outside of the Housing Contract System, the population of obligations could not be easily determined.

Recommendation: NSP should ensure that the Department has documentation in place to support the obligation information reported to HUD.

Management Response: Management concurs. Management has charged Program Services with the responsibility for re-evaluating and reconciling documentation provided to recertify the obligations made as of the obligation deadline by April 30, 2011.

Target Implementation Date: 03/01/12

Actual Implementation Date: 04/15/12

NSP staff has extracted copies of all obligation documents from the Housing Contract System, and saved them to an accessible network file. A summary spreadsheet describing the obligation documents and amounts is also in the file.

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 04/08/2011

Current Status: Implemented – Not Verified

Finding: The checklists used by NSP staff to process draw requests do not have enough detail to guide NSP staff on how to process these draws. There is not a checklist for every draw type, staff do not always use the checklists consistently, and the checklists are not always signed by staff. Use of NSPs draw request checklists could be improved to ensure they provide clear and detailed guidance to NSP team members. NSP developed checklists to guide subgrantees in submitting their draw requests and to serve as a reference for NSP staff as they process draws. The checklists are supposed to cite the required supporting documentation and list any verifications the NSP staff must make prior to approving a draw. The draw request checklists do not outline the specific items that NSP staff should verify within the supporting documents. The checklists also do not reference the requirements or criteria against which the requests and support should be reviewed. NSP needs a checklist for every draw type. NSP has four checklists in place to handle six types of draws. As a result, subgrantees and NSP staff do not have clear guidance as to what documents and benchmarks are required.

NSP and TDRA staff should complete the draw checklists consistently. Of the 77 judgmentally selected draws tested, 40 (51.9%) did not have completed checklists, and 16 (20.8%) checklists were not signed by the program specialist. The draft NSP procedure related to draws states that if the electronic setup is acceptable, then the program specialist will complete the draw request checklist. Without the signature of the program specialist affirming their review of the supporting documentation for the draw, NSP may be unable to determine if the supporting documentation was reviewed for accuracy and allowability prior to the approval of the draw by the program specialist. The use of checklists continually reminds staff of the job requirements. It is a systematic way to make sure the activities are completed correctly and provides written documentation to support this assertion.

Recommendation: NSP should improve the use of draw checklists by:

- modifying checklists to accurately document the draw requirements,
- developing comprehensive checklists for all draw types, and
- ensuring that all draw checklists are completed correctly.

Management Response: Management concurs. Management will re-evaluate and edit checklists as necessary to be specific for each of the following draw types: Administrative, Activity Delivery, Closing and Construction Draws.

Target Implementation Date: 01/23/12

Actual Implementation Date: 01/23/12

The revised checklists will be implemented by March 31, 2011, and staff will continue to provide training and technical assistance to subgrantees in person and via webinar.

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: A Follow-up Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 01/31/2012

Current Status: Implemented – Not Verified

Finding: NSP loan files do not always include title insurance policies, which indicate that the subrecipient has clear title to the property. Of 161 properties reviewed, documentation of a title insurance policy was not available in the electronic or hard copy file for nine (5.6%) of the properties. Because NSP does not have documentation of the title insurance policy for these properties, the Department does not have assurance that the title to the property was clear when acquired by the subrecipient.

The title is the collective ownership records of a piece of property. A clear line of title makes the property owner less vulnerable to ownership claims from other parties and to any outstanding debts of the previous property owners. Title insurance policies protect the property buyer against losses arising from problems with the property title that are unknown when the property is purchased. The title insurance policy will indicate whether all liens against the property have been satisfied.

Recommendation: NSP should obtain and maintain a copy of the property's title insurance policy and ensure the policy indicates that any outstanding debts against the property have been satisfied.

Management Response: The NSP Loan Processing SOP was amended on 3/20/12 to add tracking and review for receipt of Title Policies.

Target Implementation Date: 02/29/12

Actual Implementation Date: 03/20/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: A Follow-up Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 01/31/2012

Current Status: Implemented – Not Verified

Finding: The loan repayment date listed in the general agreement between the Department and the subrecipient does not always agree with the loan documentation for a specific property or group of properties. For example, a promissory note stated that the subrecipient's loan repayment date was August 31, 2011, while the amended NSP agreement indicated that the subrecipient's loan repayment date was July 1, 2012 - almost one year later. As a result, the subrecipient appears to be delinquent in the Department's Loan Servicing System, although their NSP agreement was extended. If the subrecipient appears delinquent in their repayment to the Department it could impact their other funding opportunities with the Department.

Recommendation: NSP should ensure that the property loan documents are consistent with the NSP agreement between the Department and the subrecipient.

Management Response: The NSP Contract Amendment SOP has been amended to add review of loan documents for potential impact of the Contract Amendment as part of the documentation maintenance process.

Target Implementation Date: 02/29/12

Actual Implementation Date: 03/20/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: A Follow-up Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 01/31/2012

Current Status: Implemented – Not Verified

Finding: NSP did not always obtain documentation that the deed to a property was properly recorded. We tested files related to 161 NSP properties. Documentation demonstrating the property deed was recorded was not available for twenty-one (13.0%) of 161 properties reviewed. Failing to record the deed increases the risk that someone else may have a higher priority claim to the property.

A deed should be recorded in the appropriate county to indicate that ownership has been transferred from the grantor to the grantee. Although the Texas Property Code does not require that a property deed be recorded, recording a property deed publicly indicates who owns the property. The first person who records the deed, (as evidenced by the stamp on the deed and filing at the county's property records office), and does not have notice of any other deeds relating to the property, holds legal title to the property.

Recommendation: NSP should obtain and maintain documentation indicating that the deed to each property has been properly recorded and that the subrecipient is listed on the recorded deed as the grantee.

Management Response: The NSP Loan Processing SOP was amended on March 20, 2012, to include tracking and review for copies of recorded Warranty Deeds. A request was made to Legal Services on March 16, 2012 to add a requirement to closing instructions that copies of the recorded Warranty Deeds be required as part of the documents to be returned to TDHCA.

Target Implementation Date: 02/29/12

Actual Implementation Date: 03/20/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: A Follow-up Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 01/31/2012

Current Status: Implemented – Not Verified

Finding: NSP is not providing timely information to HUD as required. HUD requires NSP to report program performance to HUD on a quarterly basis using HUD's DRGR system. The reports contain both current and historical information and are due to HUD no later than thirty days after the completion of the quarter. The most recent report submitted to HUD was for the fourth quarter of 2010. Accurate performance information is critical to stakeholders who use it for decision-making purposes. HUD requires regular reporting to ensure it receives sufficient management information to follow up promptly if a grantee lags in implementation and is at risk of recapture of grant funds. HUD also uses these reports to determine compliance with federal regulations and to identify and prevent fraud, waste and abuse.

Recommendation: NSP should provide HUD with required information on a timely basis and continue to submit past due reports.

Management Response: The 1st Quarter 2012 QPR was submitted to HUD in advance of the April 30, 2012 due date, on April 26, 2012

Target Implementation Date: 04/30/12

Actual Implementation Date: 04/26/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: A Follow-up Audit of the Neighborhood Stabilization Program

Division: Neighborhood Stabilization Program

Report Date: 01/31/2012

Current Status: Implemented – Not Verified

Finding: Section 3 of the Housing and Urban Development Act of 1968 requires the Department and its subgrantees to give priority consideration in awarding jobs, training and contracting opportunities to low- and very-low income persons who live in the community in which the funds are spent. HUD requires that grant recipients report cumulative Section 3 activities within their jurisdiction on an annual basis. The Department collects Section 3 data from the subrecipients using the Subrecipient Activity Reports and then reports the Section 3 data to HUD annually as required. However, NSP does not verify the accuracy of the data reported by its subrecipients.

Recommendation: NSP should verify the Section 3 data reported by the subrecipients.

Management Response: The Monitoring and Compliance Division is including Section 3 for current quarter risk assessment and monitoring.

Target Implementation Date: 02/29/12

Actual Implementation Date: 04/09/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the HOME Multifamily Program

Division: Multifamily Allocation Division

Report Date: 05/16/2012

Current Status: Pending

Finding: HOME Multifamily does not always process draws within five to ten business days as required by the HOME Performance Management Standard Operating Procedure. Five (14.3%) of the 35 judgmentally selected project draws and six (20.7%) of the 29 judgmentally selected CHDO operating draws were not processed within 10 business days. The longest processing time noted for these draws was 24 business days for project draws and 16 business days for CHDO operating draws.

Recommendation: The Department should ensure that draws are processed within the timeframe required by HOME Multifamily.

Management Response: Staff concurs with the recommendation and will ensure that draws are processed within the timeframe required. Management notes that part of the resolution to this finding may include amending the process to include a more realistic timeframe for draw completion; draw processing for multifamily is often more time-consuming because of factors related to the final construction inspection and because of the complexity and volume of the invoices submitted.

Target Implementation Date: 05/31/12

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 281

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the HOME Multifamily Program

Division: Multifamily Allocation Division

Report Date: 05/16/2012

Current Status: Pending

Finding: The HOME Multifamily Standard Operating Procedures (SOP) for Application Intake and Award Process; Contract Generation; Setups, Disbursements, and Loan Closings; and Performance Management are not finalized as of January 27, 2012.

The Application Intake and Award Process; Contract Generation; Setups Disbursements, and Loan Closings; and Performance Management SOPs are not signed or dated.

Furthermore, the Application Intake and Award Process and Contract Generation SOPs do not have an effective date indicated and the Application Intake and Award Process additionally has comments and corrections throughout.

Recommendation: The Department Should finalize, sign, date and distribute the HOME Performance Management policies and procedures.

The Department should ensure that policies and procedures are finalized, signed and dated, and distributed to the Department's staff.

The Department should ensure that the HOME Multifamily policies and procedures are finalized, signed, dated and distributed to the Department's staff.

Management Response: Staff will also ensure that the appropriate processes for Performance Management will be finalized, signed and dated.

Target Implementation Date: 05/31/12

All existing HOME procedures are under review and management is committed to finalizing and signing SOPs by the end of May. All of the information contained in this audit will be considered as modifications are made to the SOPs.

Actual Implementation Date: N/A

As stated above, existing HOME procedures are under review and management is committed to finalizing and signing SOPs by the end of May.

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 281

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the HOME Multifamily Program

Division: Multifamily Allocation Division

Report Date: 05/16/2012

Current Status: Pending

Finding: The supporting documentation for the draws was not always available or did not always adequately support draws for both the project draws and the CHDO operating draws we tested. The HOME Program Specialists use draw checklists which are contained in the HOME Access database to review the requests and the supporting documentation, and to approve or disapprove the draw request. We tested a judgmentally selected sample of 35 project draws and found that 18 (51.4%) did not have adequate or complete supporting documentation available in the Housing Contract System, the HOME Program electronic files, or the hard copy file. We also tested 29 CHDO operating draws and found that 23 (79.3%) did not have sufficient supporting documentation available in the Housing Contract System, hardcopy contract files, or the HOME Program's electronic files as required.

Recommendation: The Department should:

- ensure that draw requests are not approved until all items required by the draw checklist are verified, and
- ensure that draw documentation is sufficient to adequately support costs.

Management Response: Internal Audit's recommendations speak to ensuring adequate support for costs paid. Although this supporting documentation may come in multiple forms due to the limited Federal guidance simply requiring that CHDO draw support prove CHDO costs are "necessary and reasonable," staff will work to ensure that a timesheet, paystub or other appropriate documentation of pay (at the determination of division management) is included with every CHDO draw that is claiming staff time as a cost. Checklists will be updated as necessary, the SOP will be revised to provide further clarity and management will continue to work to make sure that program guidelines are consistently applied by all staff processing draws.

Target Implementation Date: 05/31/12

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 281

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the HOME Multifamily Program

Division: Multifamily Allocation Division

Report Date: 05/16/2012

Current Status: Pending

Finding: There were two of eighteen contracts (13.3%) that had contract start and end dates in the Housing Contract System which did not agree with the effective dates and the termination dates of the executed contracts. One contract was listed in the Housing Contract System to start and end 6 days earlier than the executed contract, and one contract was listed to start and end 2 days later than the executed contract.

Recommendation: The Department should ensure that contract information is accurately entered into the Housing Contract System during contract setup.

Management Response: Management understands, and fully agrees with, the importance of accuracy of information input in the Housing Contract System. An additional step will be added to the current procedure to confirm the contract system data against the actual executed contract.

Target Implementation Date: 05/31/12

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 281

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the HOME Multifamily Program

Division: Multifamily Allocation Division

Report Date: 05/16/2012

Current Status: Pending

Finding: HOME Multifamily is not always tracking contract amendments or maintaining supporting documentation for amendments. We judgmentally selected a sample of 15 amended contracts from an incomplete population of 37 amended contracts which were amended from September 1, 2010 to February 1, 2012. Amended contracts were sampled rather than individual amendments because the complete population of amendments for HOME Multifamily contracts could not be determined. We were unable to determine the complete population of amendments because this information has not been consistently tracked.

Recommendation: The Department should ensure that all amendments are tracked and the supporting documentation is maintained as required.

Management Response: The Multifamily Finance Division is currently building a pipeline management database in Microsoft Access to track and manage all multifamily programs. The amendments will be tracked in this new system, which is expected to be implemented in the fall. In the meantime, staff will track all multifamily Contract amendments in a spreadsheet. Additionally, documentation of the amendment request will be saved in the Division's electronic files.

Target Implementation Date: 05/31/12

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 281

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: HUD On-Site Monitoring of Homelessness Prevention and Rapid Re-Housing Program **Division:** Community Affairs Division

Report Date: 08/16/2011

Current Status: Implemented –Not Verified

Finding: Of the 9 recipients that were monitored, only five monitored letters had been completed and mailed to the subrecipients. The first three monitoring visits exceeded the 45 day deadline by an average of 71 days. Subsequent monitoring letters took approximately 2 additional weeks to be finalized.

(Note: This issue was listed as a concern in the HUD monitoring report. However, Community Services - CSBG had a prior audit finding (PAI #44) from 6/11/2008 that also identified monitoring reports being submitted late. Due to the new concern from the HUD report we closed PAI #44 and elevated HUD's concern to a finding which will be tracked and followed up on by Internal Audit.)

Recommendation: Management should review its standard and if necessary make adjustments to the monitoring review time.

Management Response: Management has reviewed the 45-day response period and remains committed to the timely release of monitoring reports. The implementation of a new program, combined with new regulations, as well as new staff members contributed to the delays in issuing reports within 45 days. Management will continue to assess the timeline and make adjustments to the 45 day period if staff is unable to meet the 45 day deadline.

Target Implementation Date: 10/31/11

Actual Implementation Date: 12/31/11

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: DOE Financial Management and Administration Monitoring Report

Division: Community Affairs Division

Report Date: 3/1/2012

Current Status: Implemented – Not Verified

Finding: In the course of this review it was noted that labor categories presented against Annual funds were consistent; however, the time being charged was substantially inconsistent with the approved budget. Specifically, the charges reviewed were approximately 63 percent below the approved budgeted personnel costs. The degree of inconsistency is extreme in comparison to other WAP grant recipients who presented lower than estimated payroll expenditures. The Project Officer's Technical Monitoring Report also noted this issue.

When this issue was discussed with the Grantee, they stated that it is anticipated that labor charges will become more in line as there are more expenditures to the grant as described in the "Uncosted Balances" section of this report, which shows the remaining balance of the Annual grant as \$8,653,924.44.

Recommendation: TDHCA should submit a Corrective Action Plan within 60 days of receipt of this report that illustrates a path forward to expend the remaining uncosted balances and distribute spending more consistently across both WAP grants, considering the ramping down of the ARRA award, throughout the remaining grant period.

Management Response: During the ARRA weatherization grant period, Texas Subrecipients produced ARRA units at an unprecedented rate. The Department charged costs at a rate that was in proportion to the amount of activity observed through monitoring at the Subrecipient level and the amount of staff time spent supporting the grant. The Department has already experienced an increase in formula grant activity at the Subrecipient level. As the Department successfully winds down the ARRA grant, we expect that weatherization activity for the formula grant will return to its pre-ARRA level. In turn, Department staff will spend more time and resources supporting the grant, expending all grant funds by the end of the grant period. Under regular operation of our program, the Department will always strive to expend 100% of grant funds in accordance with Department of Energy requirements within the grant period.

Target Implementation Date: 03/31/13

Actual Implementation Date: 7/24/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: KPMG 2010 Statewide Single Audit

Division: Financial Administration Division

Report Date: 2/29/2012

Current Status: Implemented –Not Verified

Finding: The Texas Department of Housing and Community Affairs (TDHCA) used a modified direct cost methodology to receive cost reimbursement under their Federal awards for select agency wide type expenses. The modified direct cost methodology allocates expenses among various federal programs based on full time employees (FTEs) assigned to each respective federal program. The modified direct cost methodology has not been submitted to their cognizant agent for approval. Therefore, these expenses should have been allocated to the various federal programs based on their approved Indirect Cost Rate Agreement dated August 24, 2011. The approved rate is 43% with a base of direct salaries.

For one specific sample item, the agency wide type expense was for disaster recovery information technology issues. TDHCA prepared an analysis of the allocation based on the Indirect Cost Rate Agreement as compared to their modified direct cost methodology. The variances between federal programs were less than \$1,000 per program. The total drawn from the federal programs was less than the 43% that would have been allowable under the Indirect Cost Rate Agreement. Therefore there are no questioned costs.

Recommendation: TDHCA should seek approval for their modified direct cost methodology or use the approved Indirect Cost Rate Agreement.

Management Response: The Department will review its methodology for allocating agency wide type expenses and will either seek approval for continued use of the modified direct cost methodology or use the approved Indirect Cost Rate Agreement. Using the approved Indirect Cost Rate Agreement for all agency wide type expenses will ensure that draws are consistent with the approved rate.

Target Implementation Date: 08/31/12

Actual Implementation Date: 08/31/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: KPMG 2010 Statewide Single Audit

Division: Compliance Division

Report Date: 2/29/2012

Current Status: Implemented –Not Verified

Finding: The HUD 60002 Report for NSP was submitted timely for the fiscal year ending January 31, 2011. However, no supporting documentation was maintained to verify the completeness and accuracy of the amounts being reported.

Recommendation: TDHCA should maintain documentation to support the HUD 60002 Reports filed.

Management Response: TDHCA Compliance and Monitoring Division is drafting a monitoring plan and tool for review and verification of Section 3 data submitted by all subgrantees. It is anticipated that data provided for the 2011 Program Year Section 3 report will be subject to monitoring in accordance with Compliance and Asset Monitoring's established protocols.

Target Implementation Date: 07/24/12

Actual Implementation Date: 08/15/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: KPMG 2010 Statewide Single Audit

Division: Neighborhood Stabilization Program

Report Date: 2/29/2012

Current Status: Implemented – Not Verified

Finding: Per review of the DRGR system, the September 30, 2010 report was the only Quarterly Performance Report (QPR) that was submitted for NSP as of September 2011. It was submitted approximately one hundred ninety-five days late and subsequently rejected awaiting modifications. All other required DRGR reports for NSP had not been submitted as of September 2011; therefore, none of these reports could be tested for completeness and accuracy.

Recommendation: TDHCA should establish a process for filing the required NSP reports.

Management Response: The Texas Department of Housing and Community Affairs (TDHCA), as the state agency charged with administration of the Neighborhood Stabilization Program (NSP) in Texas, is required to file quarterly progress reports (QPRs and each a QPR) with the US Department of Housing and Urban Development (HUD). At the outset of NSP TDHCA failed to organize and staff to be able to file QPRs on a proper timely basis. Efforts to utilize non-NSP staff to assist in addressing QPR requirements were not successful, and in August 2011 TDHCA hired an NSP Information Specialist to assume responsibility for the QPRs. The NSP Information Specialist has received the training on the HUD systems used to file QPRs and on the requirements of NSP. It is necessary to submit QPRs in sequential order and to have each QPR accepted by HUD before filing the next QPR. Since the effective date of the audit TDHCA has submitted, received requests for corrections, corrected, and resubmitted successfully its QPR for 3rd quarter 2010, 4th quarter 2010, and 1st quarter 2011. TDHCA has submitted its QPR for the 2nd quarter of 2011 and is awaiting HUD approval. The 3rd quarter QPR is ready to submit as soon as 2nd quarter is approved. The 4th quarter QPR is due January 31, 2012. TDHCA believes, assuming no unanticipated issues are raised in the HUD review process, it will be current on its QPR filings by February 2012 and that it will be able to remain current. Due to HUD review and approval timing, it is anticipated that the 1st quarter, 2012 report will be timely submitted on or before April 30, 2012. Throughout this process HUD staff has been kept apprised on a current basis. Because the corrective work has continued into fiscal year 2012, it is anticipated this will, however, be a recurring finding in that year.

Target Implementation Date: 07/24/12

Actual Implementation Date: 07/24/12

Status: Management reports that this recommendation has been implemented. Internal Audit has not yet verified this assertion.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Homeless Housing and Services Program

Division: Community Affairs Division

Report Date: 8/17/2012

Current Status: Pending

Finding: Funds for two (25.0%) of the eight subrecipients were not paid in accordance with their contracts.

Recommendation: The Department should ensure that draws comply with the subrecipient contracts prior to payment.

Management Response: The Department acknowledges the need to improve oversight of the draw management process. The Department is currently exploring the feasibility of adding expenditure limit validations into the contract system. These validations would not allow Subrecipients to request amounts over the maximum allowed by contract requirements.

Target Implementation Date: 09/15/12

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 94

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Homeless Housing and Services Program

Division: Community Affairs Division

Report Date: 8/17/2012

Current Status: Pending

Finding: The Department does not have a process in place to ensure subrecipients comply with the matching funds requirement outlined in the subrecipient contracts. For the eight subrecipients there were a total of 18 contract amendments that impacted the contract budget. Six (33.3%) of the 18 resulted in an increase in the final allocation, which meant that the matching funds requirements should have also increased. However, none of these six contract amendments included an increase to the matching funds required by the contracts.

Recommendation: The Department should develop a process to ensure that subrecipients comply with the matching funds requirement in their contract. The matching funds requirement should be adjusted when contract amendments are made which result in an increase in the final contract amount.

Management Response: The Department acknowledges that adjustments to the match requirements in the contracts were not sufficiently adjusted. Future HHSP contracts will not include a match requirement as the governing statute does not include language regarding match, as the original rider did. Staff assures that in the future contract requirements, for match or otherwise, will be more thoroughly tracked.

Target Implementation Date: 09/15/12

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 94

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Homeless Housing and Services Program

Division: Community Affairs Division

Report Date: 8/17/2012

Current Status: Pending

Finding: There are 49 HHSP services in the subrecipient contracts which subrecipients agreed to provide to a targeted number of clients. The HHSP Monthly Performance Report tracks all performance metrics for 27 (55.1%) HHSP services, some but not all performance metrics for 19 (38.8%) HHSP services, and does not track any performance metrics for three (6.1%) HHSP services.

Recommendation: The Department should ensure that the performance metrics reported by the subrecipient accurately measure the subrecipients' progress towards meeting the goal outlined in their contracts.

Management Response: The Department acknowledges the need to improve oversight in this area. In future contracts, the Performance Measures exhibit to the contract will include items that more consistently reflect the metrics to be achieved, and monthly reporting will include submission relating to all contract measures. Further, the contracts will include benchmarks setting the rate at which Subrecipients must meet their performance targets; if not successfully achieved, deobligation will be considered. Finally, the Monthly Performance Report will track items that more consistently reflect the metrics included in the contract.

Target Implementation Date: 09/15/12

Actual Implementation Date: N/A

The CAD Planning Section will review progress to meeting the benchmarks on a quarterly basis to ensure that benchmarks are adhered to. If review shows that a Subrecipient is consistently unable to satisfy contract requirements regarding benchmarks, the Subrecipient will be required to submit a plan of action to meet the benchmarks and follow through with that plan.

This effort to ensure metrics accurately measure progress toward goals outlined in their contracts is already underway and manifest in the HHSP rules. This will also be reflected in the final version of future HHSP contracts.

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): 94

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: An Internal Audit of the Homeless Housing and Services Program

Division: Compliance Division

Report Date: 8/17/2012

Current Status: Pending

Finding: The Department does not have effective monitoring procedures in place to predict, identify, and prevent weaknesses at the subrecipient level. The monitoring instrument does not capture information on many of the requirements in the subrecipients contracts. In addition, the Department has not monitored three of the eight subrecipients and the other five were monitored only once since 2010.

Recommendation: The Department should improve its monitoring procedures and periodically monitor all of the subrecipients to ensure compliance with their contracts.

Management Response: The Department's Compliance Division is responsible for monitoring the HHSP program. The Compliance Division understands that the Department has yet to formally adopt specific rules on the administration of the HHSP program. Currently, the Department has a general HHSP rule (Section 5.1003) that provides an overview of the intent of the program. The HHSP program is currently funded through GR, HTF and BMIR funds. The multiple sources of funds require the Compliance Division take into account specific requirements from each of the GR, BMIR and HTF funds. The Compliance Division intends on utilizing the BMIR requirements and HTF funding source requirements (in addition to Rule 5.1003), to develop a monitoring instrument that will ensure program funds are expended in accordance with the contract provisions and applicable State and Federal rules, regulations, policies, and related Statutes.

Target Implementation Date: 02/28/13

Actual Implementation Date: N/A

The Compliance Division intends on completing the HHSP Monitoring Instrument by September 31, 2012 and intends on performing a desk monitoring or an on-site monitoring of all HHSP entities, between October 2012 and February 2013.

Until the Department is able to adopt the HHSP rules, the Compliance Division will utilize the monitoring instrument to determine the effectiveness of the subrecipient's performance and program compliance.

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): N/A

Texas Department of Housing and Community Affairs

Detailed Audit Findings

Report Name: HUD-OIG NSP Report

Division: Neighborhood Stabilization Program

Report Date: 8/22/2012

Current Status: Pending

Finding: The Department did not always comply with Neighborhood Stabilization Program Requirements.

The Department did not adequately manage its NSP1 obligations by not maintaining sufficient records to support obligations reported to HUD. Federal regulations required the Department to establish and maintain sufficient records to support that it complied with requirements. Based on a review of a statistical sample of obligations, the Department did not have valid contracts or other obligating documentation for \$631,402 in reported obligations. Also, it entered into agreements with subrecipients that did not complete their activities, resulting in \$8,767 of unsupported costs. Further, more than \$24.7 million of its reported obligations did not match the subrecipient agreements. In addition, the Department did not report its progress to HUD in a timely manner as required and did not appear to be on track to spend funds by the statutory deadline. These conditions occurred because the Department did not allocate enough resources or establish the effective controls to operate its program. Therefore, the Department did not effectively and efficiently implement its planned program and incurred questioned obligations and costs totaling more than \$25 million.

Recommendation: (1G) Monitor the Department's progress toward meeting its March 2, 2013, expenditure deadline and follow up on any delays.

Management Response: No response indicated by management.

Target Implementation Date: 03/02/13

Actual Implementation Date: N/A

Status: Management has not yet reported this recommendation as implemented.

Recommendation Age (in days): N/A

10

BOARD REPORT ITEM

INTERNAL AUDIT

JANUARY 17, 2013

Presentation and Discussion of the Status of the Fraud Hotline and Fraud, Waste or Abuse Complaints.

REPORT ITEM

The Internal Audit Division has received 32 complaints of fraud, waste or abuse in fiscal year 2013 (as of 1/4/2013.)

BACKGROUND

In fiscal year 2013, internal audit received 32 fraud complaints. Of these:

- 24 calls were received on our hotline:
 - 3 were related to the Department's programs or staff:
 - Manufactured Housing -Two
 - Compliance - One
 - 21 were related to other agency's or housing authority's programs. These callers were referred to the appropriate agency for assistance.
- 8 complaints were received from other sources. These complaints included:
 - Tax Credits - 4 (3 of which were referred to Compliance)
 - Compliance - 1
 - Weatherization/CEAP - 1
 - Disaster Recovery - 1
 - Multiple Programs - 1

The sources for these complaints were:

- SAO Hotline - 2
- TDHCA Staff - 2
- Public - 2
- Sub-Recipient - 1
- Media - 1
- 22 of the 32 complaints (68.8%) were not under the Department's jurisdiction.
- Resolution of the 10 TDHCA complaints:
 - Unsubstantiated - 1
 - Pending - 6
 - Referred to SAO and/or other oversight agencies - 3