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 RESENDIZ, Member
LEO VASQUEZ, Member
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MS. THOMASON: Good morning, and welcome to the March 21 meeting of the TDHCA Audit and Finance Committee.

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

I will take roll. Paul Braden?

MR. BRADEN: Here.

MS. THOMASON: Asusena Reséndiz?

MS. RESÉNDIZ: Here.

MS. THOMASON: And Leo Vasquez?

MR. VASQUEZ: Here.

MS. THOMASON: All right.

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

Can I have a motion to approve the minutes from
the December Audit Committee meeting?

MR. BRADEN: So moved.

MS. THOMASON: A second?

MR. VASQUEZ: Second.

MS. THOMASON: All in favor?

(A chorus of ayes.)

MS. THOMASON: And any opposed?

(No response.)

MS. THOMASON: Perfect.

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

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

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

The State Auditor's issued several reports as part of this audit. On December 20, 2018, we expressed unmodified opinions on the Department's fiscal year 2018
basic financial statements, Revenue Bond Program
Enterprise Fund financial statements, and the computation
of unencumbered fund balances of the Housing Finance
Division. We also issued a report on the compliance with
the Public Funds Investment Act. The results of our tests
disclosed no issues of non-compliance or other matters
that are required to be reported under Government Auditing
Standards.

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

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

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

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

MS. THOMASON: Thank you.

Are there any questions?

(No response.)

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

MR. VASQUEZ: Move to approve the report.

MS. THOMASON: Okay. And a second?

MS. RESÉNDIZ: Second.

MS. THOMASON: All in favor?

(A chorus of ayes.)

MS. THOMASON: And any opposed?

(No response.)

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

That concludes our action items. We do have three report items. The first is the internal audit of the Public Information Request, or the PIR, function, and
Mr. Scott will present that to us.

MR. SCOTT: Thank you, Madam Chair.

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

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

(No response.)

MS. THOMASON: Okay. Thank you very much. If no questions, then our next item is the presentation and discussion of the internal audit review of TDHCA's licensing, inspection and outreach for migrant labor housing, and Mr. Scott will present that.

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

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

We noted several ways that the inspection processes and the record keeping can be improved. For one thing, the owners have not been signing off on the inspections to acknowledge when there are items that need to be fixed and to indicate that they will fix them. Also, the inspectors have not been providing a copy of the completed inspection form to the inspected entity.

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

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

As for outreach for the program, TDHCA has been coordinating with TWC and DOL to identify and bring more facilities into the licensing program. The number of facilities has increased from around 40 a couple of years ago to around 140 currently. The agency has been
identifying facilities primarily through the H-2A visa program through the DOL website. In the report we noted other methods for future outreach.

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

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

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

MS. THOMASON: Sure.

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

MR. SCOTT: Well, we chose some that were close, so we went to one in Giddings. We tried to get a good sample. We went to two in the Valley, and we went to one by San Antonio, and then we went to the one in Giddings, and then Round Mountain. And we tried to get a cross-sample of the agricultural uses. Like one of the places was just a ranch so they had ranch hands, and one of the places was a nursery, a big nursery, so they had drivers and they also had people that work in the nursery. We went to a place that had a variety of workers; those were apartment buildings.
MS. RESÉNDIZ: So it was based off geography?

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

MS. RESÉNDIZ: Great. Thank you, Mark.

MR. SCOTT: You're welcome.

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

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

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

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

MR. VASQUEZ: Okay. Great. Thanks.

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

MR. SCOTT: I would say from a cost accounting standpoint we're not capturing the full cost of what it
takes to do this program. For example, the travel, you know, we have people out in the different areas and sometimes they do it kind of as an adjunct to what they're already doing with the Manufactured Housing. Ideally, you would separate out the travel costs for the different types of inspections, the same thing with the time. We noted on some of them we couldn't tell that time had been charged for the time it took the inspectors to go do the inspections.

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

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

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

MR. SCOTT: That gets confusing. The
Department of Labor issues through, I think, it's their Office of Training Administration, they issue guidelines on how the housing is supposed to be, the criteria for the housing. Homero is up there.

MR. CABELLO: Homero Cabello, director of Program Oversights and Control.

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

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

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

MR. VASQUEZ: Definitely.

You said there's up to almost 150?

MR. CABELLO: We're up to 150.

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

MR. CABELLO: Well, that's a good question.

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

One of the things that we're doing, we're identifying all organizations that touch a migrant farm worker and do some outreach and let them know about the licensing requirements, but also it's been stated in
several meetings that we've attended that a large percentage of the migrant farm workers are undocumented, and so when it comes to the census, are they reporting them or not.

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

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

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

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

MR. CABELLO: Well, I don't know if we can do mandatory orientation. It's informing them of the license
requirement, but there's a balance there that needs to take place. They are not required to house migrant farm workers, so one concern is if we push too hard they may get to the point to say we're not going to provide any housing whatsoever, you go figure out what you need to do for housing and then come back to work in the morning. So we're trying to find that balance of educating them about the licensing requirements and how it benefits them in housing migrant farm workers.

Did I answer your question on the Department of Labor?

MR. VASQUEZ: Somewhat.

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

MR. VASQUEZ: Although, is there a difference between us looking at the housing and TWC looking at the workplace environment?
MR. CABELLO: They both look at the housing but they look at less things in the facility than we do. Depending on the year that it was built, it will determine which standard they are to be inspected under DOL.

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

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

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

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

MR. VASQUEZ: Which will, in turn, create even
more effort and expense and manpower needs on our side
that are underfunded.

MR. CABELLO: Correct, yes.

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

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

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

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

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

MR. VASQUEZ: Great. Thanks.

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

So that's been, like Homero said, our challenge thus far. I think we've had an ear in terms of being able to convey the challenges and trying to balance that out, so we're kind of in a holding pattern, to be honest with you, Ms. Reséndiz, to see, you know, how much traction
it's going to take one way or the other. You know, we had
had a Rules Committee meeting that took place some time
back and we had a proposed rule related to this activity.

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

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

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

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

MR. CABELLO: I was going to add one more
thing. We've been talking extensively with Representative
Romero's office. They have been in contact with USDA that
does the ag census. They're looking at doing an
additional report with USDA that will capture more
information on migrant farm workers. Representative
Romero's office communicated to David and I a couple of
days ago that they're in some deep conversations about that taking place, so hopefully that will give us more data in reference to migrant farm workers.

MS. RESÉNDIZ: Thank you.

MS. THOMASON: Any other questions?

(No response.)

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

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

And that concludes my presentation on the audit plan.

MS. THOMASON: All right. Any questions?

MR. VASQUEZ: Thank you for that extensive report.

(General laughter.)

MS. THOMASON: Short and sweet.

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

(No response.)
MS. THOMASON: Okay. If not, we will wrap up our meeting at 7:55. Thank you.

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

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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