

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
An Internal Audit of the Compliance Monitoring (CM) Division
Audit Report # 16-004

Executive Summary

The Office of Internal Audit (OIA) evaluated the monitoring processes performed by The Compliance Monitoring Division. Based on the fieldwork performed between September 2016 and October 2016, OIA concludes that the Compliance Monitoring processes are generally performed accurately and according to applicable rules; However, the following opportunities for improvement were identified.

Findings

- Our audit indicated that opportunity for improvement exists within The Compliance Monitoring Division to strengthen and improve its internal policies and procedures, and to achieve a higher standard of consistency as it relates to timeliness of reporting and time card reporting.

Recommendations

- The timeliness of reporting on compliance activities could be improved.
- Reporting on time spent on compliance activities allocated among different programs could be improved.

Response:

Management agreed with our recommendations.
Detailed responses are included in the body of the audit report.

Responsible Area:

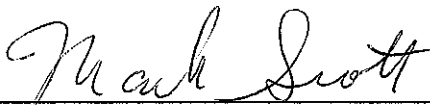
Division Director and Division Manager

Objective, Scope and Methodology

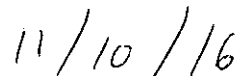
The audit of the Compliance Monitoring Division was identified in the Fiscal Year 2016 Annual Audit Plan. Based on an assessment of risks and controls, the following audit objectives were developed:

- to determine if staff members are performing their compliance monitoring as intended and based upon standard operating procedures; and
- to determine if staff members are properly allocating time to time-cards.

The audit scope included the fiscal year 2015 and calendar year 2015 desk and onsite reviews performed by the Compliance Division's Compliance Monitoring Section (CMS). The scope did not include subrecipient monitoring. The audit methodology included gaining an understanding of the CMS, its activities and processes by interviewing employees of the CMS and other staff, and by reviewing TDHCA, State, and Federal documentation. OIA identified relevant criteria for evaluating the monitoring process. OIA tested a random sample of desk and on-sight reviews. OIA summarized the results in the Report # 16-004 that follows.



Mark Scott, CPA, CIA, CISA, CFE, MBA
Director, Internal Audit



Date Signed



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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November 10, 2016

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RE: An Internal Audit Review of Compliance Monitoring

To: Chairman J. Paul Oxer and the Board Members of the Texas Department of Housing
and Community Affairs

Dear Chairman Oxer and Board Members,

This report presents the results of the Office of Internal Audit's (OIA) "Review of Compliance Monitoring." The review was included in the Fiscal Year 2016 Annual Audit Plan. Based on OIA's evaluation of risks and controls, the following audit objectives were developed:

- to determine if staff members are performing their compliance monitoring as intended and based upon standard operating procedures; and
- to determine if staff members are properly allocating time to time-cards.

The audit scope included the fiscal year 2015 and calendar year 2015, desk and onsite reviews performed by the Compliance Division's Compliance Monitoring Section (CMS). The scope did not include subrecipient monitoring.

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A. AUDIT RESULTS

Our audit indicated that opportunity for improvement exists within Compliance Monitoring Division to strengthen and improve its internal policies and procedures, and to achieve higher standard of consistency as it relates to timeliness of reporting and time card reporting.



B. MULTIFAMILY COMPLIANCE MONITORING OVERVIEW

The objectives of the Department in performing regular monitoring of affordable rental housing are¹: to provide for monitoring that meets applicable requirements of U.S. Department of Housing and Urban Development (HUD), the U.S. Department of treasury (Treasury), the Internal Revenue Services (IRS), and applicable state laws and rules; enable the Department to communicate with responsible persons; report information to the Federal Department and the TDHCA Governing Board regarding the condition and operations of developments; articulate and communicate clear standards to promote the maintenance and operation of development; identify matters of noncompliance; ensure that responsible persons understand the compliance status of their developments and the implications of such status; and to provide a transparent system of accountability, consistency, and an awareness of the high quality standards of affordable housing in the State of Texas.

The affordable rental housing programs monitored by the Compliance Division are: the Housing Tax Credit Program (HTC); the HOME investment Partnership Program (HOME); the Tax Exempt Bond Program (BOND); the Housing Trust Fund Program (HTF); the Tax Credit Assistance Program (TCAP); the Tax Credit Exchange Program (Exchange); the Neighborhood Stabilization Program (NSP); and Preservation programs.

TDHCA requires reports to be submitted electronically through the Department's web-based Compliance Monitoring and Tracking System (CMTS). Each development is required to submit an Annual Owner Compliance Report (AOCR) no later than April 30 of each year, reporting data current as of December 31 of the previous year. The four (4) parts to the AOCR are: A) Owner's Certification of Program Compliance; B) Unit Status Report (USE); C) Housing for Persons with Disabilities, owner's of state or federally assisted housing Developments with twenty (20) or more housing units are required to report information regarding housing units designed for persons with disabilities; and D) Internal Revenue Service (IRS) Form 8703, must be filed by tax exempt bond properties and submit a copy of the filed form to the Department. Other Financial Information that the owner is required to submit through CMTS are: A) the Annual Owner's Financial Certification; B) Development assisted through Exchange or TCAP must also submit a Quarterly Owner's Financial Certification which are due the 15th day of January, April, July, and October; C) When required, Periodic USRs are due the 10th day of January, April, July, and October and must report occupancy as of the last day of the previous month for the reporting period; and D) Exchange developments must submit IRS Form(s) 8609 thirty (30) days after the department issues the executed form(s). Also, all rental Developments assisted or administered by the Department are required to submit a current USR prior to an onsite monitoring visit².

A written notice is required to be provided to the Owner of a Development if the Compliance Monitoring Section (CMS) does not receive the AOCR and will specify a thirty (30) day corrective action period. Also, for other noncompliance, other than a violation that imposes an imminent hazard or threat to health and safety, the notice will specify a ninety (90) day corrective action period. Extensions to corrective action periods may be authorized, which can be up to an additional six (6) months, from the date of the notice to the Development Owner only if there is good cause and the owner requests the extension during the original ninety (90) days corrective action period³.

¹ Texas Administrative Code Rule §10.601

² Texas Administrative Code Rule §10.607

³ Texas Administrative Code Rule §10.602



The TDHCA Compliance Division⁴ ensures housing program compliance and financial compliance with federal and state regulatory mandates through established oversight and monitoring procedures. Onsite monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. Compliance objectives are achieved through five sections within the division: Contract Monitoring, Compliance Monitoring, Physical Inspection, and Community Affairs Monitoring.

The Compliance Monitoring division is responsible for long-term compliance with the various housing programs administered by TDHCA. Compliance Monitoring is also responsible for fair housing issues, property compliance training, and public information requests.

The Compliance Division and the Compliance Monitoring Section is tasked to determine the Frequency and the Depth of monitoring for Housing Tax Credit Properties after the Federal Compliance Period, which is period commencing on January 1st of the first year of the credit Period as elected on Form 8609 by the owner extending fifteen years. During the compliance period Onsite reviews are conducted approximately every three years. Additionally, Bond, HOME, and Housing Trust Fund programs are subject to limited annual Desk reviews. The total number of properties under Compliance Monitoring Division is 2152 properties. During 2015 Compliance Monitoring Division performed 186 Desk reviews and 660 Onsite reviews.

C. EVALUATION OF THE TDHCA MULTIFAMILY COMPLIANCE MONITORING PROCESS

The primary product or service that the TDHCA CMS provides is the review of necessary records to assure adherence to program requirements and terms of the deed restrictions on multifamily affordable housing properties. Compliance monitors regularly conduct site inspections to verify that the income of tenants and rents charged for housing are at or below limits established by programs. Monitors perform on-site and desk monitoring reviews and collect Annual Owner's Compliance Reports as required under Chapter 2306 of the Texas Government Code.

The Department regularly conducts training sessions for the Housing Tax Credit Program (HTC), the Bond Program (BOND), and the HOME Investment Partnerships Program (HOME) to ensure compliance with all program requirements. These training sessions teach program regulations and will help all individuals ensure compliance when implementing Department funded programs. The main types of available training sessions are **Property Compliance** and **1st Thursday Income Eligibility**.

D. FINDINGS AND/OR RECOMMENDATIONS

D.16-004.1 Findings and Recommendations:

The timeliness of reporting on compliance activities could be improved.

- a. From a sample of 20 on-sites reviewed 10 (50%) did not meet the internal policy of issuing post site visit reports within 35 days of onsite.
- b. In one case the corrective action documents were received on 8/04/16, but follow up letter and / or final report has not been issued as of 10/04/16.
- c. From a sample of 20 Desk reviews tested we found that the USR was not received by the established deadline for seven properties in 2015, and eight properties in 2016.
- d. From a sample of 20 Desk reviews tested a Desk Review letter was not issued by the deadline in five instances.

⁴ <http://www.tdhca.state.tx.us/pmcomp/>

- e. From a sample of 20 Desk Reviews tested 11 properties (55%) did not have a Desk review performed during FY 15 or CY 15.

D.16-004.2 Finding and Recommendations:

Reporting on time spent on compliance activities allocated among different programs could be improved.

- a. From sample of 20 site visits reviewed (16 Monitors), in 12 instances the time card did not reflect the accurate coding for the program under review. Information derived from time sheets may not be reliable for the purposes of work scheduling, budgeting, and billing.

MANAGEMENT COMMENTS – CORRECTIVE ACTION TABLE

<i>Finding Item Number</i>	<i>Management Comments – Status Pertaining to the Recommendations and Action to be Taken</i>	<i>Target Completion Date</i>	<i>Responsible Party</i>
D.16-004.1a	Management agrees. The division’s Standard Operating Procedure (SOP) # 2082.17 has already been updated to reflect the necessary changes	Completed	
D.16-004.1b	Management agrees that the division was in violation of SOP # 2882.12, however the 45 days requirement is not a Federal requirement and therefore not a Federal violation. As a result the SOP has been updated to only require the deadline for Housing Tax Credit properties to ensure compliance with Treasury Regulation §1.42-5. For all other programs the response is to be completed within 45 days of the end of the CAP, unless deadline is extended by the Director of Multifamily Compliance if needed.	Completed	
D.16-004.1c/d/e	Management agrees. In response management has reviewed to SOPs against the federally mandated requirements and determined that the SOP exceeds the review requirements established in federal regulations. As a result the SOP has been updated eliminating quarterly desk reviews. Management acknowledges that some Desk Reviews were not completed in FY15 in accordance with the SOP, and that staff did not comply with the SOP, but would like to note that the federal review requirements were satisfied.	Completed	
D.16-004.2	Management requested this issue to be tested for and appreciates Internal Audit’s review of this issue. Memos have been distributed to the compliance staff on November 4, 2016 to provide clear guidance for time card reporting for each program.	Completed	



OIA extends our sincere appreciation to management and staff of TDHCA for their cooperation and assistance during the course of this audit.

Sincerely,



Mark Scott, CPA, CIA, CISA, CFE, MBA
Director of Internal Audit

MES/bke

cc:

Tim Irvine, Executive Director

Jeffrey Pender, Deputy General Counsel

Patricia Murphy, Chief of Compliance

Stephanie Naquin, Director of Multifamily Compliance
