TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AUDIT COMMITTEE MEETING

12:35 p.m.
Tuesday,
July 29, 2003

Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas

COMMITTEE MEMBERS:

VIDAL GONZALEZ, Chairman
ELIZABETH ANDERSON
KENT CONINE

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
BILL DALLY, Chief of Agency Administration
DAVID GAINES, Director, Audit of Internal Audit
RUTH CEDILLO
BROOKE BOSTON, Director, Multi-Family Production
SUZANNE PHILLIPS, Director, Portfolio Management and Compliance Division
SANDY MAURO
RACHAEL COHEN
EDDIE FARISS, Director, Community Affairs Division

A G E N D A

P R O C E E D I N G S

MR. GONZALEZ: We'll call the Audit Committee meeting to order and we'll have our -- prior to our roll call, we do have a letter from Kent Conine.

MR. CONINE: Not from me.

MR. GONZALEZ: Excuse me, from Mike Jones, recognizing Kent Conine as being appointed as an alternate member of the Audit Committee of the Texas Department of Housing, effective of this date, July 28, 2003.

We'll go through the roll call. Vidal Gonzalez, chair, is present. Beth Anderson?

MS. ANDERSON: Here.

MR. GONZALEZ: Shad Bogany, absent. Kent Conine?

MR. CONINE: Here.

MR. GONZALEZ: Okay. We have three members present and one absent.

Okay. At this point, we'll solicit public comment.

(No response.)

MR. GONZALEZ: Okay. If there's not any public comment, then we'll go on to action item number 1. That's the presentation, discussion, and possible approval of minutes of the audit committee.

MS. ANDERSON: Mr. Chairman, I move approval of the minutes.

MR. GONZALEZ: We have a motion. Do we have a second?

(No response.)

MR. GONZALEZ: All those in favor, aye?

(A chorus of ayes.)

MR. GONZALEZ: Opposed?

MR. CONINE: I'll abstain.

MR. GONZALEZ: Motion carries, with Kent abstaining.

Now, we'll go to report item number 2 and this is a presentation and discussion of the HOME program. At this point, I'd like to call on Mr. David Gaines.

MR. GAINES: Thank you, Chairman. David Gaines, Director of Internal Audit, for the record. Good morning, committee members, Ms. Carrington.

MR. CONINE: Good afternoon.

MR. GAINES: Good afternoon. Glad you could join us today, Mr. Conine.

MR. CONINE: I'm excited to be here, Mr. Gaines.

MR. GAINES: If you will, please, behind tab A is the first report item that we have, and this is the status of the HUD prior audit issues relating to the HOME program, including issues relating to the Texas State

Affordable Housing Corporation. David Long, the vice president of the organization is here in the audience today, should we have any questions for him, and we appreciate David being here today. Thank you, David.

The prior information being provided to you today consists of the last two formal communications between HUD and the department. Since these letters, the department's also visited with HUD in person in Fort Worth and, I believe, over the phone, as of yesterday. Suzanne Phillips, the Director of the Portfolio Management and Compliance Division, is in the audience today -- she's right here next to me today -- and to the extent there's any updates to the written documentation I have, pursuant to a meeting last week and a phone call yesterday, Suzanne will provide that information.

So if you will, first, I just want to point out the HUD letters. The first letter in your materials is dated June 20, 2003. This is a response to a department letter dated April 2003. While there's been a series of communications that have transpired since the original audit, November 1, and the date of these letters, I believe these two most recent communications provide a good overview of the current status of the HUD-related issues and the status of the required corrective actions taken to date.

The second letter in your book, of course immediately following the HUD letter -- the second letter in the materials is the department's response, dated July 15, to the HUD letter you were just referred to. And this includes a summary of the HUD findings, a summary of the required and corrective actions, and the department's updated response to HUD, and I believe the second letter provides the most comprehensive overview of where we're currently at. So that will be the letter I'll be focusing on for the basis of my discussion.

There were originally eight issues in the letter. Four of these issues have been reported by HUD as being cleared, based on information provided by the department and assurances also provided by the department, and as I walk through the letter, I'm going to focus my discussions on those findings that are still open.

The first finding is a two-part finding and for the sake of simplicity, I'm going to break this out. This is on page 3 of 10 of your letter. Part a of the finding, based on HUD's review in November 2001, concluded that the departments are providing adequate monitoring and oversight of the processing and instruction activities of its recipients -- subrecipients, CHDOs, contractors, developers -- to ensure that they're performing as required by the HOME program rules. The required corrective action requires that the department submit to HUD, for its approval, it's processes and procedures used to monitor and oversee recipients and subrecipients, including subrecipient contracts with lower tiered organizations -- our subrecipients of subrecipients, if you will, subcontractors of the subrecipient.

That specified that the process must include a commitment to provide sufficient construction monitoring of housing sites by qualified persons to ensure that the beneficiaries are receiving the program benefits. The results of the monitoring visits are provided to -- as you see me flip through these pages of italics, those are planned comments that I'm dropping for brevity.

MS. CARRINGTON: Thank you, David.

MR. GAINES: Yes, ma'am. The department's provided HUD the monitoring procedures, processes, referred them to the implementation manual that's provided to the HOME administrators, has referred them to our website that has a library of documents used in our monitoring functions, and this information has been considered by HUD. We further state that the results of the monitoring visits are provided to the recipients and subrecipients, with corrective actions, if applicable.

Follow-up visits are conducted to review and assess the efforts of the recipients and whether they've made corrections to the previously noted deficiencies. If the recipient is unable to resolve the outstanding issues, a determination is made related to the action needed to resolve the issue, and there's a discussion regarding the consequences for failure to resolve non-compliance findings and our concerns. The management's response, again, points HUD to the information that's been provided to provide assurance that the department is providing adequate oversight in the monitoring of the subrecipients.

Suzanne, is there anything you'd like to add to part a of finding 1?

MS. PHILLIPS: Thank you very much. Yes, there is. And before I specifically respond to 1-a, I'd like to provide you with a statement that Katie Worsham provided Ruth and Sandy and myself yesterday, and that based on the response that they've received. And that will be coming to the department in a letter hopefully dated July 31, that HUD believes that TDHCA has made substantial real progress and that we'll really close to closure on all of the findings, and that HUD believes that the department definitely has the capacity to administer the HOME program very well, which is a huge advancement from prior communications where they have stated that they were concerned and would let us know by the 31st whether or not we were going to continue the program.

So they are exceptionally pleased with the progress that we've made. As to the finding 1-a, Ms. Worsham has asked that the department provide them some assurances that we are going to comply and follow the procedures that we've laid out for them, and are going to send us five bullet points for some specific assurances that they're looking for. Ms. Worsham has said that she feels safe to say that our assurances that we'll follow these procedures will be adequate to clear up 1-a. Yahoo!

MR. GAINES: Part b of the finding, HUD concludes that the department's home buyers assistance, owner-occupied housing assistance, and contract for deed conversion programs are not in compliance with the HOME regulations, since there was insufficient or no documentation in the files of the properties assisted with these program activities are in compliance with the state's housing rehabilitation property standards and code and the local code, when applicable.

HUD's corrective action for the department is to submit, to HUD, for approval, the department's processes and procedures for carrying out inspections of construction activities, including at a minimum that certain actions be performed by fully documented project files, by qualified persons. Management referred to the measures described in finding 1-a, those polices and procedures previously conveyed for the processes that the department has in place to ensure that the inspection activities are accomplished by qualified persons, and that assisting housing units meet the required standards.

Management elaborated to that response, in regard to initial, interim, and final inspections, in compliance with procurement procedures, which were reviewed by the department in connection with this monitoring function. Management also spoke of a new monitoring process that includes random selection of recipients for the sample recipients. The department requests that inspector qualification certifications, a request for bid packages and procurement procedure documentation, be submitted to the department for review as a method of quality assurance.

Pursuant to a HUD letter dated February 2003, that's not in your materials, the department also provided a list of returned surveys regarding a simplified housing checklist that was sent to 1,112 households as directed by HUD, to determine if the house met required standards at the time the activity was completed, when the HOME funds were spent. For each household that was submitting that claim, that there house was not in compliance, the department is to conduct an onsite inspection, by qualified person, to review the claim, using any available documentation that appears reasonable.

MS. PHILLIPS: On item 1-B, HUD has gotten assurances that the processes that we've laid out, and procedures that we have laid out, are adequate. The question that they put to us is -- when would we be able to complete the inspections. After discussion for quite a few -- 15 minutes, 20 minute conversation -- the -- HUD has agreed to provide the department and TSAHC, a six month window to ascertain the level of compliance with the individual houses that responded to the survey, and will leave it to the department to determine whether repairs should be done, or whether TSAHC should refund the dollars associated with the individual subsidies.

So the six month window that they gave us was very generous. They understood the obstacles that we had encountered in completing the inspections and the level of cooperation that we've gotten from the people whose homes we were dealing with. So we feel real comfortable that 1-b's very well down the line and that we'll be able to clear this adequately within that time frame.

MR. GAINES: To conclude the status of 1-B, of the 1,100 plus surveys sent, the department's received 212 responses. In review of those, it appears that in excess of 60 percent of the recipients didn't have any deficiencies that they identified. Of the remaining, it appears that quite a few of the deficiencies seems to be minor infractions.

MS. PHILLIPS: For instance, a minor would be that a ground fault, a GFI, needed to be installed in a bathroom, or something like that. So they're relatively minor and TSAHC believes they can fix most of these pretty quickly.

MS. ANDERSON: May I ask a question to clarify?

MR. GONZALEZ: Yes.

MS. ANDERSON: So of the 212, if 60 percent of them had not deficiencies, then 40 percent would be about 80, somewhere between 80 and 85 --

MS. PHILLIPS: Yes, ma'am.

MS. ANDERSON: -- that need follow-up action. Is that about the right --

MS. PHILLIPS: And the follow-up action may be as simple as to contact them to make sure that the warranty work that was done --

MS. ANDERSON: Right.

MS. PHILLIPS: -- was done well and that if there's repairs that need to be completed, that TSAHC completes those repairs. In most of the instances, the people responded and were very happy with the results, or if they had problems, that they were quickly resolved at closing or prior to closing. So we think there's probably a percentage of that 80 that TSAHC will need to address.

MS. ANDERSON: Okay.

MS. PHILLIPS: A small percentage of the 80.

MR. GONZALEZ: Excuse me. David, we've got real good documentation on some of this. So in the essence of time, maybe if we can just touch on the major points and the major findings --

MR. GAINES: Okay.

MR. GONZALEZ: -- just so that we may be here all night.

MR. GAINES: Sure. I've got -- the next finding, finding number 2 -- it's on page 6 of 10 -- relates to a third party lender, HOME, Incorporated, that contracted with the Texas State Affordable Housing Corporation. The issue relates to an instance where the contractor received payment for uncompleted work. There was an additional 27 households that received services from HOME, Inc. HUD is wanting the department to gain satisfaction that these recipients were adequately satisfied.

MS. PHILLIPS: On that particular one, we've narrowed the group down considerably and, basically, we've gotten an agreement with HUD and have transmitted that to TSAHC, that the funds will either be repaid on the individual houses that don't meet the appropriate standards or the repairs will be done.

MS. ANDERSON: And how many active units are we talking about, if it's some subset of 27?

MR. GAINES: Of the information we have to date, the department's reported that eight of 27 units have been inspected to date, that two of the home buyers indicated they didn't have any problems with their homes; and of the remaining 17 beneficiaries, there's been numerous attempts to contact those beneficiaries.

MS. PHILLIPS: And of those 17, we've completed four or five more.

MS. MAURO: There's only 13.

MS. CARRINGTON: Thirteen left?

MS. MAURO: Uh-huh.

MS. CARRINGTON: Thank you, Sandy.

MR. GAINES: So that's progress since July 15.

MS. ANDERSON: Okay. So we started with 27 and we've got 13 we're still -- and of the 14, what action -- I mean, can you tell me what happened on the 14?

MS. PHILLIPS: In some of the instances, the condition of the homes went from poor to deplorable; and my expectation is that we'll disallow the cost associated with those homes and ask for repayment. As a separate matter, the department will consider how best to assist those families.

MS. ANDERSON: All right.

MS. PHILLIPS: We've discussed with HUD that maybe the best type of assistance to those families won't be HOME funds. It might be boot-strap. It might be another program that will individually assess and pass to production, or to any of our subrecipients in those areas that can assist these families that really need some help with those few houses that are left.

MS. ANDERSON: I've gotten some very troubling, sad letters.

MS. PHILLIPS: Oh, and I totally agree.

MS. ANDERSON: I'm sure you read them every day --

MS. PHILLIPS: Yes.

MS. ANDERSON: -- but it's very troubling.

MS. PHILLIPS: Yes, ma'am.

MR. CONINE: Can you explain the relationship, if there is one, between TSAHC and HOME, Inc.?

MR. GAINES: There was a contracted relationship between --

MS. PHILLIPS: HOME, Inc., was a Title I provider and they were going to do renovations of the homes. TSAHC was doing an interest buy-down, down payment assistance type of loan with these contractors. HOME, Inc., went bankrupt in the middle of some of the construction and the homes were not finished. Some were finished in a very, very poor manner. Some were not addressed. There were some bounced checks and it was a pretty bad situation.

MR. CONINE: Okay.

MR. GAINES: Finding 3's been resolved, so if you'll turn to finding 4, page 8 of 10. It lists 14 contract for deed conversions, identified by HUD, of which three were vacant lots. The department has reimbursed HUD for these three vacant lots. Of the remaining eleven properties, HUD wants the department to assess whether those property owners, home owners, have been satisfied, again, and is requiring that the department conduct an inspection of the eleven remaining houses identified.

To date, we've -- well, as of July 15, we've completed one inspection and four of the beneficiaries were contacted that did not identify any problems with their homes, so a total of five contacted, four were satisfied. The one inspection that we did do did not pass inspection. Accordingly, the department's concluded that this is an example where the cost would be questioned and refund will be requested from TSAHC.

MS. PHILLIPS: This was a $2 million contract that was terminated after about $150,000 were expended on the contract. There was a basic structural problem with the program in that there was down payment assistance and no renovation of the homes, and the HOME program requires that anytime funds are invested in the project, or in a house, that the house be brought up to a certain standard. I think there's six left out of that group that we'll disallow, or question the costs to a repayment of money back from TSAHC, or an opportunity to take those houses back up to a good standard.

MR. CONINE: Were there more than 14 properties -- in that particular grant, the $2 million grant and $150,000 expended, were there more than 14 properties that TSAHC had gone out to do contract for deed or just only 14?

MS. PHILLIPS: Only 14.

MR. CONINE: Okay.

MS. PHILLIPS: And of the -- there were three vacant lots that they paid the money back on; a couple of them, we've inspected, or the people have said that they were okay, and the remaining ones are the ones that will either have to be brought up or repaid.

And again, the decision would have to be made as a separate matter, and we've had to work really hard with HUD to get to this point, that we would clear the finding; and then after that finding was cleared, associated with the amount of subsidy, either repaid or the house brought up to a level, that then the department or TSAHC would determine how to assist those families that were left with substandard homes, whether we would use state funds or fed funds, but --

MS. ANDERSON: So we clear the HUD finding first?

MS. PHILLIPS: Yes, ma'am. And by either paying the money back or TSAHC bringing the houses up to standard, and then, as a separate matter, dealing with the individuals that were served. So, again, we might not necessarily -- TSAHC might not necessarily -- use HUD funds to do that. So it would be up to us to determine how to assist those families after the findings cleared.

MR. CONINE: What's TSAHC saying about all this nice stuff?

MS. PHILLIPS: They're being very cooperative.

MR. CONINE: Okay. I would imagine so. All right. So the process is here to get the HUD thing done first, get HUD taken care of, then, between us and TSAHC, get the families taken care of, and then, ultimately, us and TSAHC will square up?

MS. PHILLIPS: Yes, sir, because, for instance, there might be $1,500 invested in one of the houses and that down payment money would be paid back to HUD. They would be finished, and then we can deal with the beneficiaries.

MS. ANDERSON: I understand that's the way it's envisioned to go. What I don't understand -- maybe David can help me understand a little better -- why that's the sequence? Why, when, you know, we have a case for our subrecipient, you know, either through one of their subcontractors or whatever, failed to act, didn't follow program rules, I don't understand why we're settling with HUD before we're settling with TSAHC, David?

MS. PHILLIPS: Well, actually, the way that we would be settling with HUD is by settling with TSAHC.

MS. ANDERSON: David?

MR. GAINES: And the department would work with TSAHC, or maybe vice versa, to try to satisfy, where they could, on a particular property. In instances where they weren't able to bring that up to standard, for whatever reason, we would question the costs; we'd be reimbursed to the department; HUD would be satisfied, and then, as a separate matter, determine how to best satisfy that home owner so they aren't living in unacceptable conditions.

MS. ANDERSON: Right.

MR. GAINES: And I believe, talking with management, that strategy came about because we felt that was the easiest way to satisfy HUD's current claims. In essence, it's going to be easier to question those costs, recover them, and then determine how to best satisfy that home owner.

MS. ANDERSON: Okay.

MR. CONINE: Did we forgive all eleven properties home owners' debt to the state? Is that what I'm reading here in this letter?

MS. PHILLIPS: Yes, that's the ultimate --

MR. CONINE: So any of the 150 grand, we just say, forget it?

MS. PHILLIPS: To TSAHC?

MR. CONINE: Yes.

MS. PHILLIPS: No, sir, absolutely not. That is any debt that the home owner may have to the state.

MR. CONINE: Right.

MS. PHILLIPS: So they would not owe us back for work that was not sufficient, or for down payment assistance that was provided to a house that was not of a good quality, but, no, that does not mean that we would forgive that money to TSAHC.

MR. CONINE: It sounds like we were kind of for 14, but -- okay.

MR. GAINES: Findings five, six, and seven have been cleared by HUD based on various assurances provided by the department and/or information that the department's provided. Finding number eight is on page 9 of 10 and this is a two-part finding also.

The first part relates to the lack of documentation that newly constructed single family and multi-family units are in compliance with the current edition of the model energy code. Of the 269 units in question, the department has notified HUD that 154 have been certified as in compliance, leaving a remaining balance of 111.

Although the department's tried to encourage HUD to accept that, along with standards for construction that are imposed on the developers, that should be sufficient to satisfy that claim. HUD continues to insist that the remaining 115 units be certified as in compliance. I believe this is an area that continues to be a huge challenge for the department and I'm not sure we have a strategy in place on how to deal with it.

MS. PHILLIPS: There's 115 houses that the files do not contain a statutorily required document that states that the houses were constructed using energy efficient appliances, windows, doors, that the R factors involved in the building weren't documented. Because this is a statutorily required document, HUD is stating that that document has to be in the file. In other words, when a house was constructed, a new constructed house, there has to be a piece of paper that certifies that it is energy efficient, period. So I know TSAHC has spent the last six months to a year documenting the 100 and --

MR. GAINES: 54.

MS. PHILLIPS: -- 50 some odd houses, but the remaining 111 they've been unable to do. HUD has given the department a six month window to complete gathering those certifications, and to the extent that TSAHC is unable to document and pull those certifications in, the cost would be disallowed, associated with those units.

MS. ANDERSON: Ms. Phillips, do you have a sense of what the magnitude of that potential liability would be?

MS. PHILLIPS: Up to somewhere between $300,000 and $500,000, we believe. We're going to have to go to the individual houses that haven't been documented and see what federal subsidy went into the individual houses, and just run a total. I tried to do a mental calculation yesterday and came up with 300. Someone else did the calculation and came up to 500. So, you know, we'd just have to do that math on it.

MS. ANDERSON: Okay.

MR. CONINE: You're saying these are individual single family homes and not an apartment complex in Weslaco?

MS. PHILLIPS: Yes. That's 8-b.

MR. CONINE: That's b? Okay.

MS. PHILLIPS: 8-a --

MR. CONINE: So these are scattered sites, all over the state?

MS. PHILLIPS: Yes, sir.

MR. CONINE: And if we're lucky, they might know who the builder was?

MS. PHILLIPS: Most of them are located in the Colonia region in the Valley. I think we may have some that are in the Waco area, outside of that area. So it is pretty much a statewide. They're individually constructed, multiple builders, multiple inspectors. I know, in one case, there was an inspector who did a large number who's passed away and his wife's disposed of all of his records. So the records of his inspection and of the plans and specs for those houses are not available.

MR. CONINE: How many years back are we going here?

MS. PHILLIPS: 1998.

MS. ANDERSON: So is one way to get certification done to reinspect?

MS. PHILLIPS: Well, no, because you'd have to go in and tear out dry wall to see what kind of --

MS. ANDERSON: What's in there?

MS. PHILLIPS: Yes. So it's --

MS. ANDERSON: Okay.

MS. PHILLIPS: It's very difficult.

MR. CONINE: You could, but it would be laborious.

MS. ANDERSON: It'd make a big mess.

MR. CONINE: Right, it'd make a mess.

MS. PHILLIPS: And in many instances, the home owners have not exhibited an enthusiasm for participating in inspections and surveys and things like that.

MR. CONINE: Can't imagine that.

MS. PHILLIPS: So when these are newly constructed homes, some of them -- and reportedly from the HUD November inspections, the homes look good. The people were satisfied. It's that piece of paper that's statutorily required that certifies that it meets the energy efficiency requirement.

MR. CONINE: Are most of them in municipalities or are they in counties?

MR. PHILLIPS: It's across the board.

MR. CONINE: All over the map? Because a municipality will have some sort of record on the inspection process?

MS. PHILLIPS: And I know our staff has been on the phone and called everybody that they could consider to call, been on websites, individual builders. As a department, we've exhausted our remedy and any of these findings, any additional work that has to be done related to the findings will be conducted by TSAHC, not the department.

MR. CONINE: And what did they say about that?

MS. PHILLIPS: They're very cooperative.

MR. CONINE: Okay.

MS. ANDERSON: And HUD has given us, verbally or whatever, a six month window to try to sort out the rest of these 115 --

MS. PHILLIPS: Yes, ma'am.

MS. ANDERSON: -- or 111, whatever? So that between now and six months from now, we will get a final accounting of what additional certifications were able to be done, and then the others would be subject to repayment to the department?

MS. PHILLIPS: Yes, ma'am. And we'll have that official notice on July 31.

MS. ANDERSON: Okay.

MS. PHILLIPS: It's been a long, hard --

MR. CONINE: So we're paying twice for something?

MS. PHILLIPS: It's been a difficult journey, and I have to commend the staff that's been working on this. Lucy Trevino, Ralph Hendrickson -- would you all stand up so I don't forget anybody's names, the PMC team?

(No response.)

MS. PHILLIPS: Lucy, Ralph, Betty, Ann, Sandy --

MS. CARRINGTON: Thank you.

MS. PHILLIPS: -- have really -- is that everybody? And Pam -- in the past six months, we've probably put in -- not probably, put in hundreds and hundreds of hours clearing this and getting as far as -- I know I was kind of bummed out when they didn't clear all of the findings, but I feel confident that we'll have them cleared very soon, and that the number of resources and the time that we will spend in this next six month period is going to be limited.

Most of this will be coming out of TSAHC's shop and that we'll be looking for assurances from TSAHC on all of this. To the extent that they elect to do repairs instead of repay, we'll have people in the field there, finding that the work's going to be done and that it's done correctly. TSAHC will probably want to look at some of the surveys and basically make the decision, economically, whether it would be in their interest to repay or to do the work.

Bottom line, for those folks that the work is not brought up to standard, then the department is going to have to do some real serious thinking about how best to do it. Internally, we've been talking about making the list and making them available to subrecipients who have our funds in those areas, suggest that they be available and put on waiting lists, or that TSAHC work with them on their houses.

Once we get the HUD findings cleared, we will focus all of our attention on making sure that the housing of these recipients is safe, sanitary.

MR. GAINES: The second portion of the finding relates to the multi-family property Mr. Conine spoke of. It relates to not being in compliance with Section 504, handicap accessibility requirements. For the sake of brevity, I believe, I heard that this issue was cleared by HUD yesterday?

MS. PHILLIPS: Yes, and part of the issue that was cleared was also -- was several months ago -- was that we're going to independently inspect the new construction HOME projects that have been completed in the state since 1998. There's an RFP in the marketplace on this very day, and we'll be awarding that within the next month, month and a half. So we'll be out in the communities, inspecting all of the HUD funded multi-family, to assure that they were accessible under the 504, and to the extent that they're not, we'll have corrective actions that will bring those units into compliance.

MS. ANDERSON: Mr. Chairman, since we're kind of through the findings on this -- and I want to credit Suzanne and her team members that worked very hard to clear these -- and also, I was wondering if Mr. Long -- who I appreciate him being here today -- wonder if Mr. Long had any comments that he wanted to make on behalf of TSAHC.

MR. LONG: I'd be more than happy to come up and give you some comments, if you would like.

For the record, I guess, I ought to come up and announce who I am. My name's David Long and I'm vice president with Texas State Affordable Housing Corporation.

First, let me just state, I thank David and Suzanne and all her staff, because they have been exceptional. I kind of walked into this thing at TSAHC and said, you have some knowledge of HOME, kind of run with it. And so I've been doing what I can to get it done.

We have been working as a team. They've been exceptional in the efforts and Suzanne does not underestimate her hours and staff time that they've put in. TSAHC has been doing the same thing, trying to get that done.

Our intentions would obviously be to continue working with TDHCA staff, as well as our resources internally, to the best of our ability, to get this stuff resolved. We understand that HUD has a pretty big hammer and we realize that that hammer doesn't -- we don't want it to come down on us or on you all, but we do believe there is a reasonableness test that we need to kind of assess here, and we're trying to get through all that, too.

As Suzanne said, some of this stuff is minor. The inspections that were done, you know, GFI plug -- obviously, we think we can manage to get that resolved. As Suzanne said before, when we go out and look at a reasonableness test. And the reasonableness test says, the property's going to cost us x number of dollars to repair, it might be beneficial just to repay the state, and let the state then work with us to do whatever we need to do to get the home up to speed.

Again, I appreciate you all's patience. We will continue to work as hard as we can to get you all in a position that is obviously satisfactory not only to TDHCA, who we're supposed to respond to, but also so that you all can respond to HUD in a timely manner, as well as sufficient manner, so that they're comfortable in clearing you all's findings.

I'll be more than happy to answer any

questions. As they know, I'm available all the time. If you have any questions, feel free to call me, and I'll be more than happy to continue working with you all along the way to kind of make sure we all get down the road at the same time.

I don't know if that answers your question, Ms. Anderson.

MS. ANDERSON: Yes,

MR. LONG: Okay.

MS. ANDERSON: I appreciate your comments --

MR. LONG: You bet.

MS. ANDERSON: -- and I've heard from people on the staff very nice things about you personally --

MR. LONG: Oh, well, thank you.

MS. ANDERSON: -- and I appreciate you working --

MR. CONINE: Don't believe everything you hear.

MS. ANDERSON: -- with them to continue to --

MR. LONG: I was supposed to see you somewhere else today so --

MS. ANDERSON: That's why he's grumpy.

MR. LONG: I know. He told me. He already forewarned me not to get on his bad side.

MS. ANDERSON: Thank you.

MR. LONG: Thank you very much.

MR. GONZALEZ: Thank you, Mr. Long.
MR. CONINE: Whoa, hold on. Don't leave yet, David.
MR. LONG: You weren't kidding.
MR. CONINE: I know it's not personally your fault here, but obviously there's some management organizational problems that have occurred, or weaknesses that have occurred, within TSAHC here that have caused HUD to write us this letter and go through the whole process. Is there corrective action being taken in TSAHC now for the future?
MR. LONG: The answer to that question is yes. There have been staff changes. We, obviously, are not allowed to apply for any new HOME funds and have not. We have been making whatever efforts internally to ensure that we are following through. Again, with no new HOME funds coming in, whatever additional steps we take right now are just to remedy the problems that we have based on these existing contracts.
The internal mechanism that created these problems, if you will, that actually was done through a mortgage subdivision of the corporation called Texas Star Mortgage, and that entity, really, is no longer functioning at all. So, to answer your question, I guess, the best way to say what was done is to say, yes, it was

eliminated.

MR. CONINE: When was the last batch of HOME funds you received, two years ago?

MR. LONG: Two or three years ago. I don't know the exact date of receipt, but the last one we actually received, we actually received the award and then it was declined, and I have a letter of correspondence from TDHCA, in files, showing that one was never even funded.

And then, we've had the one on the contract for deed that was funded initially for $2 million. No program income, from the standpoint of admin funds, were drawn on it, only the contract funds that staff alluded to, and then it was decided, I think by both parties, that that was probably not the best project to be working on, and it has since been terminated.

The other ones were drawn down, as far as I know, to the extent that they could be, and the last award we've received is probably 2000 -- would be the best of my guess. I think there was a 2000 contract.

MR. CONINE: And did HUD go through all the HOME fund awards that you guys did, or Texas Star did, or did they just do a sample?

MR. LONG: They did a sampling and they did a field sampling. To the best of my knowledge, they've never actually been to our office to look at our files, which is a concern of mine, but I don't think that really resolves the findings. The findings still stand.

MR. CONINE: Is TSAHC kind of looking at the other stuff that HUD didn't look at to see if there may be some similar problems?

MR. LONG: Yes, we've gone through. In fact, like when we did the model energy code stuff, we went through and looked at all the files, to make sure whether or not all the files had the information that was required, all the 200 and some odd files that were there. And we came up with a list of 115 that we didn't have some form of documentation on. That's where we're at now.

The ones that we didn't come up, that we had information on, we went ahead and provided that to the department, and then we've gone out and we've done what they call certification affidavits, to ensure that we -- for those inspectors we were able to contract, we asked them to go back and recertify their information.

And what was supposed to have been done -- and there's, like, a three page inspection form they were supposed to have filled out. And one of the sections on that is two boxes, and one of the boxes said it met model energy code or it didn't meet model energy code, and what we're talking about is one of the boxes not being checked, either box. It's not that they checked it not compliant, that they just didn't check a box.

MR. CONINE: Right.

MR. LONG: And so we've gone back and asked them to certify that through an affidavit, and we've received x number of affidavits back to get us to the 215 that we're at. So, again, Mr. Conine, my comment would be that we're doing everything we can internally to make ensure it doesn't happen further and to ensure that we'll be able to remedy whatever else we have outstanding.

MR. CONINE: Okay. Thanks.

MR. LONG: Uh-huh.

MR. GONZALEZ: Thank you, Mr. Long.

MR. LONG: Thank you.

MR. GONZALEZ: David?

MR. GAINES: Item 2-b.

(Pause.)

MR. GAINES: The agenda actually has a typo on it. It says 2002 annual review. This is the 2003 annual review, if you want to pencil in that correction.

If you'll turn to item 2-b, this is an annual review of the department's performance of duties, defined by memorandum of understanding between the Resolution Trust Corporation and TDHCA, for the department to act as RTC's monitoring and compliance agent, ensuring that owners of the affordable housing disposition program properties satisfy the commitments as defined in the land use restriction agreements.

The review considered staffing, their knowledge regarding the RTC and FDIC affordable housing monitoring compliance requirements, policy implementation and quality control, enforcement, record management, and training for owners and property managers. There's one relatively insignificant recommendation that resulted from this review that I'm not going to even bring up, unless you'd are for me to.

If you will, turn to the third page of the report. I'd just like to read into the record the overall conclusions, which might be refreshing after the last agenda item.

"TDHCA continues to produce exceptional work product. They carry out their obligations under the MOU, ensuring that the owners of the HDP properties meet their commitments as defined in the LURAs. Management's philosophy of maintaining affordable housing for lower income families across the state of Texas is evidenced in the manner that they carry out their monitoring efforts. TDHCA continues to be the benchmark that all other monitoring agencies are compared."

The credit for this positive report goes to the staffing of the portfolio management and compliance division.

MR. GONZALEZ: All right.

MR. GAINES: Item 2-c -- this relates to an onsite monitoring report review of the department's administration of the State Energy Conservation Office, or SECO contract. The monitoring visit was conducted by SECO, which is an office of the Comptroller of Public Accounts. The date of the monitoring review was May 13 and considered the initial contract period beginning May 15, '98 and extensions to that contract through August 31, 2003.

The purpose of the visit was to determine the department's effectiveness in accomplishing the prescribed objectives, as stated in the contract loan agreement for programs funded by SECO, and focused on project administration, financial administration, and equal employment opportunity.

SECO was originally administered through the Housing Trust Fund section of the department. The program provides incremental funding to selected projects through competitive grants to create energy efficiency in low income housing units, by using SECO funding for energy efficient measures, and the SECO dollars require a dollar for dollar match.

Based on the results of the monitoring review, the Comptroller's office issued a letter to the department, dated June 2003, June 25, and concluded that the department's administrative attention to the contractual obligations has been less than satisfactory. The monitoring report and the Comptroller-SECO letter report stated that status reports have not been provided to SECO in a timely fashion, that the reports that have been received did not include the information required by the contract, and the program manager has changed without the Comptroller and SECO approval, as stated in the contract. It also concluded, because of changes in the program managers and administrators, and the lack of familiarity and attention to the program, that communication has been inadequate.

The department was informed that unless these deficiencies are immediately addressed, the Comptroller's office and SECO would continue to withhold future payments for invoices and reimbursements for the department and any future funding under the program. The department responded to the Comptroller's letter, by a letter dated July 2, 2003, that the department has recently undergone reorganization which was effective March 2003, and that the Housing Trust Fund was affected by the reorganization.

Later, it elaborated and said that the SECO funds are now administered by specialized functional areas within the department to provide better assurance that the department is delivering its programs in a most efficient and effective manner. The letter went on and addressed each of the issues brought up by the monitoring report in the Comptroller letter, and management believes that their response to the letter should satisfy the concerns of the Comptroller's office. I'll be glad to discuss each of those, if you'd care for me to.

The letter further discussed the departure of the manager of the Housing Trust Fund, which was a cause of concern for the SECO staff, and just assured the department that the reorganization and the functional areas of the department are committed to provide an appropriate administration of the SECO contract.

Yes, ma'am?

MR. GONZALEZ: Yes, ma'am?

MS. ANDERSON: A couple questions. In that correspondence -- I think you said it's dated July 1?

MR. GAINES: Yes, ma'am.

MS. ANDERSON: Okay. And the SECO site visit was May 14?

MR. GAINES: 13, yes, ma'am.

MS. ANDERSON: Okay. So we had -- am I missing something? Or have we just failed to notify SECO, a funding source, that we have reorganized and that their contact person had changed? Or did we notify them --

MR. GAINES: I believe we actually -- that was one of the issues specifically addressed, and the department informed the Comptroller's office on May 2, and explained -- well, the director left on May 2. Excuse me.

MS. ANDERSON: Okay.

MR. GAINES: And the contractor explained that on May 16, two weeks later, a letter was sent notifying SECO management of the change in project directors. The letter --

MS. ANDERSON: And in between those times, it just so happened that we had a monitoring visit?

MR. GAINES: I'm sorry?

MS. ANDERSON: In between the time that the director left and the time we made notification, the monitoring visit just happened to be between there?

MR. GAINES: (No response.)

MS. ANDERSON: Okay. In this letter of July 1 -- and I would like a copy of the letter.

MR. GAINES: I have a copy of that.

MS. ANDERSON: Great. Who do we indicate in the letter is the accountable person from this agency for the relationship in fiduciary responsibility and everything with SECO?

MR. GAINES: The contact person is the Director of Multi-family Production, Brooke Boston.

MS. ANDERSON: Okay.

MR. CONINE: Could we, like, maybe hear from Brooke on how that dialogue is now going with the SECO staff and where we are, just independently?

MS. BOSTON: Sure. Since the letter was -- since we sent our response letter, we have been contacted by them and are having a meeting next Monday with the Comptroller's office, the Governor's office, and then some TDHCA staff. We're not quite sure exactly what they need to discuss or what needs to be addressed.

We feel like we've satisfied all of their criteria from their letter. A couple items that weren't in their letter, but were part of a conference call that we had with them, also covered the handling of the 2003 SECO application. There, apparently, had been a miscommunication between our staff and theirs.

We believed that they did not need to review the applications until after awards had been made, and then they could review the plans and specs, which we don't even require at this stage. And they, subsequently told us, in this conference call, no, they did want to see all the 2003 applications. So we, immediately, sent them all over, and because of some staff holdups that they have, they aren't even going to be able to review them until the end of August.

So that actually will come up tomorrow, but the SECO awards for HTF are not going to be recommended until September, probably, at the earliest. An additional reason for that is that at this point, we do not have a contract with them for funds for us to commit any money on. The two reasons together keep us from moving forward with an allocation.

The individual on my staff who's been working on this, Emily Weilbaecher, has been very accommodating with them, answers all their questions. You know, I think their comment saying that they haven't received responsive calls from us were pre-reorg. So, you know, I think we're doing everything we can to try and work with them on both the existing contract, as well as trying to get an amendment to it so that we can move forward with the funds for allocations.

MR. CONINE: So in the last six weeks, your gut feel is things are heading in the right direction?

MS. BOSTON: Yes.

MR. CONINE: Okay.

MS. ANDERSON: Brooke, I just lost my train of thought here. Give me, like, five seconds.

(Pause.)

MS. ANDERSON: Oh, I know what it was. So the 2003 -- now, they've asked to see the applications and we've given it? Is that sort of a clean policy change from how they treated these applications in prior years?

MS. BOSTON: I don't know. Unfortunately, the operation of the SECO funds up until the reorg didn't have any kind of an SOP or manual and the SECO staff also seems to be a little unclear about a guide or a process that we needed to follow. So as soon as the reorg took place, Emily, on my staff, immediately got in touch with their staff member in charge of reviews and, you know, said, what do you need to do, whatever you want is what we'll do.

MS. ANDERSON: What did our prior year contract say about them getting to review the applications?

MS. BOSTON: The contracts are pretty silent on it.

MS. ANDERSON: Okay. Do we have a draft contract for 2003 yet?

MS. BOSTON: No. It would just be an amendment to the contract.

MS. ANDERSON: Okay. So --

MS. BOSTON: And they're real brief and we don't have one right now.

MS. ANDERSON: -- would it be in our interest, in negotiating that contract, to try to not have it be so murky? What I think I hear you telling me is -- we have some SECO grants that tax credit deals are tied to, that we're supposed to vote on tomorrow, and I don't know if any of those deals are so dependent on that SECO funding that they're not financially feasible without the funding, and we, theoretically, ought to be going to the next deal on the list.

MS. BOSTON: There are -- I want to say there's two tax credit deals -- and Tom can probably speak to that a little bit more accurately than I could -- but I want to say that there are two that are conditioned on receipt of SECO funds. So definitely explain, we could change --

MS. ANDERSON: So having it nailed down in a contract a little better about when those -- and if they want to review them, we get them over there and they get them back to us timely, we have -- perhaps if we -- although I'm not usually, you know, codifying every last thing, but it sounds like to make sure we're on track in reestablishing the kind of relationship we want with them, we might want to think about some of those terms in the renewal amendment.

MS. BOSTON: And to clarify, we're just trying to get them to do an amendment with us for the applications that we've already gotten in --

MS. ANDERSON: Right.

MS. BOSTON: -- and that they're reviewing.

MS. ANDERSON: Right.

MS. BOSTON: Into the future, we are not going to continue to get SECO funds through the Housing Trust Program. This is the last year. So this amendment, we just --

MS. ANDERSON: Because?

MS. BOSTON: You know, I know --

MS. ANDERSON: I mean, did that source of funding dry up?

MS. BOSTON: No, I know, Bill Dally was -- I know there was a decision made not to request that we have that appropriated. Is that right?

MR. DALLY: Yes, Beth. Bill Dally, Chief of Agency Administration. We made a decision not to request that as part of the Housing Trust Fund in the '04-'05, because, in all honesty, there's been an expenditure problem with getting those funds actually out, because what they will pay for is the incremental amount of energy savings beyond a standard package for multi-family. So it's a small amount for each project and it was taking a long time. And so it didn't seem to be as good a fit, that kind of thing, as, perhaps, in our energy assistance group.

MS. ANDERSON: Okay.

MR. DALLY: So it was some funds that were actually added to the Housing Trust Fund a couple of bienniums ago, when they wanted to kind of move the Housing Trust Fund number up but not use general revenue.

MS. ANDERSON: Okay.

MS. CARRINGTON: It was one of those programs that, I think, when the money was available, we grabbed at it and not looked at all of the difficulties of actually utilizing the funding for the purposes, and the requirements that it had to be utilized for.

MS. ANDERSON: It just didn't fit our program as well as it might have otherwise?

MS. CARRINGTON: Correct.

MS. ANDERSON: Well, great. I thank all of you and, you know, I'm concerned about some of the tone of this report. And one of the things that concerns me as much as anything is the inspector, or the monitor -- and maybe I'm just over-interpreting this, but -- implying that, you know, that they don't like the way we've reorganized our agency. And I sort of don't think that they have a dog in that hunt, and I think we're very pleased with the way we've reorganized our agency.

You know, now, if we didn't give proper notice, or we didn't help them understand why we were going to be just as responsive in the new structure as the old structure, then maybe some of this tone is because the monitor was surprised, but I was surprised to see the monitor take that tone that, you know, they didn't think we should reorganize. It's not their issue, I don't think.

(Pause.)

MR. GAINES: We'll look at item 2-d. This relates to what's called a rental integrity monitoring review that's currently in progress. If you will turn to the letter, there behind 2-d. The purpose of the review is to reduce income and rent errors, and improper payments in the administration of the Section 8 program, and to try to maximize HUD's limited housing resources by assuring maximum participation in HUD's housing programs by as many low income families as feasible.

An entrance conference was conducted yesterday by HUD Section 8 staff with appropriate department staff, and just a couple of interesting points I wanted to share with the committee that emphasizes the need for this project.

The General Accounting Office conducted a review and found overpayments of $2.3 billion a year in Section 8 program and underpayments of $634 million a year.

MS. CARRINGTON: David, make clear that that's not in our program.

MR. CONINE: National.

MS. CARRINGTON: That's national.

MR. CONINE: That's nationally.

MR. GAINES: That's correct. And so is their finding that over 60 percent of the tenant files they reviewed had errors, and most of the errors related to lack of third party verification of income information. And as a result of this audit -- the President, basically, mandated this initiative, and HUD has established a goal of reducing errors by 15 percent this year and 30 percent next year.

Monitoring teams can review 35 files for the recalculation of tenant income and rent. All exceptions will be discussed with staff and technical assistance provided as necessary. A report will be issued within 30 days after the completion of the review, which is expected to be this Thursday, and the report will be compiled with other reports, for a consolidated report to be provided to Congress.

Item to 2-e --

MS. CARRINGTON: Mr. Chairman, if I might?

MR. GONZALEZ: Yes?

MS. CARRINGTON: This is where I'm going to make some remarks as we begin the remainder of our agenda. The remainder of the items on our agenda, which are items 2-e through 2-l, relate to a State Auditor's report that was tied on selected assistance programs at the Texas Department of Housing and Community Affairs.

The material that you have in your book with you this afternoon is not meant to overwhelm you with the amount of material that we have provided you, but to show to this board, and to the public and others, how seriously the Texas Department of Housing and Community Affairs takes audit reports from any agency, be it the State Auditor's Office, be it one of our funding sources, or be it the Internal Audit department of our division.

Our staff has worked with the State Auditor's Office since summer of last year in reviewing the three subrecipients that are mentioned in this report, and we have been working on the responses since probably about April or so, April or May. Many of the items you will see, as Mr. Gaines goes through this information for you this afternoon, when these recommendations and suggestions came up from the State Auditor's Office, many of them the department went ahead and implemented because we felt, from a procedures standpoint, or a process standpoint, that they were really good ideas and good suggestions for the department.

So as we have worked over the last couple of months to make these responses to the State Auditor's Office and to the public, what we are finding is that this -- as I think most audits are supposed to do -- is help us identify the weaknesses in the department, look at our processes, look at our procedures, and see how and where we need to make those kinds of improvements, and one of the things that I heard Mr. Gaines say, that he basically has his work plan put together for a good amount of the work for this next fiscal year, in what we have been able to put together in responses to this particular audit.

We look at this as an opportunity to improve our operations, not only in the Community Affairs area, but throughout the department. We feel that many of these weaknesses that have been identified are areas that we may also need to look at in other parts of our agency. And it is requiring us, making us, to continue to look in depth at our processes, our procedures, how we shore up our monitoring, how we shore up our compliance.

With that, I don't want anybody to think that we have just put all of this together, and it was just sort of to overwhelm you with the volume of information that we have provided. We have provided what we think is a good body of information that we will be using throughout the next month and throughout the year in this department.

MR. GONZALEZ: Thank you, Ms. Carrington.

MR. GAINES: Thank you, Ms. Carrington. Tab f -- excuse me, tab e is the results of the audit conducted by the State Auditor's Office, and the project manager on a lot on the audit is with us today, Rachael Cohen, who's going to discuss the results of the audit with you momentarily.

Rachael's team included seven auditors, but generally, I believe, only four or five were onsite at any one time. Rachael was supported by her audit director, manager, and quality control reviewer, who did not work onsite and was also supported by a certified information systems auditor who was in and out throughout the course of the audit.

The inception of the audit began approximately the same time as the entrance conference, which was early July 2002. Field work continued through December 2002. Periodic status updates were provided throughout the course of the audit. Discussions on the final result of the audit began in early February 2003. Our report draft conference was held May 2003, May 20 -- excuse me, May 30 -- and the department provided its response on June 25, 2003, and was informed of the release of the report several days later, July 2.

In connection with the audit, the SAO visited three of the departments of subrecipients that administer community services block grants, weatherization assistance, and comprehensive energy assistance programs. These subrecipients include Tom Green County Community Action Council in San Angelo, Greater East Texas Community Action Program in Nacogdoches, and the City of Fort Worth.

An additional two subrecipients were picked up to provide coverage over the emergency shelter and grant program. These subrecipients were the Women's Shelter of East Texas in Nacogdoches and the Highlands Lake Family Crisis Center in Marble Falls.

With that overview, I would like to introduce Rachael Cohen, who is welcome to correct me on any of those facts, and to discuss the results of the audit.

MS. COHEN: Thanks.

MR. GAINES: Thank you for being here today, Rachael.

MS. COHEN: No problem. Hi, my name is Rachael Cohen. As David said, I managed this project. I have a couple of hard copies of the report if anybody needs them, but I think you've all seen this.

MS. CARRINGTON: It is in their book, also, Rachael.

MS. COHEN: Okay. All right. I've been asked to speak to you today to tell you what we found and also to answer whatever questions you might have. As David said, we covered five programs. It was weatherization, CEAP, the Comprehensive Energy Assistance Program, the shelter grant program, and CSBG, and also Section 8.

Our objectives were to determine whether or not the subgrantees were using the funds to provide eligible services to eligible people. Was the money doing what it was supposed to be doing once it got to the communities, whether the initial disbursement was appropriate and consistent with the program objectives, whether the funds were spent in such a way that it ensured that service would be maximized? That is, for example, if you were supposed to be hitting a specific population, was that population being targeted?

Also, for Section 8, we looked at their status in implementing prior audit findings, and for all five programs, we looked at information technology and program monitoring.

Again, as you know, we found the greatest number of problems was weatherization, and we found that there were weaknesses associated with not having processes in place that would ensure that multi-family units, like apartment complexes, were eligible, and that may have meant that ineligible people may have gotten services. Also, the policies that were in place weren't always followed and that also may have contributed to eligibility issues.

I can walk through the report with you or I can just stop here and answer questions. I'm not sure what your preference is.

MR. CONINE: I've looked through the report, and pretty well know what you found and would be interested on comments on how we're working to correct it and so forth.

MR. GAINES: A large portion of the remainder of the agenda items is the department's response to the report and how it intends to move forward.

MR. CONINE: Maybe if Ms. Cohen would just make herself available as we walk through it.

MS. COHEN: Sure.

MR. CONINE: If we have any questions, that might be the most expeditious way of doing it.

MS. COHEN: I took a look at some of this material -- and there's a lot of it here -- and it looks like people are really moving. I mean, I'm kind of pleased to see how seriously it's being taken.

MS. ANDERSON: I just have one minor question. How were the subrecipients selected for all the different places you went around the state?

MS. COHEN: Okay. The first thing we did was since we had the five programs and we knew we needed to -- the first thing we did was we got a list of everybody that had CSBG, CEAP, and weatherization money. So, you know, if someplace had -- if one Community Action center did CSBG and the city did, you know, we dumped that from our list.

MS. ANDERSON: Right.

MS. COHEN: Then we arranged them --

MS. ANDERSON: So you were looking for grantees that were doing more than one program?

MS. COHEN: Right.

MS. ANDERSON: Okay.

MS. COHEN: Because we wanted the team to spend its time efficiently.

MS. ANDERSON: I'm with you. Okay.

MS. COHEN: And we also wanted there to be a shelter grant recipient nearby. We knew we couldn't get them in the same place.

MS. ANDERSON: Okay.

MS. COHEN: Then we arranged it by dollars. That gave us GETCAP and Fort Worth and Dallas, that we eliminated because they were no longer going to be administering CSBG. So that gave us those two. Then, in

December, the U.S. Attorney's office, who was looking at Head Start at Tom Green County, asked if we could help. You know, by that time, we had finally gotten to know the CFR requirements --

MS. ANDERSON: Right.

MS. COHEN: -- and a number of the other programmatic -- you know, what should be in a file. They asked if we could send somebody to do our normal audit procedures, but do them there, and explain to the investigators that they were doing what we knew -- where in the CFR they should look for things, such like that.

MS. ANDERSON: Okay.

MS. COHEN: We looked at the Women's Shelter of East Texas for ESGP because that was right there in Nacogdoches where GETCAP was. We didn't look at the ones nearby Fort Worth because they were done by the state; they had been monitored by the same person who we thought did a great job at East Texas. So we looked around for a local grant recipient who had been monitored by somebody other than that person. That was how we got the five.

MS. ANDERSON: Okay. Very good. Thanks.

MS. COHEN: Probably more than you wanted to know about that.

MS. ANDERSON: No, it's interesting.

MS. COHEN: Then, I'll just stay nearby.

MR. GAINES: Thank you, Rachael.

Management's response to the report is on page 29, or Appendix 4, of the SAO report, and management's in general agreement with the report. It's indicated that it intends to implement the related recommendations. While management is in general agreement with the report and the recommendations, that's not to say that the department doesn't have many processes in place to provide assurance against many of the conditions that the SAO report noted, and that is the purpose of the following agenda item, item 2-b.

So if you'll turn to that, 2-b basically augments the department's formal response to the SAO. The table you see provides information on the different processes that management believes it had in place at the time of the audit to ensure compliance with, or protect against, the conditions noted by the SAO. The table also helps the department identify where deficiencies in the control systems may exist, and identifies actions or results taken as a result of the SAO audit.

If you'll just take a look at the first page of the report, and I'd like to just briefly describe the information being provided to you. The first column is a summary of audit conditions noted by the SAO. The chapter titles and binding headings are clearly identified so you can tie the summary back to the SAO report. It focuses on the conditions noted in the SAO report.

The second column is a summary of different processes the management believed it had in place at the time of the audit to protect against the conditions noted by the SAO. If controls were not in place, this would be obvious by the information provided in this column. As we continue to work on this column -- I'd consider this a work in progress -- but as we continue to work on this column, it will be more obvious what controls are and are not in place.

The third column of the table discusses the supervision, or quality control processes, the management reports it had in place at the time of the audit, and this highlights the different activities, by management, to ensure the quality of work performed by staff.

And then the final column of the table provides information relating to other comments and the actions taken or planned as a result of the audit.

As you go through the table, you'll see that many procedures are being reported as being in place to protect against the conditions noted in the SAO report, protect against some of the conditions noted. And although different processes are described as being in place, the SAO still found exceptions, which implies these controls were either not operating effectively or not sufficiently in place.

I believe for the most part, in reviewing through this, when the SAO noted exceptions to their test, and when management believed they had systems in place to protect against those conditions, what seems to be an apparent contradiction was occurring for several reason. And I believe, just from a cursory review and being involved in putting this together, that procedures, while they may be substantially ingrained and passed onto staff primarily through on-the-job training, are not necessarily formalized in standard operating procedures.

Documentation of the information actually considered during the course of the monitoring visit, not sufficiently identifying that information in the monitoring files, precludes management from holding the monitor accountable for the results of their review. For example, a monitor may have successfully tested eligibility and concluded there was no exceptions to the test. However, the monitor would not necessarily identify which households he or she was testing for eligibility, and so accordingly, the department did not have sufficient documentation in the files to support its conclusions. Management responded that it's improving its documentation standards as we identify this.

Additionally, and as a consequence of not having the documentation in the monitoring files to support efforts performed, results obtained, and conclusions reached, there wasn't sufficient information in the files for a management, or supervisory, review or quality control review of the monitoring work performed by the monitoring staff. Without such a review, there's inadequate assurance that the staff is performing as intended by management or that conclusions being reached as a result of the monitoring review are appropriate and adequately supported.

With the additional information that is being required, management will have a basis for conducting these quality assurance reviews of work performed by staff. This information will also help identify areas where staff training may be necessary.

You also note instances in the table that highlight circumstances where the department has recognized it did not have controls in place. For example, the first row on the table -- and having a pretty good idea of the way SAO operates, I believe, generally, the more important issues are going to be towards the front of the report -- but in this particular circumstance, the department didn't have controls in place to address the compliance requirement that 66 percent of the multi-family dwellings that are to be weatherized within a property be income eligible.

While management believed they had controls in place to provide assurance that this requirement was met, upon drilling down and looking for the specific controls -- the information provided in the second column of the table -- it was determined that, in fact, there were not sufficient controls in place to provide reasonable assurance. With this information, management can now take appropriate corrective action.

And that's the purpose of this table. As we continue to drill down and develop the detailed understanding -- and that's why there's so much of this; you really have to get into the nuts and bolts -- but as we drill down, we'll see where the department is vulnerable to non-compliance for not having the adequate systems in place. And so, as we work through this, that will come to the surface.

In summary, this table continues to be worked on. It's being used by management and internal audit to assist in status of the issues identified by the SAO, and to help ensure management that appropriate controls and corrective actions are in place, or appropriate corrective actions are being taken and the controls are in place.

I think Edwina had alluded to it earlier, that this information and similar information on the monitoring functions of the different programs of the department are being accumulated throughout the building. Not all program areas have started them because I haven't gotten with them yet, but the intention is to have each of the program areas complete a monitoring tool similar to this -- and we'll talk about what I'm referring to momentarily, in another agenda item, but it's real similar to this table. This table, with those tables, will provide a good overview of how we're addressing SAO audit conditions and a good overview of monitoring function of the department.

I was going to propose to the board, at a future meeting -- whereby we need to post it to the agenda -- that this be included in the audit plan as something that needs to be independently verified and followed up on.

With that, I'll be glad to take any questions relating to the information in this table. Eddie Fariss, the Director of the Community Affairs division, and his program managers are also available and will be glad to answer any questions that you might have for them.

MR. CONINE: From what you know now, in putting together this table that identifies the problems that the State Auditor's Office came up with, do you anticipate an overall time frame that you're going to respond, or update, the State Auditor's Office?

MR. GAINES: Generally --

MR. CONINE: What have you done? What kind of response time frame do you see here? And it may be a question for Ms. Carrington.

MR. GAINES: Generally, the auditors -- I believe they're doing it on a semi-annual basis -- have agencies update the status of prior issues that they've identified that they believe are significant. So in the past, certainly, they've been doing that every six months -- and maybe the auditors can correct me if I'm wrong.

For the most part, that's going to be management's representations, unless it's subject to independent audit, and the State Auditor's Office does not necessarily come back to follow up and independently verify that this has been implemented. They may, if they assess the risk that that's where they need to spend their time, but not necessarily.

MR. CONINE: So we would have maybe another column or two added to this table that would give us target dates to complete whatever the -- I think it was monitoring or whatever the case may be?

MR. GAINES: Yes.

MR. CONINE: Do you anticipate doing that and keeping the board informed, or the Audit Committee informed, as time goes along?

MR. GAINES: It may be preferable to add it to this table. I'd imagined all along that this would roll over to our prior audit issue tracking system.

MR. CONINE: Right.

MR. GAINES: That does have that information.

MR. CONINE: Okay. Ms. Carrington, any comments on time frame from you?

MS. CARRINGTON: I see Rachael shaking her head, that every six months is what the State Auditor's Office is going to look at, as an update from us.

I might also say that as we have worked through these responses in this process, that one of the things that David and I have talked about is our Internal Audit division doing samplings, internally, of when management reports that a finding has been satisfied or implemented, that part of what we are going to be doing is more aggressive sampling to ensure, indeed, that we are comfortable with that response.

MR. CONINE: Could we take a five minute break, Mr. Chairman, before we get too far into this?

MR. FARISS: Mr. Conine, excuse me, Eddie Fariss. Good afternoon. I'd like to say one thing about your question as well, and that is in regards to a deadline for completing implementing these changes. In all the responses to the SAO recommendations, we established a deadline for ourselves to do that, and I believe the latest one would be completed in December.

MR. CONINE: Of this year?

MR. FARISS: Yes.

MR. CONINE: Okay.

MS. ANDERSON: It's not in your response to State Auditor?

MR. FARISS: It's in the back of their report.

MS. ANDERSON: You know, I think it was actually January, maybe.

MR. CONINE: Well, it was close enough, okay, for government work.

MS. ANDERSON: Well, let me just say something about that before the break.

MR. FARISS: You're right. There is one in January.

MS. ANDERSON: Well, there's more than one in January. I have an overall comment, that I would like to understand how these deadlines are arrived at and whether we are being aggressive enough in setting our deadlines to clear these findings, particularly in the case of repeat findings in, you know, some of the programs because my first reaction, on reading the response to the State Auditor, was that some of the deadlines that were set didn't feel as serious as these audit findings are, you know, didn't feel like they had the kind of urgency associated with resolving the findings that -- and, maybe, there are things that need to be done that I -- maybe, it's just that I don't understand the details around the program.

MR. FARISS: A couple of the later deadlines have to do with coinciding with the start of a new program year, or have to do with the length of time to do training on the revisions to our easy audit, which are wrapping up now. We intend to go live by January. Some of the deadlines actually have been reported as completed and the rest are, you know, in between September and January.

MS. ANDERSON: Right. Chapter 1-a is about the easy audit.

MR. FARISS: Uh-huh.

MS. ANDERSON: Chapter 1-B, which also carries a January 1, 2004 date is about the weaknesses in the process, where, you know, to use Ms. Cohen's words, we're not adequately assuring that eligible services are being provided to eligible people.

MR. FARISS: And I believe that one had to do with changing our method of annualizing income from 30 days to 90 days, which we can do at any minute, but we felt at the time we made these responses that it would be most appropriate to do that at the beginning of the program year that affected those programs, so that they don't change their method of determining eligibility in the middle of the program year.

MS. ANDERSON: Do all these grants roll at the same time?

MR. FARISS: The weatherization and CSBG do and the CEAP -- I'm sorry, CSBG and CEAP do, January 1. Weatherization starts April. We would start them all at the same time, in January.

MS. ANDERSON: Okay.

MR. CONINE: Who was involved in setting the dates, Eddie? Was it primarily you?

MR. FARISS: It was a joint --

MR. CONINE: Or was it a joint effort as you went along?

MR. FARISS: -- effort as we prepared the responses to it.

MR. CONINE: And what would be your reaction to can we get more aggressive and cycle them up -- some of those dates? -- just to follow Ms. Anderson's lead.

MR. FARISS: Some of them, we could, like that one. I mean, some of them will require the time that we've had to put in there, like finishing the rollout --

MR. CONINE: Well, maybe we'll find some of that out as we go through individual items, but suffice it to say, if we can be more aggressive, we can be more aggressive.

MR. FARISS: And we will. I mean, I think our intent was to be as aggressive as possible, but not to set ourselves up for failure if we didn't meet that date.

MR. GONZALEZ: If there's not any further questions, we'll take a five minute break.

(Whereupon, a short recess was taken.)

MR. GONZALEZ: We'll resume the meeting. We recognize Eric Opiela of the House Committee on Urban Affairs and Beau Rothchild will be taking over his position starting August 15, and they're in the back there.

(Applause.)

MS. ANDERSON: We're not applauding because you're leaving, Eric. We're just welcoming Beau and congratulating you.

MS. CARRINGTON: Congratulations. Eric got married two or three weeks ago, and he and his bride are going to move to Washington, D.C., and you're going to be clerking for a federal judge?

MR. OPIELA: Yes.

MS. CARRINGTON: All right.

MR. GONZALEZ: Okay. David?

MR. GAINES: Okay. If you'll turn to agenda item 2-g. Based on the results of the SAO audit, management wanted to visit the historical performance of the subrecipients that the SAO reviewed during the course of their audit, and where they noted significant audit exceptions at those subrecipients. So for each of the subrecipients reviewed, really the three that we first mentioned, the non-emergency shelter subs -- which is Tom Green County, Greater East Texas, and City of Fort Worth -- for each of those, a summary of subrecipient's prior three years for programmatic performance was compiled.

The results of the department's prior three year monitoring visits of those subs were compiled, and the results of the prior three years' single audit reports for each of those subrecipients were compiled. Based on this information, management conducted an analysis of the information and prepared an evaluation of the subrecipients' performance.

If it is the pleasure of the committee, I'll be glad to take one of the three and just walk through and highlight the different kinds of information, if you'd care for me to?

MR. CONINE: I'd love for you to.

MS. ANDERSON: Yes, let's do GETCAP.

MR. GAINES: I'll walk you through rather hurriedly, and then, we can come back and revisit it if that will serve the pleasure of the committee.

The first couple pages behind the tab g, you'll see that's divided by subrecipient. The first section relates to GETCAP, or Greater East Texas Community Action Program, and the first couple of pages behind that divider page is an evaluation of the sub's performance. The following page touches upon their program performance figures, such as the number of units weatherized, total funds awarded to that sub, percent expended, to whom the services were provided, and the income levels, if you will, of who was served by the subrecipient. This will be provided for with each of the subrecipients.

And then following that program performance summary page is the results of recent -- I say recent, it would be like the last three years -- monitoring visits of that sub that were conducting by the department. On GETCAP, the very first one goes into a little bit greater detail than some of the prior monitoring visits, in that it was conducted in January, in large part, as a result of different conditions that SAO was noting during the course of their audit. And so there is a little bit more detail as to what the monitoring team looked at, the results that they found. And then in the prior year, monitoring visits, for the most part, identifies the period and any findings and recommendations that resulted from those reviews.

After the monitoring visits is a table -- if you'll flip a couple more pages back for Greater East Texas -- summarizing the single audit reviews over the last three years. I'm assuming you each have this table in front of you.

The first column basically identifies the year, the type of audit opinions that are being provided. There's a financial report opinion. In this case, we're looking at Greater East Texas for the 2001 year. It's an unqualified opinion for compliance for major programs, another unqualified opinion -- and, of course, unqualified is what we're looking for. Basically, that says that in the case of the financial audit, that the financial data is fairly presented and in accordance with Generally Accepted Accounting Principles. The compliance opinion speaks to the significant class requirements of the major federal programs that were reviewed.

Listed in that first column, also, are which major programs were subject to review, whether the auditor classified the agency as a low-risk, or not, for the purposes of the A-133 audit. I included this type A, type B threshold because it's pretty significant. In this case, it's 300,000. In the single audits we reviewed, it went up to over $800,000. That kind of gives you some idea of the likelihood that you're going to get any coverage at all. A single audit may not necessarily address our programs. If they're not a major program, they won't be addressed to any substantial degree at all.

If this threshold -- if it's $800,000, basically that means type A programs are programs over that $800,000. In this case, the one I'm walking through is 300,000. So in this case, if it's over $300,000 in expenditures, it's a type A program, and it should be audited as a major program unless the auditor concludes it's a low-risk program. If it's a low-risk program, then it's replaced by a type B program that's under 300,000, a type B program that is classified as a high-risk program. So that's a long way of saying, you may or may not get coverage on your particular programs during the course of a single audit.

The second column, basically, is to identify any reportable conditions or material weaknesses relating to the TDHCA programs -- and the definitions of each of those are provided, on your table there, by footnote -- the department's resolution, or disposition, of those issues.

And then the final column is other comments that may relate. For example, here we've got some comments that were in the notes of the financial statements that related to our program. There may be other comments throughout financial statements or the single audit that may relate to the department, but they aren't necessarily findings or reportable conditions relating to the department's programs. And then, also, we identified any of the material weaknesses relating to other programs that are not funded by the department, in this column.

That's the information provided by the summary of the single audits. In instances, as you flip through these materials, it will highlight if a single audit has been late, if it's late being received by the department, if it's still pending. In this case, Greater East Texas has a single audit due to the department by August 31, 2003.

These materials are provided on each of the three subs and we'll be glad to address any questions you might have.

MR. CONINE: Walk me through this outside column right quick, because, you know, the first two columns, nothing's wrong, and then you get to the third column and the world falls apart.

MR. GAINES: Okay. I must be looking at a different third column.

MR. CONINE: I hope not.

MS. ANDERSON: Fourth column.

MR. GAINES: Fourth column?

MR. CONINE: Okay. Fourth column, I'm sorry, yes.

MR. GAINES: And we're speaking to Greater East Texas?

MR. CONINE: Yes, 2001, 11/30/2001 year end --

MR. GAINES: Right.

MR. CONINE: -- nothing's wrong until you get out to the other comments section --

MR. GAINES: That's --

MR. CONINE: -- and then you find out that the air conditioner, heating inventory is not reported on the financial statements. Explain all that to me.

MR. GAINES: Well, that's a note to the financial statements, basically, by the auditors to provide full disclosure of the financial statements that would be relevant to an interested party. I think the criteria is something along the lines of it's going to be considered significant. And, generally, it's spoken of, in the context of -- for investment purposes would be significant to an -- you know, that a private sector. Excuse me, public sector -- that's not real relevant.

In this case, it's anything that the auditors believe is necessary to fully convey the financial position of the entity. In this case, the inventory was not reported on the financial statements. The auditor believed --

MR. CONINE: So their auditors, the Greater East Texas Community Action Program --

MR. GAINES: Yes, sir.

MR. CONINE: -- on their 2001 financial statements noted that the air conditioning and heating inventory was not reported on their financial statement?

MR. GAINES: That's correct.

MR. CONINE: And the State Auditor's Office, while reviewing those audited financial statements, put it on this little chart right here?

MR. GAINES: Well, the state auditor does not necessarily do the single audits. The subrecipient contracts with a CPA firm to conduct the single audits.

MR. CONINE: Okay.

MR. GAINES: And so whoever they contracted with -- in this case, I believe it was KPMG and I'm surprised we didn't include that.

MS. ANDERSON: The charts aren't from the state auditor. Right?

MR. GAINES: I'm sorry?

MS. ANDERSON: The charts aren't from the state auditor?

MR. CONINE: No.

MS. ANDERSON: They're from you?

MR. CONINE: These are his charts.

MR. GAINES: They've been compiled internally.

MS. ANDERSON: Right. Got you.

MR. CONINE: They're David Gaines' famous charts.

MS. ANDERSON: Right.

MR. GAINES: Based on the results of the single audits, which are --

MS. ANDERSON: There you go.

MR. GAINES: -- you know, I've got one here by, oh, well, different CPAs --

MR. CONINE: Okay. So go on down -- tell me about all this overfunding and underfunding going on. Explain it to me.

MR. GAINES: Well, in summary, the auditor believed those inventory statements for them and financial statements for them to be fully disclosed, to be adequately disclosed. The over/underfunding was essentially another note to the financial statements. And it just had a table, overs and unders, of all their funding sources and essentially what that means is there were operating out of one bank account. And, for example, CSBG overfunded by 147 at the balance sheet date, which was 11/30/2001.

At that date, CSBG had $147,000 in that account, while if you look down CEAP, or LIHEAP -- a significant number -- was underfunded by 133. So it really means LIHEAP was borrowing money from these other programs to finance their operations. Some of that money may have been the Community Services overfunded portion or it may be other funding sources that were within that same account.

MS. ANDERSON: Does this grantee operate with advances or reimbursements?

MR. FARISS: The programs identified here are advances.

MS. ANDERSON: Okay. So if it's an advance, there's even less reason -- I mean, if it's a reimbursement, you could make the case they were just borrowing money until they got reimbursed by us, but if we're making it -- what you're saying, we're making advances to these grantees --

MR. FARISS: Right.

MS. ANDERSON: -- in advance of their

expenditures?

MR. FARISS: Partly, it is in advance of their expenditures, plus they request, on a 30 day basis, a 30 day cash need plus requests for funds to reimburse prior expenditures.

MS. ANDERSON: To net out the prior --

MR. FARISS: Exactly.

MS. ANDERSON: -- where the advance doesn't match the prior -- the prior advance doesn't match the prior expenditures?

MR. FARISS: Exactly.

MS. ANDERSON: It would seem to me that if we're advancing funds to a grantee, there is less reason, a lot less reason, for them to be, you know, sort of borrowing from one internal bucket of money to pay another.

MR. FARISS: Right. And, certainly, that's not -- certainly, this practice is discouraged. However, most of the private, non-profit, community-based organizations with whom we contract do use one bank account because it's more efficient and have subledgers to track the different grant funds. And, you know, perhaps, these issues were apparent at the time the audit was done and resolved.

MS. ANDERSON: Well, they're both repeat

findings. Both issues are repeat findings because they're in the November 2001 audit and they're in the November 2000 audit.

MR. GAINES: And the auditors aren't really necessarily saying that this over/underfunded circumstance is a finding.

MS. ANDERSON: Right.

MR. GAINES: And, essentially, it's overfunded agencies are providing loans to underfunded programs, not agencies. So that overfunded programs are providing loans to underfunded programs. Presumably, that washes out. However, it does put the overfunded programs at risk of losing their funds to the extent those underfunded programs improperly use those funds.

MR. CONINE: What size staff does Greater East Texas Community Action Program have?

MR. FARISS: I am not sure. I can ask.

Karen, what is your staff size?

MS. SWENSON: Well, including Head Start staff, we have, last payroll, about 132.

MR. CONINE: Good size group.

MS. SWENSON: With Head Start.

MR. CONINE: Okay.

MS. ANDERSON: David, before you went through this chart, you took us through the A threshold, B threshold, you know, business, and you noted that -- and I can't remember now if it was A or B -- but in certain kinds of thresholds, were our funding sources not significant relative to their other funding sources, that we would get little, you know, not just with GETCAP, with any grantee, we would get less attention in an audit. Right?

MR. GAINES: Theoretically, no attention.

MS. ANDERSON: Theoretically, no attention. So is GETCAP, are they -- if we take them as a specific example, are we a smaller or a larger relative piece of their funding? So should we have expected -- so, in fact, we shouldn't have expected the single audit to tell us much about our programs?

MR. GAINES: If you'll look at the programmatic summary, for example, in 2000, they received $184,000. If the threshold was 300 --

MS. ANDERSON: Right.

MR. GAINES: -- that program would have received no coverage --

MS. ANDERSON: Okay.

MR. GAINES: -- unless the auditors identified it as a high risk program and one of the major programs as a low risk program.

MS. ANDERSON: Okay. So in that situation, where we're not getting a lot of attention in the single audit, and we recognize -- we can forecast ahead of time which grantees were likely to get more, because we know what our funding percentage is relative to their total budget and so forth. In those single audits where we know we're not getting much, or any coverage, then it seems to me that we have to put a lot more reliance on our monitoring reports, because if a subject is single audit act, they don't have to go -- we can't ask them to go do a separate audit of our part. So we're more relying on our monitoring. Is that a fair conclusion to draw?

MR. GAINES: I would say so, yes.

MR. CONINE: Do they draw these funds down once a year, once a quarter?

MR. FARISS: Every 30 days.

MR. CONINE: Thirty days?

MR. GAINES: Yes. They submit a report every 30 days, requesting 30 days cash advance and funding to net out previous requests, as Ms. Anderson mentioned earlier.

MS. ANDERSON: Well, it seems to me that in this particular case, you know -- and these are very good -- I want to compliment all of you all on putting together these packages on each of these three subrecipients with this various pieces of documentation, because they at least -- for my purposes, it helps me feel like I have a feel of what's going on with the subrecipient.

I mean, there are significant -- put the audit aside for a minute. There are significant, repeat monitoring findings with respect to this subrecipient, and several of them cited in all three years, for the previous three years, in the last three monitoring reports. So I would ask you, Mr. Fariss, to just talk about how your staff handles any kind of monitoring report finding, but specifically repeat findings.

MR. FARISS: In this -- excuse me.

MS. ANDERSON: Go ahead.

MR. FARISS: In this particular instance, we sent a letter on July 24 --

MR. CONINE: Like last week?

MS. ANDERSON: Last week?

MR. FARISS: That's right.

MS. ANDERSON: For monitoring this? It completed when?

MR. FARISS: The last one was done, what's it, in May?

MR. CONINE: It depends on which activity you're talking about.

MR. FARISS: Oh, January.

MS. CARRINGTON: January 13 through 17, 2003.

MR. FARISS: January 13, we provided a monitoring report. We gave them a period of time in which to -- our procedures are: the monitoring report is written within 30 days of the monitoring visit. The subrecipient is given 30 days to respond. If they don't respond, we give them an additional 15 days. In this case, the follow-up was delinquent. Then we sent a summary.

MS. ANDERSON: Back up with me just a minute.

MR. FARISS: Yes?

MS. ANDERSON: The visit itself was January 13?

MR. FARISS: That's right.

MS. CARRINGTON: 13 through 17.

MS. ANDERSON: Okay. And then, our report documenting that monitoring visit went to them on what date?

MR. FARISS: I don't have that in front of me, but if we followed the procedure, it would have been 30 days from that date.

MS. ANDERSON: That's why I'm asking for an actual date. When did our monitoring report, based on that January visit, go to this grantee?

MR. FARISS: I don't have that in my notebook.

MS. CARRINGTON: But we can get that.

MS. ANDERSON: We can have that report at the board meeting tomorrow when we cover the audit items?

MS. CARRINGTON: Yes, we can.

MS. ANDERSON: Okay. And then, they get 30 to respond. Do we know what the date of the letter of their response to us was?

MR. FARISS: They didn't respond.

MS. ANDERSON: To this -- I see in here that -- on page 2, this says we sent them a summary report on May 23.

MR. FARISS: Yes, ma'am. That was subsequent to their second non-response to the letter.

MS. ANDERSON: Okay. And then their response to that was due to us on June 23?

MR. FARISS: And on July 24, we sent them a letter citing the fact that these repeat findings that they hadn't responded; we gave them to August 1 to respond or we would begin termination procedures.

MS. ANDERSON: Thank you.

MR. FARISS: That's what the letter says.

MS. ANDERSON: Thank you.

MR. FARISS: Yes, ma'am.

(Pause.)

MS. ANDERSON: But these are very good documents. I'm sure it took a lot of different people working on them. They're very helpful to understanding. Thank you.

(Pause.)

MR. GAINES: That particular tab, tab g, again, was just the analysis of the performance of those three subrecipients. Any further comments relating to that?

(No response.)

MR. GAINES: Okay. Agenda item 2-h, this is really just for your information. It lets you be aware, lets you know, that the results of a recently completed investigation by the FBI, that the SAO special investigative unit participated in. While the investigation was one of the department's subrecipient that the SAO visited during the course of their audit, Tom Green County Community Action Council, the program that's the subject of the investigation was not one of the department's programs.

You can scan through the report. There was a series of indictments to significant staff there at the department and some of their relatives. Since it was one of our subrecipients, and since we were cc'd on this letter, we thought this would be something that the board should be aware of.

MR. CONINE: Now, is this just coincidental that they just happened to pick one that was a doozey [phonetic]? Or did they know? I guess, maybe Ms. Cohen could respond to that.

MS. COHEN: Actually, I can't respond to that.

MR. CONINE: Come on up, so we can get you on the microphone.

MS. COHEN: Okay. If the question --

MR. CONINE: Tom Green County, was that -- again, your selection process of at least three we're looking at, how did you pick Tom Green County? And were you aware of the FBI investigation before you picked Tom Green County?

MS. COHEN: Our work at Tom Green County was instigated, was started because we got a request from the U.S. Attorney's Office to help them with --

MR. CONINE: Okay.

MS. COHEN: -- understanding the weatherization.

MR. CONINE: So you knew there was some snooping around going on and you decided to look into it?

MS. COHEN: Yes. Now, how the special investigations unit in our office got involved with Tom Green County, I can't speak to.

MR. CONINE: No, that's okay.

MS. COHEN: Yes.

MR. CONINE: I'm just curious how we just happened to hit on a doozey like this one.

MS. COHEN: Well, that happens.

MR. CONINE: Okay. Thank you.

MS. ANDERSON: Mr. Chairman, I have a question for Mr. Gaines.

MR. GONZALEZ: Yes?

MS. ANDERSON: Back to the prior tab, in the write-up on Tom Green County, it noted that the current audit was due June 30, and, you know, with all these things going on, I could imagine that an audit might be delayed by all those activities. I guess what I'm wondering is if this recipient had, you know, notified us by letter, you know, requesting an extension on time to submit the audit, or communicated with us. If we haven't received the audit, have they communicated with us that it's delayed, it's coming?

MR. FARISS: Can I tell you the bottom line of where we are with Tom Green, which may answer your question?

MR. CONINE: That's right. There's nobody left to write a letter, I would imagine.

MS. CARRINGTON: And there was no board left.

MR. FARISS: You just about have it.

MR. CONINE: Somebody knocked and nobody was at home.

MR. FARISS: Yes. The bottom line is that we met with eight of the eleven county judges in the eleven county service area of Tom Green County Community Action Council --

MS. ANDERSON: They are effectively the board.

MR. FARISS: -- last Friday to seek their cooperation to designate an interim board to take control of the corporation.

MR. CONINE: There's a good guy out there named Robert Brewer, that they need to find, a former board member.

MR. FARISS: I'm not sure if we met with Mr. Brewer, but we did meet with eight county judges who also seemed to be nice gentlemen, and very cooperative, and ready to assume some responsibility to rehabilitate this community based organization. We are working on a letter right now, designating them as the interim board. They've already posted a meeting for Thursday, July 31, at which they will take appropriate action, including addressing the delinquent audit. And prior to that, we imposed several different sanctions, including cost reimbursement, and the most recent sanction was a suspension of funds.

MS. ANDERSON: Okay. How long have the funds been suspended, approximately?

MR. FARISS: Since July 23.

MS. ANDERSON: Okay. Thank you.

MR. FARISS: But they were put on cost reimbursement in April.

MS. ANDERSON: Okay. Thanks.

MR. FARISS: And we also did two team monitorings there, once in March and once in May, surrounding all of this activity.

MS. ANDERSON: And are the results of those monitorings reflected in this material we have, behind tab G?

MR. FARISS: The -- I don't -- the weatherization one in March is. The Community Services Block Grant monitoring, along with compliance, is not included in there, the one that was done in May.

MS. ANDERSON: Okay.

MR. FARISS: And that one, the financial portion is still being reviewed. The programmatic portion has gone out, identifying the lack of board and requiring them to take action, and once we realized that there wasn't a board to take action --

MS. ANDERSON: Right.

MR. FARISS: -- that's why we contacted the county judges and have designated an interim board.

MS. ANDERSON: The March monitoring visit talks about a reimbursement for an air conditioner that apparently was an ineligible air conditioner. Do we have a financial report on the March audit? I guess that would have been requesting reimbursement, not noting receipt of the reimbursement.

(No response.)

MS. ANDERSON: I guess what I'm trying to do is figure out what is our --

MS. PHILLIPS: If I may?

MS. ANDERSON: Yes, ma'am, please do.

MS. PHILLIPS: Suzanne Phillips, if I may. My team participated with the onsite in the most recent review, in May. The financial portion of that part that we worked on has not been released, but we have identified that there are some additional department funds --

MS. ANDERSON: Okay.

MS. PHILLIPS: -- at Tom Green. There were HOME funds. And my memory is -- and forgive me if it's not exactly correct -- is that 1999 and 2000, the funds that were drawn from the department, we were not able to reconcile those funds to their general ledger, i.e. we couldn't track our HOME funds to that contract there, and that, at this point, we have drafted a referral to the State Auditor's Office to complement their research that they're doing so that they're aware that we have additional funds there.

MS. ANDERSON: Okay.

MS. PHILLIPS: Our CPA from our staff met with the auditors from the State Auditor's Office about this matter --

MS. ANDERSON: Okay.

MS. PHILLIPS: -- and we are working with them on it.

MS. ANDERSON: Can I ask you one more question?

MS. PHILLIPS: Yes, ma'am.

MS. ANDERSON: Maybe it's right in front of me and I should just look here. I guess my question is prior to the May compliance monitoring visit that you made on Tom Green County, when was the prior monitoring visit?

MS. PHILLIPS: We have not conducted one in quite some time that I can recall, that we were not onsite.

MS. ANDERSON: Okay.

MR. CONINE: For which program?

MS. CARRINGTON: The weatherization program was March.

MR. FARISS: Weatherization was annually.

MS. ANDERSON: And that's done by the Community Affairs staff. Right?

MS. CARRINGTON: With a financial component of it. Right.

MR. FARISS: With a financial review.

MS. ANDERSON: But from a compliance monitoring perspective?

MS. PHILLIPS: We do the single audit work.

MS. ANDERSON: Right.

MS. PHILLIPS: So we were doing that --

MS. ANDERSON: Right.

MS. PHILLIPS: -- but I don't believe we've been onsite at Tom Green for quite a few years.

MS. ANDERSON: Okay. And is this a part of the risk-based sort of adjustment of how you decide when you're going to different grantees? Or does that not apply? Does that use of methodology not apply to this kind of a visit?

MS. PHILLIPS: I would have to say it doesn't apply to the CS. We're just now working through our team monitoring issues with the CS and --

MR. FARISS: But when there are issues like issues at Tom Green, that's when we ask compliance to go with us on the team monitoring, as we did in May, to participate in a more in-depth financial review, as the Community Affairs staff reviews programmatic issues.

(Pause.)

MR. GAINES: All right.

MS. CARRINGTON: David, do you want to comment? Is there any follow-up to any conversations that you've had with the special investigation unit of the State Auditor's Office that would be worth sharing with the Audit Committee?

MR. GAINES: There was a little bit of confusion. Well, let me say this. The State Auditor's Office is, as a result of their recent work with the FBI, is continuing an investigation of state-funded programs being received by Tom Green, which of course would include some of our funding sources.

MS. CARRINGTON: But to this date have not indicated that there are any difficulties with any of our funding. Is that correct?

MR. GAINES: The outcome of such an investigation, if it was to lead to an indictment, would result in a report, and if it doesn't, no report will be issued. I've obtained concurrence from the investigators in charge that we would like to know the results of that review regardless.

MS. CARRINGTON: Okay. Thank you.

MS. ANDERSON: For the monitoring visits, for weatherization, that the Community Affairs sections do, how often are those monitors rotated? In other words, if they're annual visits, how often do you change the individual that's going to a given grantee?

MR. FARISS: I believe, every three years.

MS. ANDERSON: Is that in written policy?

MR. FARISS: No, ma'am.

(Pause.)

MR. CONINE: Sick and tired.

MS. ANDERSON: We're just running out of gas here.

MS. CARRINGTON: We're trying to be respectful here.

MS. ANDERSON: I know. You know, this is a good -- I think it's a good discussion. You know, other than having Eddie make presentations to us about the sort of terms and conditions of these programs -- and he always ends up last on the agenda, and he always has to go through 17 Powerpoint slides in about seven seconds -- you know, we don't spend much time talking about these programs. And they're very important to the people that they serve, and we have a, I believe, just as significant a public responsibility to our public, to our constituencies, to spend time as a board on these, too. So I appreciate everything everybody's done to get ready for this meeting.

(Applause.)

MR. GAINES: Let's move to the next agenda item, then, if there's no further questions there. Item i and j -- one is for the Energy Assistance Programs and one is for the Section 8 program, and basically what we've provided here is a summary of the prior audit issues relating to those programs, over the last -- in this case, Energy Assistance, since fiscal year, actually that's 1997, 8/31/97.

We also provided a -- if you'll note, since 1997, there's been three findings on the LIHEAP program, in connection with the single audit. Each of these has been resolved by the auditors in their subsequent year review. They all related to some sort of -- excuse me, two of the three related to embezzlement problems, pointed out by department staff to the auditors, which, in turn, wrote them up, and then, the third related to a deficient audit that was submitted to the department that was a considerable amount of money that the department questioned. And I believe they reported the CPA to the state board for poor performance.

The next item on the agenda is the results of recent monitoring reviews, and I'm talking about the Energy Assistance section at this point. Excuse me. Immediately following the prior audit issues is result of funding source monitoring reviews of the Energy Assistance Program since 1997. There's been two reviews since that time; the most recent was August 1999, with the report being released in September. The overall conclusion was the program appeared to be well-managed.

The monitors concluded that the state processes and procedures were in place for providing guidance on financial and programmatic management of the program, appear to be working, working well, and the situation with disallowed costs were involved with subgrantee, the oversight system in place protected the problem and acted appropriately in issuing the corrective action requirements to the subgrantee.

There were several recommendations, including corrective action process for dealing with the findings resulting from the monitoring of subgrantees be documented in a policy or guidance format, that program monitoring be supplemented with financial monitoring, and that the parameters used in energy audits for effective life span be revisited for any measure that is prone to reduce effectiveness due to exposure to normal wear and tear over item.

The second monitoring visit was May '98. Monitors again concluded overall the program appears to be well-managed. The one recommendation that resulted related to the department guidance to subgrantees working with local agencies to increase the number of rental units that are receiving weatherization services.

Yes, ma'am?

MS. ANDERSON: I think maybe this question's for Mr. Fariss. On he '99 DOE audit, for the first bullet about having documented policy guideline about how you follow-up with findings resulting from monitoring of subgrantees, do we have those follow-up procedures for our department? Are those documented in writing?

MR. FARISS: Yes, ma'am.

MS. ANDERSON: Okay. And who is ultimately accountable? Is it the program manager for each of the individual programs for assuring that the appropriate follow-up happens and we know that all the findings are dealt with? Who's the accountable person in the agency on weatherization? Is it department manager?

MR. FARISS: I guess as division director, I'm ultimately responsible. Each of my section managers are responsible immediately to ensure that --

MS. ANDERSON: For the findings? For the grantees that are administering the funds --

MR. FARISS: Yes, ma'am.

MS. ANDERSON: -- in those programs? And is it your view that the program managers consider themselves to be accountable? Am I using the right job title, program manager?

MR. FARISS: Yes, ma'am.

MS. ANDERSON: That program managers consider themselves accountable?

MR. FARISS: I believe that's an accurate statement.

MS. ANDERSON: Okay. Thank you.

MR. FARISS: I would also like to augment David's discussion about DOE monitoring, because we did receive a visit from DOE monitors recently -- in fact, last week, who came to review our monitoring processes of our DOE-funded weatherization subrecipients' procedures in-house, as well as our procedures when we do an onsite monitoring visit. And while this is not a final report, it is a summary of their review, and I would like to just say that the major bullets in that letter include statements that no major compliance issues were found.

DOE supports TDHCA's purchase of an energy audit from an independent provider, even though DOE provides states with the option of using the national energy audit tool at no expense. Their preliminary review of data indicates that populations deemed as priority by Weatherization Assistance Program regulations are being met and that TDHCA's monitoring procedures and responses to monitoring findings appear to have been weak in some areas, but it is apparent that TDHCA has recognized these shortcomings and is implementing corrective action aimed at strengthening the entire process.

MS. ANDERSON: Thank you. While we're on the subject of the easy audit, and the custom software tool, and all those findings, and that all, I'm really confused about that. I remember being a new board member and taking a board action to ask some state agency for a waiver, and DOE paying for that custom development, and so forth. Were those kinds of things discussed with the state auditor during --

MR. FARISS: Yes, ma'am.

MS. ANDERSON: Okay. Then, maybe, I would like to ask the State Auditor's Office to explain to me. I'm just confused about it. We got a waiver, which we were supposed to do -- and you're right, it does cost money -- but they're not -- it's not general revenue; it's money that DOE specifically -- I remember asking lots of questions about this at the time. They specifically gave us -- because we documented some special set of needs. So I'm --

MR. FARISS: Right.

MS. ANDERSON: Ms. Cohen, if I could have your point of view on --

MS. COHEN: We had asked for -- we didn't go back to the 1995 initial procurement. We were looking more at the more recent updated contract. We were interested in how the decision was made to go -- you know, what were the costs --

MS. ANDERSON: With custom --

MS. COHEN: -- that were considered? What were the benefits that were considered? And we found no documentation. You know, the program staff was clear that they had thought about it, but we couldn't find anything to support what went into that thinking, and when the decision to make --

MS. ANDERSON: Upgrade it.

MS. COHEN: -- to upgrade it, happened, at that point, there should have been some other assessment of is it still --

MS. ANDERSON: Sort of a business case, a cost benefit?

MS. COHEN: Right.

MS. ANDERSON: Right. I hear you.

MS. COHEN: And that was where we were.

MS. ANDERSON: And that is sound business practice, absolutely. Okay. Thank you.

MR. GAINES: If you'll turn now past the monitoring results from the funding sources, there's a document called Program Monitoring-DOE and LIHEAP Weatherization, 14 pages. If you'll turn to page 1 of 14 and take a look to see if you have two of those.

VOICE: I didn't.

MR. GAINES: If you do, just remove the first page.

VOICE: I know it's late.

MR. CONINE: It's late. Nothing like as auditor catching that. You know it?

MR. GAINES: Breakdown in the quality control process, I'm afraid.

MR. CONINE: Call Xerox.

MR. GAINES: I'll blame it on Support Services. No.

MS. ANDERSON: Better be careful.

MS. CARRINGTON: Don't you dare, David.

MR. GAINES: No, we appreciate their work.

What you see in front of you here is a listing, if you will, of the monitoring responsibilities of, in this case, the weatherization program. The weatherization program -- excuse me, the Energy Assistance Program provided an overview, a program monitoring overview, and then listed, if you will, the program monitoring responsibilities. That goes on -- and this is kind of program specific or the form was designed to be program specific. As you look at it, a lot of it would be of a pretty general nature, but it goes down to page 4 of 14.

The first column is the responsibilities. The second column is procedures to ensure compliance with that. Beginning on page 4 of 14, we go into the O&D circular A-133 compliance supplement requirements, and this ties into the single audit and audit requirements. And here are a list of general requirements that are applicable to any federal program, to the extent they relate to that program. And so the general requirements are listed, beginning on page 14, and the different activities that, in this case, DOE and LIHEAP weatherization program has in place to ensure compliance with each of the different requirements.

You'll notice on page 5 of 14, a couple of not-applicables. These are applicable to the extent they relate. In this case, these requirements don't relate to this particular program.

The intent of this is, again, to identify what's required of the department and what procedures do we have in place to ensure compliance. This is the document that I spoke of earlier that, right now, not all the other programs in the department are working on it. In fact, I believe right now HOME program's working on it -- and I've proposed to Executive and Ms. Carrington agrees -- we'd like this completed for each of the programs for purposes of making sure we're fulfilling our responsibilities and for the purposes of identifying opportunities for improvement, weaknesses, any vulnerabilities we might have in this respect.

It was this instrument here that we also alluded to earlier that I'd like to present to the board, as they come in, be the basis and foundation of our audit plan for this coming year, to risk rank these different criteria, requirements if you will, for the different programs. And then, as we drill down, and management believes, okay, we do have the processes in place to address this requirement, then independently verify that for the comfort of management and for the board. That's the purpose of this document.

If you will, you can kind of flip through it a couple pages further; 9 of 14 talks about just general information. The shaded area is just kind of criteria, or considerations that should be factored in in developing our processes. You can kind of just scan through that. I'll be glad to answer any questions you might have in this respect and, likewise I'm sure, Mr. Fariss here.

Real similar information is provided for Section 8, behind tab j. A summary report for our audit issues since August '99. In this case, that's a good date, in that I don't believe Section 8 was identified as a major program in '99, or 2000, and possibly 2001. I believe last year was the first year they were identified as a major program.

There was three issues that resulted from that single audit review last year by KPMG. Each of these issues have been cleared by HUD letter dated July 18. The way these single audit issues play out is that the auditors have responsibility to the report to funding agencies the findings. The funding agencies review and take the actions they consider appropriate. We received a letter July 18, 2000 --

VOICE: Three.

MR. GAINES: That's 2003.

VOICE: Three.

MR. GAINES: I had not recognized that until right now -- clearing these findings.

We didn't go into -- well, there hadn't been -- rather than a summary of the monitoring visits over the last several years, basically there's been one significant monitoring review of Section 8 by HUD, in 2000. The state auditors provided a summary of that in their report.

Once you get past the prior audit issues, the title is "Status of prior Section 8 non-compliance issues identified in 2000." That's right out of the SAO report and the italics leading into that first table is right out of the state auditor's report, and what we did is have management provide a response and status as of July 18, to that original HUD audit. Within that HUD audit, they requested the department to obtain a program specific audit by an external auditor that came in and specifically looked at the Section 8 program, and many of the same exceptions and issues were noted by the external auditors, because basically they audited the same period as the HUD auditors, so you had to expect them to find similar circumstances.

The department provided an updated status as of July 18 and, in summary, the auditors continued to find exceptions where we had reported the issues as implemented. In looking at this, in many instances, management believes that it had more to do with the quality control processes and considers these recommendations implemented, primarily through the use of a checklist that was developed and put into place in January 2003. And they believe, with that checklist to complement other procedures that they've put into place, that these additional errors that are occurring, and that have been identified by the SAO, should be reduced -- should identify those type of circumstances.

And we can talk about any particular one. There were originally 17 findings in the HUD report. The state auditor has followed up on eight, and I'm guessing -- this is kind of a guess -- that they followed up on those they considered to be more significant. Of those eight, they've cleared one and continue to find exceptions in the remaining seven areas.

MS. ANDERSON: I have a question about the quality control checklist, which I think is a good idea. I commend the section for putting that in place. I guess my question is -- you know, and you can check things step right now, checkers checking the checkers checking the checkers -- but if the program managers are ultimately accountable for quality control for their program, what steps are in for the program managers to spot check, to use some other means to make sure that the quality control checklist process is having the desired results?

MR. FARISS: I know that the program manager reviews a sample of the files that include that checklist. I'm not sure what the sample size is.

MS. ANDERSON: Okay. And we put this into place in January. I don't know how long it takes to cycle through all the files. Would, you know, half the files now have those checklists in them?

MR. FARISS: All of them.

MS. ANDERSON: They all do? So that when we have this HUD review of the Section 8 files on Thursday, we'll get --

MR. FARISS: They're doing that right now, yes.

MS. ANDERSON: -- some sense of -- okay.

MR. FARISS: That's absolutely correct.

MS. ANDERSON: Okay. Great. Thanks.

MR. GAINES: Last two tabs in your committee book relate to graduated sanctions. The first tab, k, relates to sanctions applied by the Community Affairs division against poor performance subrecipients over the last several years and then tab l is just graduated sanctions that are available to the Community Affairs division. I'm sure Mr. Fariss will be glad to speak to either or both of those.

MS. ANDERSON: Did you bring me the CFR language?

MR. GAINES: Excuse me?

MS. ANDERSON: Did you bring me the CFR language?

MR. GAINES: Yes, ma'am.

MS. ANDERSON: I'd like to review that, not during the meeting.

MR. FARISS: Tabbed and everything.

MS. ANDERSON: Huh?

MR. FARISS: Tabbed and everything.

MS. ANDERSON: Tabbed and everything, okay. It won't be the first time.

MR. FARISS: And, hopefully, you'll find when you review that, that my summary here at the bottom of the graduated sanction page, which is actually tab k, summarizes that regulation fairly well.

MS. ANDERSON: Okay.

MR. FARISS: But remember, it applies only to eligible entities under the Community Services --

MS. ANDERSON: Right.

MR. FARISS: -- Block Grant Program.

MS. ANDERSON: Right.

MR. FARISS: We can make available to you the guidance for the weatherization programs as well.

MS. ANDERSON: Okay.

MR. FARISS: But you'll not here that there's seven graduated sanctions listed here.

MS. ANDERSON: Right.

MR. FARISS: In fact, I left one out, which we just used and that's suspension of funds, which we could use against an eligible entity without terminating or reducing their funding, which is precluded by regulation.

MS. ANDERSON: Now, when it talks about WAP policy issuance, down in the next paragraph, WAP policy issuance 95-12-8.

MR. FARISS: Yes?

MS. ANDERSON: Is that our policy?

MR. FARISS: Yes, ma'am.

MS. ANDERSON: Okay. When was that policy last reviewed or updated? Does the 95 mean anything?

MR. FARISS: I've reviewed it several times --

MS. ANDERSON: Okay.

MR. FARISS: -- in the last couple of years, and it was well written when it was implemented in '95, and still is appropriate and applicable, and we still use it now.

MS. ANDERSON: I'd like to see that, too. You can just have Delores send it to me.

MR. GAINES: For your reading pleasure.

MS. ANDERSON: Okay.

MR. FARISS: Certainly.

MS. ANDERSON: Thank you.

MR. FARISS: And then, l, of course, as David mentioned, are sanctions that have been imposed on Community Services Programs as well as Energy Assistance Programs, since 1998. I would mention that the state of Texas has also -- you know, the ultimate graduated sanction is termination of contract. And for eligible entities, those organizations receiving Community Services Block Grant funding, the process that I outlined in there is a fairly explicit one.

However, we have used that termination sanction one time since '98, and in three other cases, organizations, when faced with that process, chose to voluntarily relinquish. So that is basically four. We have used the ultimate sanction with four agencies since 1998, which puts us 400 percent ahead of any other state that I can get information on.

MS. ANDERSON: Well, it's not supposed to be easy -- right? -- to terminate a grantee, but it's not impossible either?

MR. FARISS: Right --

MS. ANDERSON: I did it in a previous life.

MR. FARISS: -- but it also shows that you're not reluctant to use that --

MS. ANDERSON: That you're serious?

MR. FARISS: -- that sanctions.

MS. ANDERSON: So these two entities at the bottom of this page, where we say in both cases, the WAP contract was terminated and PY 2000. Were those, in fact, terminations or were they voluntary?

MR. FARISS: Yes, ma'am.

MS. ANDERSON: They were terminations?

MR. FARISS: Yes, ma'am.

MS. CARRINGTON: And the others, I think, Eddie, you noted, that there was a voluntary relinquishment of the contract.

MR. FARISS: Right. Yes, anywhere there was a voluntary relinquishment, we --

MS. CARRINGTON: Yes, you noted that.

MR. FARISS: -- indicated that.

MR. CONINE: Eddie, this is, obviously, the whole report -- the state auditor's report is a wake-up call for your whole area, and if you say the whole process, you know, picking our subrecipients, giving the money out, monitoring them as they go along, and spending money in the appropriate way, are some of these issues manpower issues relative to your department, as you look backwards? Are some of these issues policy? Maybe we didn't have a written policy on procedures.

MR. FARISS: I believe it's the latter.

MR. CONINE: It's the policy?

MR. FARISS: I believe that in the spirit of the audit, they pointed out some things where we can tighten our procedures, some things that we hadn't realized that we needed to enhance our policies with, and we will do that. We are grateful for the opportunity to recognize those places where we have weaknesses and to address them. That's why we began immediately implementing changes as soon as we began preliminary discussions with the state auditor's group, as they came back from one of the subrecipients that they visited.

MR. CONINE: But you feel like you have the manpower to do the job right in the future? In other words, we've focused on some deficiencies and some areas where we can obviously do better, but as far as FTEs go, you've got enough people to get the job done?

MR. FARISS: I believe it's a challenge that we can meet.

MR. CONINE: Okay. So it's just a matter, then, of reshuffling policy manuals and procedures to make sure we implement and monitor, and all the things that --

MR. FARISS: Exactly.

MR. CONINE: -- are encompassed in the whole process the way HUD, and the State Auditor's Office, and the others who look over our shoulders need for the job to be done that way.

MR. FARISS: I believe so. I believe part of it is to be able to document to those that are concerned about our monitoring procedures that we have indeed carried them out, like one of the findings where we weren't identifying specific files that we reviewed when we were onsite so that a follow-up review could verify that our findings were our findings. We've already begun to change our monitoring instrument to require that kind of documentation. So we'll be able to do those things.

MR. CONINE: It seems like a lot of it is reports the subrecipients owe you, so that you can do an appropriate job. One of the questions I asked earlier, about how many staff the Greater East Texas folks have, is do they have the capacity to, once they get the money, to report back to us in a manner that is appropriate? Are we fully instructing, and training, and all that kind of stuff to make sure that they can and do report to us? I'm sure it will in the future because it's now been demonstrated that we need to do a better job, but are most of the --

MR. FARISS: Just like with --

MR. CONINE: -- subrecipients qualified, staffed, and available to do that? Or is there a deficiency there?

MR. FARISS: I believe, just like with any network of private, non-profit organizations -- and in this case, we're talking about somewhere between 80 and 90 non-profit organizations --

MR. CONINE: Right.

MR. FARISS: -- and if we also include the Emergency Shelter Grants program, you're talking about another 70. So I think any network that size, you're going to have organizations with adequate capacity and others that have more difficulty meeting that. You know, that's one of our challenges, is to continue to provide appropriate training and oversight to those that have more of a struggle.

You know, the staff sizes of those non-profits vary wildly. You know, we may contract with an Emergency Shelter Grant operation that has, you know, six staff, while some of the larger Community Action agencies that also administer weatherization, CEAP, Head Start, and Early Head Start, will have large staffs, the size of GETCAP, and some other -- there's some organizations with even larger staff. So to be able to say that they all have the capacity, or don't have the capacity, I can't do that, because, you know, they have varying capacities. And that's part of our challenge, to make sure that everybody functions at an appropriate --

MR. CONINE: No, but, you know, you have the ability when you hand them the check to look them in the eye and say, Don't get me in trouble, and that's a very simple way of describing some sort of dialogue between us and the subrecipients that needs to go on probably a little deeper than it has in the past because if you've got 150 of them out there, it's hard to do that in every case. But if they're repeat customers that are treating you right, then it becomes easier to do.

I think, the first time, once you have a first time customer, you know, to have a serious dialogue with them, maybe in the future, to make sure they give you, and they provide you, and they understand what's required of them. It's a huge laundry list, you know. Mr. Gaines has 14 pages or whatever it was, and it's not easy, and it's a lot to worry about over a "small" amount of money.

MR. FARISS: Right.

MR. CONINE: And, you know, the strings that come attached to these funds are, in some cases, overbearing, but, you know, there's nothing I can do about them. They come from Washington, D.C.

MR. FARISS: Well, and I appreciate that statement. We do impart that responsibility to our subrecipients and I believe that they accept that responsibility. While there are weaknesses pointed out here, we have fairly successfully operated the weatherization program, the Community Services Block Grant program, and the LIHEAP-funded CEAP program for 25 years. And every, you know, we are constantly improving the processes, because, like you say, there are more requirements. Every time the acts are re-authorized, we get additional requirements.

MR. CONINE: You committed to see that we can get this thing worked out in the future, so that we can get some letters kind of like the RTC letter. Although, sometimes when the RTC and FDIC write a letter, I don't believe a whole lot about it, but it was a nice letter to get. All right. But we need to do the same thing over on your side of the fence, too, and I'd like to see the DOE letter and others, in the future, that say that we as a state are an exemplary program and just wanted to hear from you that you are committed to see that that happens.

MR. FARISS: Absolutely.

MR. CONINE: Great.

MS. ANDERSON: I want to clarify something with you. There's really no churn in these grantees? I mean, there's really no first time grantees for these programs, other than when you have a termination or a voluntary relinquishment. I mean, these are --

MR. FARISS: Except for -- I'm sorry.

MS. ANDERSON: Go ahead.

MR. FARISS: Except for the Emergency Shelter Grants program, which is the only competitively obligated funds that we administer.

MS. ANDERSON: Okay. But everything else is kind of annually renewable?

MR. FARISS: That's correct.

MS. ANDERSON: Right. And so these are grantees of longstanding, who've been, for the most part -- except where we've had a replacement grantee or something -- the same entities in these geographies have been running these programs for several years anyway?

MR. FARISS: Right.

MS. ANDERSON: They're not new to the scene?

MR. FARISS: That is correct.

MS. ANDERSON: Okay. I have another question for you. I know that you're getting together with the executive directors, I think, of the grantee agencies in San Antonio --

MR. FARISS: That's true.

MS. ANDERSON: -- looks like, maybe the end of next week. What are your plans on that agenda -- to meet with either the executive directors of these agencies as a whole, or specifically the subrecipients, you know, that may need special assistance, coaching, and guidance to use this opportunity to, you know, back up the importance of strong program administration and execution of these programs?

MR. FARISS: Except for the additional agenda item on Wednesday at 11:30, which you will be participating in, our agenda has been set for some time. However, we do have, you know, we have -- this is primarily a management conference to bring management tools to the attendees, and we have several people invited, including one national consultant who works with HSS. And even before this audit was released, I spoke to her about her presentation which will address contractor compliance, board involvement. A lot of times when you find problems at a non-profit agency, you find that that --

MS. ANDERSON: Governance?

MR. FARISS: -- has something to do with the involvement of the board. That's something that we have tried to emphasize. We'll be presenting that at the conference as well.

MS. ANDERSON: Well, I guess I have to say, unless I misunderstand your answer, it doesn't sound to me like we're doing too much to take advantage of having this group of people with us. Did I misunderstand his answer, Ms. Carrington?

MS. CARRINGTON: We did take a look at the agenda and we have carved out 45 minutes from 11:30 until 12:15, on the first day of the conference. So it's right after the opening session and the keynote speaker. So we've carved out that time. We've pushed lunch back a little bit for a discussion and presentation from me, and, we were hoping, Ms. Anderson from you, also --

MS. ANDERSON: I didn't know anything about it.

MS. CARRINGTON: -- I apologize that you have not been notified of that -- to discuss, basically, these issues.

MR. FARISS: In addition, we have a session on Thursday afternoon, where we had planned for some time to provide an update from each of the sections in the division, and I suspect that we'll be talking about those issues as well on that Thursday.

MS. ANDERSON: Okay.

MS. CARRINGTON: Yes, I think what we've done is looked at the agenda and determined where we can fit in these additional discussions.

MS. ANDERSON: It's a pretty important set of topics.

MS. CARRINGTON: Yes.

MS. ANDERSON: So I appreciate making time on the agenda.

MR. FARISS: Just for your information as well, we have a session set up after hours on Wednesday with a group of new executive directors. We also have a training session. The U.S. Department of Health and Human Services has funded a training academy that they are delivering across the nation. The next academy will be in San Antonio and we will be paying the tuition for six agencies to attend. Five of those have new executive directors.

MS. ANDERSON: Okay. Good.

MR. FARISS: So that's another of the many ways that we try to provide technical assistance to the administration of our subrecipients.

MR. GONZALEZ: Good report.

MR. GAINES: I'd like to thank the committee for your continued support and Ms. Carrington for suggesting I get a table out here today.

VOICE: That's great. I wasn't looking forward to standing.

MS. CARRINGTON: I would like to also thank David Gaines and Ruth Cedillo, who have worked with staff in the various areas of our department as we have put these materials together, and look forward now to going forward with the implementation and improving the policies and procedures of the department as it relates to these weaknesses that have been identified, and moving forward. So thank you, David. Thank you, Ruth, Suzanne.

MR. GONZALEZ: Thank you. Now, we'll go to executive session, pursuant to Section 2306.056, Texas Government Code, Chairman of the Board of Directors, Texas Department of Housing and Community Affairs. Mike Jones has appointed Vidal Gonzalez, Beth Anderson, and Shad Bogany, with an optional board member as a substitute member, who is Kent Conine, and all are current Texas Department of Housing and Community Affairs board members, to serve as the Audit Committee, with Mr. Gonzalez as chairman of the Audit Committee.

On this day, July 29, 2003, at a regular Audit Committee meeting of the Texas Department of Housing and Community Affairs, held in Austin, Texas, the Audit Committee adjourned into a closed executive session, as evidenced by the following. The Audit Committee will begin its executive session today, July 29, 2003, at 3:30 p.m.

The subject matter of this executive session deliberation is as follows: personnel matters, under Section 551.074 Texas Government Code, and, if permitted by law, the discussion of any item that's been on the Audit Committee meeting agenda of even date.

(Whereupon, at 3:30 p.m., the meeting went into executive session, to reconvene this same day, Tuesday, July 29, 2003.)

MR. GONZALEZ: The Audit Committee has completed its executive session of the Texas Department of Housing and Community Affairs on July 29, 2003, at 3:50 p.m. The subject matter of this executive session deliberation is as follows: personnel matters under Section 551.074 Texas Government Code, action taken, none. Discussion of items listed on the Audit Committee meeting agenda of even date -- action taken, none.

I hereby certify that this agenda of an executive session of the Audit Committee of the Texas

Department of Housing and Community Affairs was properly authorized pursuant to 551.103 of the Texas Government Code, posted at Secretary of State's office seven days prior to the meeting, pursuant to 551.044 of the Texas Government Code, and that all members of the Audit Committee were present, with the exception of Shad Bogany, and that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act, Chapter 551 Texas Government Code, as amended, Vidal Gonzalez, Chair.

I'd like to go over the Texas Department of Community Affairs project summary, as far as the data gathering and population project, and we'd like to recognize the team members -- Alyssa Carpenter, Analisa Gonzales --

MS. ANDERSON: Stand up.

MR. CONINE: They're going to have to stand up so we can see who they are.

MS. ANDERSON: Stand up.

MR. GONZALEZ: -- Annette Cormier, Aurora Carvajal, Becky Peterson, Blanca Hernandez, Christy Roberts, Jorge Reyes, Ty Myrick, Krissy Vavra, Laura Palacios, Linda Aguirre, Linsey Kornya, Liz Barrera, Mike Garrett, Mark Klingeman, Bobby Grier, Michael Jovicivich, Misael Arroyo, Naomi Acuna, Nidia Hiroms, Rachel Metting, Teresa Morales, Brenda Hull, Joanne DePenning, Steve Schotman, Wendy Pollard, Veronica Martinez, and Michelle Atkins. I believe I covered -- oh, I left one person -- Delores Groneck.

(Applause.)

MR. GONZALEZ: I want to thank you all, and Edwina, for all the effort and all the work that you all have done. It's truly appreciated and we appreciate it.

MS. CARRINGTON: Thank you all very, very much for the work that you've done. Now, Delores is pointing to the back so I think there's cake back there, and there's punch back there, and we just wanted to -- the board wanted to take this time this afternoon, and tomorrow morning also -- obviously, we couldn't carry the cake over to the Capitol tomorrow. So that's why we're having cake this afternoon. We are looking forward to all of you all being over tomorrow morning, at 8:30, at the beginning of the board meeting, so, again, Mike Jones can acknowledge you all in front of the group that's going to be there.

This was a huge effort on the part of this group that volunteered and populated this database. I know there's still work to be done, but you all did it ahead of time and probably under budget, if we look at what we had actually budgeted for it -- in the way of not only time, but money -- to get this done. So we wanted to take this opportunity to say thank you.

Ms. Anderson, would you like to say something?

MS. ANDERSON: I think this is just a great example of the agency pulling together, individuals in this agency -- you all showed your commitment to the broad mission of the agency, and sometimes the things that we get asked to do in support of a cause we believe in, they seem like little things, and, you know, each keystroke by itself is a little thing. But without all of you all doing this, we'd be a long time getting this done, and we are so much better able to serve the various communities that we interact with because of the data that you put in. So we have good historical data and we can move our programs forward.

I join Ms. Carrington -- and I'm sure the other members of the board -- in really expressing my appreciation for you going above and beyond, and I hope you feel as good about your part in that as we do about, you know, how great it is to have it done and what an example you set, really, for state employees all across Texas.

MR. GONZALEZ: I'd also like to recognize the project sponsors, Ruth Cedillo and Bill Dally, and also the project managers, James Roper and Russ Walch. So thank you all.

VOICE: Thank you.

(Applause.)

MR. GONZALEZ: And at this point --

MR. CONINE: Move for adjournment, Mr. Chairman.

MS. ANDERSON: Second.

MR. GONZALEZ: Motion and second. All those in favor?

(A chorus of ayes.)

MR. GONZALEZ: Motion carries. Meeting's adjourned.

(Whereupon, at 4:00 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: Texas Department of Housing and Community Affairs Audit Committee Meeting

LOCATION: Austin, Texas

DATE: July 29, 2003

I do hereby certify that the foregoing pages, numbers 1 through 126, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

8/05/03
(Transcriber) (Date)

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