

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AUDIT AND FINANCE COMMITTEE MEETING

Dewitt C. Greer State Highway Building
Ric Williamson Hearing Room
125 East 11th Street
Austin, Texas

March 21, 2019
7:30 a.m.

MEMBERS:

SUSAN THOMASON, Chair
PAUL A. BRADEN, Member
ASUSENA RESÉNDIZ, Member
LEO VASQUEZ, Member

ON THE RECORD REPORTING
(512) 450-0342

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P R O C E E D I N G S

1
2 MS. THOMASON: Good morning, and welcome to the
3 March 21 meeting of the TDHCA Audit and Finance Committee.

4 Sorry. Spring has sprung, and I may or may not
5 have some allergy things going on here, so bear with me.

6 I will take roll. Paul Braden?

7 MR. BRADEN: Here.

8 MS. THOMASON: Asusena Reséndiz?

9 MS. RESÉNDIZ: Here.

10 MS. THOMASON: And Leo Vasquez?

11 MR. VASQUEZ: Here.

12 MS. THOMASON: All right.

13 Item 1 is going to be the approval of the
14 minutes from the December 6, 2018 meeting of the Audit and
15 Finance Committee. At that meeting, Mr. Ernie Palacios
16 presented for approval the draft computation of Housing
17 Finance Division total and unencumbered fund balances and
18 transfers to the Housing Trust Fund. The director of
19 Internal Audit, Mark Scott, presented as report items the
20 Home Fund tracking audit and the Loan Servicing Division
21 audit, as well as the annual report on internal audit and
22 recent external audit activities. The minutes are
23 included in the notebook for the Audit and Finance
24 Committee.

25 Can I have a motion to approve the minutes from

1 the December Audit Committee meeting?

2 MR. BRADEN: So moved.

3 MS. THOMASON: A second?

4 MR. VASQUEZ: Second.

5 MS. THOMASON: All in favor?

6 (A chorus of ayes.)

7 MS. THOMASON: And any opposed?

8 (No response.)

9 MS. THOMASON: Perfect.

10 Our second action item is the review and
11 possible acceptance of the State Auditor's Office audit of
12 the TDHCA financial statements, and we have someone here
13 to present that this morning.

14 MS. PUERTO: Sarah Puerto with the State
15 Auditor's Office. I was the project manager for this
16 audit. The audit is the Department of Housing and
17 Community Affairs fiscal year 2018 financial statements,
18 and I'm here to present the reports that were issued as
19 part of this audit.

20 First, I'd like to thank the Department, once
21 again, staff who were involved this year who made the
22 audit run smoothly once again.

23 The State Auditor's issued several reports as
24 part of this audit. On December 20, 2018, we expressed
25 unmodified opinions on the Department's fiscal year 2018

1 basic financial statements, Revenue Bond Program
2 Enterprise Fund financial statements, and the computation
3 of unencumbered fund balances of the Housing Finance
4 Division. We also issued a report on the compliance with
5 the Public Funds Investment Act. The results of our tests
6 disclosed no issues of non-compliance or other matters
7 that are required to be reported under Government Auditing
8 Standards.

9 We also issued a report in internal control
10 over financial reporting, and on compliance and other
11 matters, as required by auditing standards. We did not
12 identify any material weaknesses in internal control over
13 financial reporting or any non-compliance with laws or
14 regulations that materially affected the financial
15 statements.

16 We also previously issued two reports earlier
17 during this audit. On September 12, 2018, we issued a
18 report that concluded that the financial data schedule
19 prepared by the Department was fairly stated in all
20 material respects in relation to the fiscal year 2017
21 basic financial statements taken as a whole. On September
22 27, 2018, we issued a report that concluded that the
23 Department's electronically submitted financial data
24 schedule to the U.S. Department of Housing and Urban
25 Development Real Estate Assessment Center agreed with

1 related hard copy documents.

2 On December 20, 2018, we emailed you a document
3 entitled Required Communication with Those Charged with
4 Governance, and that included several items that we are
5 required to communicate to the Board.

6 And finally, this concludes this presentation
7 and I'll be happy to answer any questions you may have.

8 MS. THOMASON: Thank you.

9 Are there any questions?

10 (No response.)

11 MS. THOMASON: Okay. If not, I will ask for a
12 motion to recommend approval of the State Auditor's Office
13 audit to the full Board.

14 MR. VASQUEZ: Move to approve the report.

15 MS. THOMASON: Okay. And a second?

16 MS. RESÉNDIZ: Second.

17 MS. THOMASON: All in favor?

18 (A chorus of ayes.)

19 MS. THOMASON: And any opposed?

20 (No response.)

21 MS. THOMASON: No. Then we will recommend that
22 to the full Board today.

23 That concludes our action items. We do have
24 three report items. The first is the internal audit of
25 the Public Information Request, or the PIR, function, and

1 Mr. Scott will present that to us.

2 MR. SCOTT: Thank you, Madam Chair.

3 On the PIR program we found that the agency has
4 processes to ensure compliance with the Public Information
5 Act. We had some recommendations for fine-tuning the
6 processes, including more specific titles for categories
7 in accordance with the Office of Attorney General
8 guidelines. We also recommended ways to categorize large
9 and complicated requests, and this is just a record
10 keeping inefficiency recommendation. Also, in response to
11 the audit, the program has updated its standard operating
12 procedures.

13 That concludes the PIR audit. Are there any
14 questions on the PIR audit?

15 (No response.)

16 MS. THOMASON: Okay. Thank you very much.

17 If no questions, then our next item is the
18 presentation and discussion of the internal audit review
19 of TDHCA's licensing, inspection and outreach for migrant
20 labor housing, and Mr. Scott will present that.

21 MR. SCOTT: For this audit, Internal Audit
22 staff visited five of the licensed facilities and we also
23 looked at the work sites. And the visits went very well
24 and the owners were very cooperative. We also reviewed
25 the records of the inspections and the outreach

1 activities.

2 We had recommendations related to point of
3 contact for the memorandum of understanding between TDHCA
4 and Manufactured Housing. Having a specific person
5 responsible will improve the oversight of the contract.

6 We noted several ways that the inspection
7 processes and the record keeping can be improved. For one
8 thing, the owners have not been signing off on the
9 inspections to acknowledge when there are items that need
10 to be fixed and to indicate that they will fix them.

11 Also, the inspectors have not been providing a copy of the
12 completed inspection form to the inspected entity.

13 Actually, while we were out there at the places, the
14 owners had questions about occupancy rules, et cetera, so
15 it seemed to us that there's a desire on the part of the
16 owners to cooperate and make the program successful.

17 As for the funding, the agency is receiving a
18 \$250 fee for each license application. We recommended
19 better accounting for the time and travel spend on the
20 inspections.

21 As for outreach for the program, TDHCA has been
22 coordinating with TWC and DOL to identify and bring more
23 facilities into the licensing program. The number of
24 facilities has increased from around 40 a couple of years
25 ago to around 140 currently. The agency has been

1 identifying facilities primarily through the H-2A visa
2 program through the DOL website. In the report we noted
3 other methods for future outreach.

4 One other item was on the logo. It's a good
5 eye-catcher but we recommended some information to be
6 included on the decal to further increase communication
7 and awareness of the program.

8 And that concludes my presentation on the
9 migrant labor housing audit. I'll be happy to answer any
10 questions there may be.

11 MS. RESÉNDIZ: Madam Chair, I have a question.

12 MS. THOMASON: Sure.

13 MS. RESÉNDIZ: Out of the five, how did we go
14 about choosing the five?

15 MR. SCOTT: Well, we chose some that were
16 close, so we went to one in Giddings. We tried to get a
17 good sample. We went to two in the Valley, and we went to
18 one by San Antonio, and then we went to the one in
19 Giddings, and then Round Mountain. And we tried to get a
20 cross-sample of the agricultural uses. Like one of the
21 places was just a ranch so they had ranch hands, and one
22 of the places was a nursery, a big nursery, so they had
23 drivers and they also had people that work in the nursery.
24 We went to a place that had a variety of workers; those
25 were apartment buildings.

1 MS. RESÉNDIZ: So it was based off geography?

2 MR. SCOTT: Based on geography and we tried to
3 get a good cross-sample of the types of workers.

4 MS. RESÉNDIZ: Great. Thank you, Mark.

5 MR. SCOTT: You're welcome.

6 MR. VASQUEZ: I have some questions. Mark,
7 following up on that, would you say the locations you went
8 to were kind of off-season?

9 MR. SCOTT: Exactly, yes, and so I put a caveat
10 in the report that the facilities looked good but we did
11 not go in the heart of a growing season or when it's hot,
12 and so there's other factors that may pertain to the type
13 of facilities that are provided.

14 MR. VASQUEZ: Okay. That just sounds like we
15 need to do a mini followup.

16 MR. SCOTT: Yes, I'd be glad and I'd be
17 actually eager to go out during the harvest season to see
18 how it really looks.

19 MR. VASQUEZ: Okay. Great. Thanks.

20 And then you mentioned possibly not keeping
21 track of the expenses related to this program. In your
22 opinion, are we spending much more administering the
23 program right now?

24 MR. SCOTT: I would say from a cost accounting
25 standpoint we're not capturing the full cost of what it

1 takes to do this program. For example, the travel, you
2 know, we have people out in the different areas and
3 sometimes they do it kind of as an adjunct to what they're
4 already doing with the Manufactured Housing. Ideally, you
5 would separate out the travel costs for the different
6 types of inspections, the same thing with the time. We
7 noted on some of them we couldn't tell that time had been
8 charged for the time it took the inspectors to go do the
9 inspections.

10 MR. VASQUEZ: Okay. Because obviously, one of
11 our concerns from the Board's perspective is -- and I'm
12 sure management perspective -- is that we have an unfunded
13 mandate from the legislature to administer this program
14 but without enough resources to actually make it happen.
15 That's the concern that I have.

16 MR. SCOTT: Yes, and my experience with
17 unfunded mandates is a good first step is always to have
18 an accurate accumulation of the cost.

19 MR. VASQUEZ: In your report or in the audit
20 did you do anything related to -- I know there's some
21 issues on the requirements of programs as set from the
22 state versus the federal level, and then TWC versus OSHA
23 versus -- just not everything meshes, from what I
24 understand.

25 MR. SCOTT: That gets confusing. The

1 Department of Labor issues through, I think, it's their
2 Office of Training Administration, they issue guidelines
3 on how the housing is supposed to be, the criteria for the
4 housing. Homero is up there.

5 MR. CABELLO: Homero Cabello, director of
6 Program Oversight and Control.

7 There's several issues that we're dealing with
8 with the migrant farm workers. At the very beginning we
9 had about 40 to 48 facilities to inspect. Manufactured
10 Housing Division stepped up and said they can absorb it
11 within their current capacity with their current workload,
12 but as we're increasing the number of licenses, we're up
13 to close to 150 now, it's starting to become I don't want
14 to say a burden but it's starting to create some stresses
15 in their operations.

16 \$250 per license doesn't begin to cover all the
17 costs associated with the time we spend, the inspections
18 and the related matters. We've created a new 1-800 number
19 for a hotline for the migrant farm workers. There's
20 several bills that are going through the process now. One
21 of them was by Senator Flores that would exempt the H-2A
22 visa from being licensed through our agency, but it seems
23 like that bill is not going to move forward. And then we
24 have a couple of other bills from House members that are
25 trying to expand some of the duties that we already

1 perform.

2 The cost is a challenge, and so like Mark
3 stated, we have to start keeping track, it's more on the
4 Manufactured Housing side to see what it's really costing
5 them, so at the next session we can then talk about the
6 cost of this program.

7 MR. VASQUEZ: Definitely.

8 You said there's up to almost 150?

9 MR. CABELLO: We're up to 150.

10 MR. VASQUEZ: Do you have any idea as to the
11 possible total universe of licenses?

12 MR. CABELLO: Well, that's a good question.
13 There are many figures out there about the number of
14 migrant farm workers in Texas. We have been relying on
15 the USDA. They do a census of agricultural workers every
16 five years. Their census for 2017 is scheduled to come
17 out in April and that will give us an idea of the number
18 of migrant farm workers in Texas. The last census that
19 came out in 2012 had identified just under 4,900 migrant
20 farm workers. A lot of people speculate that number is
21 low, but it's very difficult.

22 One of the things that we're doing, we're
23 identifying all organizations that touch a migrant farm
24 worker and do some outreach and let them know about the
25 licensing requirements, but also it's been stated in

1 several meetings that we've attended that a large
2 percentage of the migrant farm workers are undocumented,
3 and so when it comes to the census, are they reporting
4 them or not.

5 MR. VASQUEZ: I would imagine the number is not
6 4,900 but more like 49,000 at least -- at least.

7 MR. CABELLO: We anticipate the same. But the
8 majority of the data that's out there is well dated. I
9 think the most recent data set that we found was 2006, and
10 most of it is from 2000, so there isn't any recent studies
11 as to the number of migrant farm workers, other than the
12 census that the farmers -- if the farmers generate more
13 than \$1,000 in sales, they're required by federal law to
14 respond to the census, and that's what we're relying on at
15 this point.

16 But we're continuing the outreach, we're
17 developing flyers, we're developing posters. We're going
18 to communicate with the various entities out there,
19 especially health care for migrant farm workers, to let
20 them know of our requirements to see if we can identify
21 more facilities that need to be licensed.

22 MS. RESÉNDIZ: Is there some type of mandatory
23 orientation for those that house these migrant workers?

24 MR. CABELLO: Well, I don't know if we can do
25 mandatory orientation. It's informing them of the license

1 requirement, but there's a balance there that needs to
2 take place. They are not required to house migrant farm
3 workers, so one concern is if we push too hard they may
4 get to the point to say we're not going to provide any
5 housing whatsoever, you go figure out what you need to do
6 for housing and then come back to work in the morning. So
7 we're trying to find that balance of educating them about
8 the licensing requirements and how it benefits them in
9 housing migrant farm workers.

10 Did I answer your question on the Department of
11 Labor?

12 MR. VASQUEZ: Somewhat.

13 MR. CABELLO: They have two housing standards.

14 Some of the comments that we've received from the
15 advocacy groups that their housing standards are a lot
16 less than ours, so the H-2A visa employers are complaining
17 that it's double inspections and double fees because they
18 get licensed by the Texas Workforce Commission through the
19 DOL and then here's another state agency that's requiring
20 another inspection. And what they are wanting is that we
21 combine them together, but it doesn't seem that that's
22 going to happen this session.

23 MR. VASQUEZ: Although, is there a difference
24 between us looking at the housing and TWC looking at the
25 workplace environment?

1 MR. CABELLO: They both look at the housing but
2 they look at less things in the facility than we do.
3 Depending on the year that it was built, it will determine
4 which standard they are to be inspected under DOL.

5 MS. RESÉNDIZ: So the outreach that we have
6 with our partners, they're required to share that
7 information with migrant farm workers? As an example, the
8 poster, as you said, that has a 1-800 number. Are we
9 communicating with them at all?

10 MR. CABELLO: We're communicating with
11 organizations that we know of that work with migrant farm
12 workers. We know that there's other groups out there and
13 we're reaching out to them to inform them about the
14 requirements of licensing. And also to inform the migrant
15 farm workers that we have a 1-800 number in case the
16 facility is not up to the standard, they can call us and
17 then we'll follow up and figure out what's going on.

18 MS. RESÉNDIZ: And they have to track all of
19 that activity and report it back to us?

20 MR. CABELLO: Yes. We haven't received many
21 complaints, I think we've received two over the last
22 several years, but we're hoping that with this new decal
23 that we have and the new number that we have that they'll
24 come forward more often.

25 MR. VASQUEZ: Which will, in turn, create even

1 more effort and expense and manpower needs on our side
2 that are underfunded.

3 MR. CABELLO: Correct, yes.

4 MR. CERVANTES: Good morning. David Cervantes,
5 acting director for the Department.

6 Just to add to what Homero has kind of touched
7 on thus far, I mean, first off, in relation to the record
8 keeping, we certainly agree with the auditor's
9 recommendation to expand the tracking that's taking place
10 there.

11 Mr. Vasquez, you know, you mentioned unfunded
12 mandates. This particular initiative, if you go back
13 probably three sessions ago, it had no funding at all, and
14 then the one we're operating right now it has a meager
15 \$10,250 of general revenue that's assigned to it. And
16 that's the reason we've also had the MOU with Manufactured
17 Housing because we've been trying to leverage on the work
18 that they do in the regions that they're in and we've been
19 trying to minimize costs, and they've been very generous
20 with their manpower, as well, in terms of leveraging, and
21 as they go out to their sites, if they're in the vicinity
22 of the area that we need to inspect, you know, they've
23 done that. So pretty much we've been reimbursing them for
24 primarily travel costs.

25 You know, one modification that we included in

1 our legislative appropriations request this cycle was to
2 modify the type of financing that we have in the bill, and
3 right now it's general revenue in nature. You know, we're
4 asking the legislature to see if they would allow us to
5 move into what they term appropriated receipts, which is
6 more of a fee generation type of thing, and we have some
7 estimates in there. In the initial run on both the Senate
8 and the House right now, the rider is included as we've
9 requested, but we're still kind of midstream in the
10 process.

11 So we're hoping that as we break out of this
12 session and move into the next cycle, you know, that maybe
13 we're going to have opportunities to be able to continue
14 to increase the program, increase the fee generation, and
15 maybe utilize that and tie it back up to what Mark is
16 talking about to kind of balance this program to some
17 degree. But it's certainly in the infancy stages in terms
18 of being able to do that and generate the revenue that we
19 need to sustain, but like I said, we're very conscious of
20 the recommendations that our auditor is asking, and so
21 we're following up on that as we speak, of course. So
22 just a little added information in terms of the financing
23 of the activity.

24 MR. VASQUEZ: Great. Thanks.

25 MS. RESÉNDIZ: And, David, the context in the

1 bill that some state representatives authored and co-
2 authored, are you able to share any of that information
3 off the top of your head?

4 MR. CERVANTES: I mean, I think it's pretty
5 much along the lines of what Homero touched on. You know,
6 I think he used the word "balance" and I think that's what
7 we find in the bills right now. There are bills on both
8 extremes, you know, on the one side trying to impress the
9 employer side and minimizing duplication of costs, and so
10 we've had discussions and we've served as resources thus
11 far to convey our thoughts on that side of the equation.
12 But then, of course, it's the standards and Homero
13 mentioned the different standards that exist in terms of
14 the ones that are out there from the federal level and
15 then the ones that a lot of the advocacy groups bring to
16 our attention, that they think that those standards are
17 fine but they convey that they would prefer to have
18 perhaps additional items on the list as we go out and do
19 inspections and ensure that it's safe, sanitary housing
20 for the workers.

21 So that's been, like Homero said, our challenge
22 thus far. I think we've had an ear in terms of being able
23 to convey the challenges and trying to balance that out,
24 so we're kind of in a holding pattern, to be honest with
25 you, Ms. Reséndiz, to see, you know, how much traction

1 it's going to take one way or the other. You know, we had
2 had a Rules Committee meeting that took place some time
3 back and we had a proposed rule related to this activity.

4 We put it on hold because we were going to try to make
5 our way through session and see what surfaces and then
6 blend that back into our policy in terms of our rule.

7 So that's kind of where we are right now, and
8 as you know, we're approaching or past the midway point
9 now, so as things unfold, you know, then that's the next
10 step for us is the outreach that we're doing right now,
11 which Homero and his team and Tom Gouris and others have
12 been working diligently, together with Manufactured
13 Housing, and our next step will be to blend in the
14 legislation that falls out here in the next 90-120 days,
15 so that's kind of where we are.

16 MS. RESÉNDIZ: I really appreciate y'all
17 bringing more light to this program.

18 MR. CERVANTES: Okay. Yes, by all means.

19 MR. CABELLO: I was going to add one more
20 thing. We've been talking extensively with Representative
21 Romero's office. They have been in contact with USDA that
22 does the ag census. They're looking at doing an
23 additional report with USDA that will capture more
24 information on migrant farm workers. Representative
25 Romero's office communicated to David and I a couple of

1 days ago that they're in some deep conversations about
2 that taking place, so hopefully that will give us more
3 data in reference to migrant farm workers.

4 MS. RESÉNDIZ: Thank you.

5 MS. THOMASON: Any other questions?

6 (No response.)

7 MS. THOMASON: If not, we will move to our
8 final report item. It's an update on the status of the
9 2019 internal audit plan, and Mark will provide that for
10 us.

11 MR. SCOTT: Okay. As for the 2019 audit plan,
12 I'm pleased to say it's moving along on schedule, and
13 we're going to start an audit of the performance measures
14 at the agency and also an audit of the construction cost
15 certifications for the multifamily construction.

16 And that concludes my presentation on the audit
17 plan.

18 MS. THOMASON: All right. Any questions?

19 MR. VASQUEZ: Thank you for that extensive
20 report.

21 (General laughter.)

22 MS. THOMASON: Short and sweet.

23 All right. Is there anyone who would like to
24 make any public comment at this time?

25 (No response.)

1 MS. THOMASON: Okay. If not, we will wrap up
2 our meeting at 7:55. Thank you.

3 (Whereupon, at 7:55 a.m., the meeting was
4 adjourned.)

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MEETING OF: TDHCA Audit and Finance Committee

LOCATION: Austin, Texas

DATE: March 21, 2019

I do hereby certify that the foregoing pages, numbers 1 through 23, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

DATE: March 27, 2019

(Transcriber)

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