

## Executive Summary

The Texas Department of Housing and Community Affairs' (Department's) Compliance Division (Division) effectively performs on-site monitoring reviews and desk reviews as required in order to ensure that the Department's housing and energy assistance programs are correctly administered and funds are expended in accordance with contract provisions and applicable state rules and federal regulations. When serious non-compliance in the Tax Credit Program occurs, non-compliant properties are correctly identified and are referred to the Administrative Penalties Committee as appropriate.

However, the Division should enhance the timeliness of monitoring and inspection reports to ensure that these reports are issued within the required timeframes. Of the 120 reports tested for the Compliance Monitoring, Contract Monitoring, and Physical Inspections sections, 11 (9.2%) were not issued within the timeframes required by the Division's policies and procedures.

Of the 30 reports tested for the Community Affairs Monitoring section, 10 (33.3%) were for the Weatherization Assistance Program (WAP) which is required to issue monitoring reports within 30 days of the monitoring visit. Of those 10 WAP reports, seven (70.0%) were not issued within the timelines required by state rules or the Department of Energy's federal regulations.

In addition, the Division is not always providing property owners with a 90-day corrective action period to correct issues of noncompliance as required by state rules and Department policies. Of the 60 monitoring and inspection reports tested that would require a 90-day corrective action period, 28 (46.7%) did not include a full 90-day corrective action period. Instead, the corrective action period was generally between 86 and 89 days because some monitors count three months from the date of issue rather than 90 calendar days. This is especially important because a recent change to state law now requires the Department to ensure that property owners are given a 90-day corrective action period.

### The Compliance Division

The Compliance Division (Division) is responsible for ensuring programmatic and financial compliance with federal and state regulatory requirements. As part of their oversight and monitoring procedures, the Division conducts on-site monitoring reviews and desk reviews.

The Division consists of five different sections, four of which are responsible for monitoring activities. The four sections responsible for monitoring activities are: Compliance Monitoring, Contract Monitoring, Physical Inspections and Community Affairs Monitoring. The fifth section, Compliance Administration, is responsible for prior participation reviews, reviewing annual owner compliance reports, oversight of utility allowance appraisals, training for staff and development owners, as well as reviewing referrals to the Administrative Review Committee.

### Other Key Points

- The Compliance Division does not always maintain current records on external users of the Compliance Monitoring and Tracking System (CMTS) as required by the Department's policies. We tested 34 unique Administrator of Accounts user IDs to determine if users were still employed by the property. The Division's property administrator records are not current for 12

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of 34 (35.3%) users tested. Although they cannot delete data, these former users have the ability to submit false reports or to make unwanted changes to external property manager accounts.

- The Compliance Division does not always enter monitoring information into the various tracking systems as required by the Division's policies and procedures and the information that is entered is not always consistent with the information in the hard copy monitoring reports. Of the 120 reports tested for the three sections that utilize the various tracking systems, 81 (67.5%) had information that was either not entered into the tracking systems or had information that was not consistent with the hard copy reports that were issued. This issue is important because the dates in the various tracking systems are used by Division management to evaluate staff performance.
- The Community Affairs Monitoring section's standard operating procedures have not been completed or finalized. Without finalizing and formally communicating policies and procedures to staff, the staff may not be performing their duties consistently or in the manner intended by management. For example, we tested 30 monitoring reviews for the Community Affairs Monitoring section, of which 27 required a corrective action period. We found that the corrective action period given to the subrecipients was not consistent. Sixteen (59.3%) of the reports gave the subrecipient a 30-day corrective action period and 11 (40.7%) gave the subrecipient a 45-day corrective action period.

### **Summary of Recommendations**

The Compliance Division should:

- ensure that they are issuing reports within the timeframes required by federal regulations, state rules, and Department policies and that they are closing monitoring reviews and inspections within the timeframes required by the Division's policies and procedures.
- ensure that a 90 day corrective action period is given to the property owners as required.
- periodically verify the identity of authorized external users through measures such as user account audits as prescribed by the Department's User Accounts and Network Access Policy.
- ensure that all of the required information is entered into the various tracking systems and the information entered into the various tracking systems is consistent with the information in the hard copy reports.
- finalize the policies and procedures for the Community Affairs Monitoring section and ensure that they are communicated to staff for consistency.

### **Summary of Management Responses**

*Management generally agreed with the recommendations outlined in this report and indicated that they are taking steps to implement them.*

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## **Detailed Results**

### Chapter 1

#### **Enhance the Timeliness of Monitoring and Inspection Reports and Corrective Action Periods**

The Compliance Division (Division) is not always issuing monitoring and inspection reports within the timeframes required by federal regulations, the Department's Texas Administrative Code rules and the Division's internal policies and procedures. We tested 150 monitoring and inspection reports; 120 reports were for the Compliance Monitoring, Contract Monitoring, and Physical Inspections sections. Of these 120 reports, 11 (9.2%) were not issued within the required timeframes. Furthermore, reviews and inspections are not always closed within the timeframes required by the Division's policies and procedures. Of the 120 reports tested, 11 (9.2%) were not closed within the required timeframes. It is important for monitoring and inspection reports to be issued timely so the owners are aware of any noncompliance issues that may have been identified and can address the issues promptly.

The Community Affairs Monitoring section does not have set timeframes for issuing reports for the various programs they review, except for the Weatherization Assistance Program (WAP). Of the 30 Community Affairs reports tested, 10 (33.3%) were for WAP. Of those 10, seven (70.0%) were not issued within the timeframes required by the Department of Energy's regulations and by the Department's Texas Administrative Code rules.

In addition, the Division is not always providing property owners with a 90-day corrective action period to correct issues of noncompliance as required by the Department's rules and the Division's internal policies and procedures. Of the 60 monitoring and inspection reports tested that would require a 90-day corrective action period, 28 (46.7%) did not allow for the full 90 days to correct the issue. This is especially important because a recent change in the Department's enabling legislation specifies a 90-day corrective action period.

### Chapter 1-A

#### **Issue and Close Monitoring and Inspection Reports Within the Required Timeframes**

The Division is responsible for ensuring programmatic and financial compliance with federal and state regulatory requirements. As part of their oversight and monitoring procedures, the Division utilizes both on-site and desk reviews. The Division consists of five sections of which four of those sections are responsible for monitoring activities. The four sections responsible for monitoring activities are: Compliance Monitoring, Contract Monitoring, Physical Inspections and Community Affairs Monitoring. The fifth section, Compliance Administration, is responsible for prior participation reviews, reviewing annual owner compliance reports, oversight of utility allowance appraisals, training for staff and development owners, as well as reviewing referrals to the Administrative Review Committee.

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We tested a random sample of 150 monitoring reports and physical inspection reports from the four sections of the Division that perform monitoring activities to determine if the monitoring reports were issued and closed within the time frames required by federal regulations, the Department's rules, and the Division's internal policies and procedures.

The Compliance Monitoring section is responsible for ensuring long-term compliance with the various housing programs administered by the Department. Of the 150 monitoring and inspection reports we tested, 30 (20.0%) were for the on-site monitoring visits performed by the Compliance Monitoring section. Of these:

- four (13.3%) monitoring reports were not issued within 35 days of the review date as required by the Division's policies and procedures,
- four (13.3%) of the monitoring visits were not closed out within 45 days of the monitoring letter date if there were no findings, the date the corrective action documentation was received, or the corrective action due date if no response was received, as required by the Division's policies and procedures, and
- one (3.3%) on-site review was not closed as of June 13, 2013. This is 167 days after the corrective action due date and 288 days after the on-site review date.

The Physical Inspections section performs and administers inspections for developments monitored by the Division. This includes some inspections that are performed by an external contractor. Of the 150 monitoring and inspection reports we tested, 30 (20.0%) were for inspections performed or administered by the Physical Inspections section. Of these:

- six (20.0%) physical inspection reports were not issued within 40 days of the inspection date or the date of receipt of the inspection from the contractor as required by the sections policies and procedures, and
- four (13.3%) inspections were not closed within 45 days of the inspection date or the corrective action due date as required by the Division's policies and procedures.

The Community Affairs Monitoring section moved to the Division in June 2012. The Community Affairs Monitoring section is responsible for ensuring that the Low-Income Housing and Energy Assistance Program (LIHEAP), Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP) and the Homeless Housing and Services Program (HHSP) are administered and the funds are expended in accordance with contract provisions and applicable state and federal rules and regulations. Of the 150 monitoring and inspection reports we tested, 30 (20.0%) were for the Community Affairs Monitoring section. The Community Affairs Monitoring section does not currently have finalized policies and procedures that identify the required time frame for issuing monitoring reports. However, the Department of Energy (DOE), the federal funding agency for the WAP, as well as the Department's rules, require that a monitoring report is issued within 30 days.

Of the 30 monitoring reports we tested for the Community Affairs Monitoring section, 10 (33.3%) included the WAP. Of these 10 reports:

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- seven (70.0%) were not issued within 30 days of the review date as required by DOE and the Department's rules, and
- two of the seven reports not issued within 30 days had not been issued as of June 13, 2013. This was 82 days and 119 days respectively from the date of the review.

The Contract Monitoring section is responsible for ensuring that the Department's HOME, Housing Trust Fund, Neighborhood Stabilization Program, Community Development Block Grant and Emergency Solutions Block Grant programs are administered and funds expended in accordance with contract provisions and applicable state and federal rules and regulations. Of the 150 monitoring and inspection reports we tested, 30 (20.0%) were for the on-site visits and 30 (20.0%) were for the desk reviews performed by the Contract Monitoring section. We found no significant problems with the timeliness and close-out of the monitoring reports for this section.

### **Recommendation**

The Division should:

- ensure that monitoring reports are issued within the timeframe required by federal regulations, Department rules, and the Division's policies and procedures, and
- ensure that monitoring reviews and inspections are closed out within the timeframe required by the Division's policies and procedures and federal oversight agencies.

### **Management's Response**

*Management agrees that monitoring reports should be issued within the timeframe required by federal regulations, Department rules, and the Division's policies and procedures, and that monitoring reviews and inspections should be closed out within the timeframe required by the Division's policies and procedures and federal oversight agencies. The division will continue to review the timeliness of report issuance and onsite close out on a monthly basis and continue to use this as criteria in employee's evaluations. In addition, the Division will continue to follow the Department's Human Resources Policies and Procedures for employees who cannot perform as required by their job description. The management team of the Compliance Division is responsible for this. The target date for implementation is August 1, 2013.*

Chapter 1-B

### **Provide Development Owners 90 Days to Respond to Notices of Noncompliance as Required**

The Compliance Monitoring and Physical Inspections sections have policies and procedures that require that an owner be provided with a 90-day corrective action period to respond to a notice of noncompliance. We tested 60 monitoring and inspection reports for these two sections and found that 28 (46.7%) did not provide a full 90-day corrective action period. Instead, the corrective action period given was generally between 86 and 89 days. This is because some monitors and inspectors count three months from the date of the monitoring letter instead of calculating 90 calendar days. It is important that owners are provided with a 90-day corrective action period because a recent change to the Department's enabling legislation, Chapter 2306 of the Government Code, now includes this requirement in the statute.

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**Recommendation**

The Division should ensure that a full 90-day corrective action period is given to development owners as required.

**Management's Response**

*Management agrees that the Division should provide a full 90-day corrective action period to development owners as required. An excel tool has been created and provided to all employees to ensure the correct number of days are provided for a corrective action period. This was implemented on August 1, 2013. Chief of Compliance Patricia Murphy is responsible.*

Chapter 2

## **Contract Monitoring Activities are Performed as Intended**

The Contract Monitoring section performs on-site monitoring reviews and desk reviews to ensure the Department's HOME, Housing Trust Fund, Neighborhood Stabilization Program, Community Development Block Grant and Emergency Solutions Block Grant programs are administered and funds expended in accordance with contract provisions and applicable state and federal rules and regulations.

We attended and observed an on-site monitoring review and reviewed the on-site and desk review monitoring programs used by the Contract Monitoring section. We determined that the contract monitoring activities are performed in accordance with federal regulations, the Department's rules, and the Division's policies and procedures. The monitoring review programs are detailed and identify the procedure steps to be performed during an on-site or desk review as well as identifying the relevant federal regulations, rules, and policies where applicable. In addition, the Contract Monitoring section has developed various testing tools for the different types of programs they monitor. The monitoring programs and tools help ensure consistency and standardization between contract monitors.

Chapter 3

## **Properties are Correctly Identified and Referred for Administrative Penalties**

The Administrative Penalties Committee (Committee) is responsible for administering the Department's penalty enforcement authority, which includes ensuring that properties comply with federal regulations, state statutes, the Department's rules and its internal policies through assisting in the completion of corrective actions and assessing an administrative penalty, where appropriate.

We tested a random sample of 30 properties that were referred to the Committee and determined that all (100%) of the properties were identified and referred for administrative penalties in accordance with federal regulations, state rules, and the Department's policies.

We also tested a judgmental sample of 30 properties that were monitored or inspected but were not referred to the administrative penalties committee to determine if properties were identified and referred correctly.

- Twenty-nine (96.7%) of the properties we tested did not meet the necessary requirements for referral to the administrative penalties committee because the findings of noncompliance were all corrected in accordance with the Department's policies.
- One (3.3%) of the properties met the requirement for referral to the Committee. However, this property was given time to work with the Asset Management Division to try and amend its' LURA requirement. The property was eventually able to receive an amended LURA and the noncompliance finding was corrected. Therefore, the property was not referred to the Committee.

Chapter 4

## **Update and Accurately Maintain Electronic Records**

The Division does not always maintain current records on external users of the Compliance Monitoring and Tracking System (CMTS). Property owners designate an individual as the administrator of accounts for the owner's properties. The administrator is granted property administrator privileges in CMTS that allows them to submit compliance and property reports to the Department via CMTS and to assign manager accounts for each property. The manager accounts are property-specific and allow the electronic submission of compliance and property reports for each individual property. We tested 34 administrator accounts and found that the records were not current for 12 of 34 (35.3%) of the users tested.

In addition, the Division does not always consistently or correctly enter information into the various systems used to track information on monitoring reports, as well as other data related to the monitoring reviews. These systems include CMTS, TeamMate audit software, and a Microsoft ACCESS database. The Division's policies and procedures require that information is tracked in these systems. Of the 120 monitoring and inspection reports we tested that were applicable for the Compliance Monitoring, Contract Monitoring, and Physical Inspections sections, 81 (67.5%) had information that was either not entered into the tracking systems or was not consistent with the corresponding hard copy reports.

Chapter 4-A

### **Update External User Data in CMTS**

We tested a randomly selected sample of 34 unique administrator of accounts user IDs to determine if the users were still employed in some capacity by the property, such as at the property's management company or the property owner's company.

- The Division's property administrator records are not current for 12 of 34 (35.3%) users tested. One of the 12 users works for a company that is no longer related to the property. This is reflected by the CMTS records, but not the Division's database of user accounts. The other 11 users are no longer employed with the companies shown in CMTS to have relationships with the respective properties.
- We were unable to confirm the status of one of the 34 (2.9%) users because CMTS did not have a record of the user.

The Department's User Accounts and Network Access Policy requires user account administrators to perform user account audits on external accounts every two years. However, unauthorized users with property administrator privileges present a low risk from an IT security standpoint because they can only submit reports and view non-sensitive property information, but may pose a greater risk from the program's perspective due to the potential for false report submissions or unwanted changes to external manager accounts by the administrators of accounts.

## **Recommendation**

The Division should periodically verify the identity of authorized external users through measures such as user account audits as prescribed by the Department's User Accounts and Network Access Policy.

## **Management's Response**

*Management agrees that the Division should periodically verify the identity of authorized external users through measures such as user account audits as prescribed by the Department's User Accounts and Network Access Policy. An SOP has been developed and was implemented on August 1, 2013 to quarterly audit 5% of the CMTS user accounts. Stephanie Naquin, Manager of Compliance Administration is responsible for ensuring compliance with the SOP.*

Chapter 4-B

## **Consistently and Accurately Track Monitoring Data**

The Compliance Monitoring, Contract Monitoring, and Physical Inspections sections use the CMTS, TeamMate audit software, and a Microsoft ACCESS database in order to track dates and other data for their monitoring reviews and reports. Of the 150 monitoring reports tested, 120 (80.0%) are tracked utilizing one of the tracking systems noted above. As part of the monitoring report testing, we verified if the dates tracked in the various tracking systems were consistent with the dates found in the hard copy monitoring reports.

Of the 120 applicable monitoring reports, 81 (67.5%) had dates in the automated tracking systems that were inconsistent with the information in the hard copy reports. The dates entered into the tracking systems were generally off by a couple of days, earlier or later, than the dates in the report. The dates that are entered into the various tracking systems are used by Division management to ensure that staff meets the required time frames and goals for performing their monitoring reviews, issuing monitoring reports, and closing out the monitoring reviews. If the dates entered into the tracking systems are not consistent with the actual dates in the reports, management may be making incorrect assessments of staff performance.

In addition, we noted that dates that should be entered into the tracking systems are not always entered. For example, CMTS is utilized to track the date when the supporting documentation for corrective actions is received from a property and reviewed by the monitor or inspector. However, inspectors and monitors do not always enter this information and as a result, management may be unable to determine if the supporting documentation was reviewed within the required timeframe.

## **Recommendation**

The Division should ensure that all of the required information is entered into the various tracking systems and that the information entered is consistent with the information in the hard copy reports.

**Management's Response**

*Management agrees that the Division should ensure that all of the required information is entered into the various tracking systems and that the information entered is consistent with the information in the hard copy reports. To improve in this area, as monthly reports are provided to employees as feedback, management will sample 5% of the data to ensure accuracy. Wendy Quackenbush, JR Mendoza, Earnest Hunt and Stephen Jung are responsible for this. The target date for implementation is September 1, 2013.*

Chapter 5

## **Finalize and Approve the Policies and Procedures for Community Affairs Monitoring**

The Community Affairs Monitoring section's standard operating procedures have not been completed or finalized. Policies and procedures are internal controls that help ensure that management's directives are carried out. Without finalizing and formally communicating policies and procedures to staff, the staff may not be performing their duties consistently or in the manner intended by management. For example, we tested 30 monitoring reviews for the Community Affairs Monitoring section, of which 27 required a corrective action period. We found that the corrective action period given to the subrecipients was not consistent. Sixteen (59.3%) of the reports gave the subrecipient a 30-day corrective action period and 11 (40.7%) gave the subrecipient a 45-day corrective action period.

### **Recommendation**

The Division should finalize the policies and procedures for the Community Affairs Monitoring section and ensure they are communicated to staff in order to help ensure consistency.

### **Management's Response**

*Management agrees that the Division should finalize the policies and procedures for the Community Affairs Monitoring section and ensure they are communicated to staff in order to help ensure consistency. Chief of Compliance Patricia Murphy is responsible for completing these SOPs and they should be in final form by October 31, 2013.*

Chapter 6

## **Prior Audit Issue Cleared**

As part of this audit, we performed testing to determine if a prior audit issue related to compliance monitoring identified in *the Internal Audit of the Homeless Housing and Services Program (HHSP)* released in August 2012, was implemented. The finding stated:

*The Department does not have effective monitoring procedures in place to predict, identify, and prevent weaknesses at the subrecipient level. The monitoring instrument does not capture information on many of the requirements in the subrecipients contracts. In addition, the Department has not monitored three of the eight subrecipients and the other five were monitored only once since 2010.*

The Division has developed a monitoring instrument that will ensure program funds are expended in accordance with the contract provisions and applicable state and federal rules, regulations, policies, and related statutes. In addition, the Division completed a monitoring review of all HHSP subrecipients. We determined that this prior audit issue was implemented and is closed.

## **Appendix A**

### **Objectives**

The objectives of this audit were to determine if:

- monitoring reports are issued within the timeframes required by federal regulations, state rules, and Department policies,
- noncompliant properties are identified and referred for administrative penalties in accordance with federal regulations, state rules, and Department policies, and
- contract monitoring activities are performed in accordance with federal regulations, state rules, and Department policies.

### **Scope**

The scope of this audit was state fiscal years 2012 and 2013 through May 24, 2013.

### **Methodology**

A preliminary understanding of the Compliance Division was developed in order to determine the project objectives by:

- interviewing Compliance Division staff,
- reviewing background information related to the Compliance Division, and
- performing a project-level risk assessment.

The following tests were conducted to meet the audit objectives:

- Compared monitoring reviews and inspection reports to the timeframes required for issuing the reports as established by federal regulations, state rules, and Department policies.
- Performed observations of an on-site contract monitoring review to ensure that contract monitoring activities are performed in accordance with federal regulations, state rules, and Department policies.
- Reviewed the on-site and desk review monitoring programs utilized by the Contract Monitoring section to determine if they ensure that contract monitoring activities are performed in accordance with federal regulations, state rules, and Department policies.
- Tested properties that were referred to the Administrative Penalties Committee to ensure they were correctly identified and that they met the requirements to be referred.
- Tested properties that were monitored or inspected but were not referred to the Administrative Penalties Committee to ensure that the properties did not meet the criteria for referral.
- Evaluated the CMTS validations of data input.
- Compared the job functions of the Department's employees with internal CMTS roles with the employees' job functions to determine if access levels are appropriate.

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- Verified the employment of users at other state agencies assigned internal CMTS roles to determine whether they are administering programs that require CMTS access privileges.
- Tested external user accounts to determine if users assigned external CMTS roles are still employed in a position appropriate for the access levels granted to the user.

### **Criteria**

The following documents were used as criteria:

- Texas Administrative Code, Title 10, Part 1, Chapter 5, Subchapter E,
- Texas Administrative Code, Title 10, Part 1, Chapter 10, Subchapter F,
- Texas Administrative Code, Title 10, Part 1, Chapter 60, Subchapter C,
- The Compliance Division's internal policies and procedures,
- Compliance Monitoring and Tracking System (CMTS) internal user guide,
- Compliance Monitoring and Tracking System (CMTS) external user guide,
- Compliance Monitoring and Tracking System (CMTS) Owner Authorization form,
- Weatherization Program Notice (WPN) 08-01, 09-1, 10-1, 11-1, and 12-1 issued by the Department of Energy, and
- Information Systems Division internal policies and procedures.
- COSO Control Activities, Technology General Controls
- COBIT Control Objective PO4.11

### **Type of Audit**

This audit was a performance audit of the Compliance Division.

### **Report Distribution**

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

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

### **Project Information**

We conducted audit fieldwork from June 2013 through July 2013. We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was also

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conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*.

The following staff performed this audit:

- Nicole Kludt, CFE, CICA, Project Manager
- Derrick Miller

### **Appreciation to Staff**

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