

ENFORCEMENT ACTION AGAINST
EBENEZER ANENE

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

FINAL ORDER

General Remarks and official action taken:

On this 26th day of January, 2017, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **EBENEZER ANENE** (“Respondent”), president and director of EBENZ, a Texas nonprofit corporation, for failure to repay disallowed costs in the amount of \$73,720.78 relating to Reservation System Participant Agreement 2011-0062.

This Final Order is executed pursuant to the authority granted in the Tex. Gov’t Code, Chapter 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs because of a person’s past failure to comply with conditions imposed by the Department in the administration of its programs. The policy was adopted by the Board and is set forth in 10 TAC §2.401.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. On September 21, 2012, Respondent executed the HOME Investment Partnerships Program Reservation System Participant Agreement 2011-0062 (“RSP Agreement”), committing to be a Reservation System Participant in three set-asides: Homeowner Rehabilitation Assistance Set-Aside #1001695 (“Set-Aside #1001695”), Single-Family Programs for Persons with Disabilities Set-Aside #1001696 (“Set-Aside #1001696”), and Disaster Relief Set-Aside #1001697 (“Set-Aside 1001697”). Two reservations and commitments were made under Set-Aside #1001695: Activity #38983 for 6518 Anderson St, and Activity #39886 for 3010 8th Avenue North. Two reservations and commitments were made under Set-Aside #1001696: Activity #39242 for 2808 Arkansas Avenue and Activity # 38611 for 2524 13th Avenue North. No reservations or commitments were made under Set-Aside 1001697.
2. EBENZ is a Texas nonprofit corporation that is qualified to participate in the HOME reservation system, and is subject to the regulatory authority of TDHCA.

3. Respondent is the president and director of EBENZ. He executed the RSP Agreement and is designated as the primary contact for EBENZ.

Material Violations Subject To Debarment:

1. TDHCA conducted a monitoring review on November 23, 2015, and issued a monitoring report on November 30, 2015, identifying violations for failure to meet procurement requirements and adequately document costs. A deadline of December 30, 2015, was set to submit corrective documentation. Respondent submitted multiple corrective responses, but was ultimately unable to properly document all costs. TDHCA then demanded repayment of disallowed costs totaling \$73,720.78 on February 9, 2016. Respondent failed to repay those disallowed costs, a material violation under 10 TAC §2.401(f)(3) that justifies debarment, and Respondent continues to refuse to make arrangements to repay the disallowed costs.

CONCLUSIONS OF LAW

1. TDHCA is a designated Participating Jurisdiction within the meaning of 24 C.F.R. Part 92 and has the authority pursuant to TEX GOV'T CODE Chapter 2306, Subchapter F, to make a subaward or otherwise contract with eligible organizations to participate in the administration of HOME funds provided to the State of Texas under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12704 et seq).
2. Pursuant to the RSP Agreement, EBENZ is required to administer HOME funds in accordance with federal and state requirements, including but not limited to the HOME Investments Partnerships Act of 1990, 42 U.S.C. 12721-12839; applicable Federal and CPD Notices issued by HUD; 24 C.F.R. Part 92; 24 C.F.R. Part 84, OMB Circular No A-122, Tex. Gov't Code 2306; and 10 TAC §53¹.
3. Pursuant to 24 C.F.R. 504 (a) and 10 TAC 20.15 (a), TDHCA is required to monitor for noncompliance with all state and federal requirements under the HOME program.
4. Respondent violated 10 TAC §53.32(c)(6), 10 TAC §53.42(c)(6) effective at the time the RSP Agreement was executed, and Section 8.2.B. of the RSP Agreement when it failed to meet minimum requirements under OMB Circular No A-122 to reasonably document costs.
5. Respondent violated Section 8.3 of the RSP Agreement when a monitoring review was conducted and Respondent failed to take the actions specified in the subsequently issued monitoring reports for Activity #s 38983, 39886, and 39242.
6. Respondent violated Section 3.1(iii) of the RSP Agreement when disallowed costs totaling \$73,720.78 were demanded and not repaid.
7. Pursuant to Tex. Gov't. Code §2306.0504(c), the Department shall debar a person from participation in a Department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program.

¹ References to violations of TDHCA rules at 10 TAC §53 refer to the version of the code in effect at the time the RSP Agreement was signed in 2012. All past violations remain violations under the current code and all interim amendments.

8. Pursuant to 10 TAC §2.401(f)(3), failure to repay disallowed costs is a material violation that justifies debarment.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of material factors including those set forth in 10 Tex. Admin. Code §2.401(j) to be considered for a recommended period of debarment, as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that Respondent is debarred from future participation in all programs administered by the Department for a period of **ten** years, to commence upon the date this Order is approved by the Board.

IT IS FURTHER ORDERED that the terms of this Agreed Final Order shall be published on the TDHCA website.

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