

# **AUDIT AND FINANCE COMMITTEE MEETING BOOK OF MARCH 21, 2019**



**Sharon Thomason, Chair**  
**Paul Braden, Member**  
**Asusena Reséndiz, Member**  
**Leo Vasquez, III, Member**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
AUDIT AND FINANCE COMMITTEE MEETING**

**AGENDA  
7:30 AM  
MARCH 21, 2019**

**Dewitt C. Greer State Highway Building  
Ric Williamson Hearing Room  
125 E. 11<sup>th</sup> Street  
AUSTIN, TEXAS 78701**

**CALL TO ORDER, ROLL CALL**

**Sharon Thomason, Chair**

**CERTIFICATION OF QUORUM**

**Sharon Thomason, Chair**

The Audit and Finance Committee of the Governing Board of the Texas Department of Housing and Community Affairs (TDHCA) will meet to consider and may act on any of the following:

**ACTION ITEMS:**

**ITEM 1:** Presentation, discussion, and possible action to approve the Audit Committee Minutes Summary for December 6, 2018

**Mark Scott**  
Director of  
Internal Audit

**ITEM 2:** Review and possible acceptance of the State Auditor's Office audit of the TDHCA Financial Statement

**State Auditor's Office**

**REPORT ITEMS:**

**ITEM 1:** Presentation and discussion of Internal Audit of Public Information Requests (PIR) function.

**Mark Scott**  
Director of  
Internal Audit

**ITEM 2:** Presentation and discussion of Internal Audit Review of TDHCA's Licensing, Inspection, and Outreach for Migrant Labor Housing

**Mark Scott**  
Director of  
Internal Audit

**ITEM 3:** Discussion and review of the status of FY 19 Internal Audit plan

**Mark Scott**  
Director of  
Internal Audit

**PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED  
AGENDA ITEMS**

**EXECUTIVE SESSION**

The Committee may go into Executive Session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Tex. Gov't Code, Chapter 551 and under Tex. Gov't Code, §2306.039.

Pursuant to Tex. Gov't Code, §551.074 the Audit Committee may go into Executive Session for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

Pursuant to Tex. Gov't Code, §551.071(1) the Committee may go into executive session to seek the advice of its attorney about pending or contemplated litigation or a settlement offer.

Pursuant to Tex. Gov't Code, §551.071(2) the Committee may go into executive session for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code, Chapter 551.

Pursuant to Tex. Gov't Code, §2306.039(c) the Committee may go into executive session to receive reports from the Department's internal auditor, fraud prevention coordinator, or ethics advisor regarding issues related to fraud, waste, or abuse.

### **OPEN SESSION**

If there is an Executive Session, the Committee will reconvene in Open Session and may take action on any items taken up in Executive Session. Except as specifically authorized by applicable law, the Audit Committee may not take any actions in Executive Session.

### **ADJOURN**

To access this agenda and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Mark Scott, TDHCA Internal Audit Director, 221 East 11th Street Austin, Texas 78701-2410, 512-475-3813 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Terri Roeber, ADA Responsible Employee, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

### **NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:**

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

**NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE AUDIT COMMITTEE OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.**

# Action Item 1

**AUDIT AND FINANCE COMMITTEE ACTION REQUEST**

**INTERNAL AUDIT DIVISION**

**March 21, 2019**

Presentation, discussion and possible action on Audit and Finance Committee Meeting Minutes Summary for December 6, 2018.

**RECOMMENDED ACTION**

**RESOLVED**, that the Audit and Finance Committee Meeting Minutes Summary for December 6, 2018 are hereby approved as presented.

**MINUTES OF THE AUDIT AND FINANCE COMMITTEE MEETING  
OF THE GOVERNING BOARD OF THE  
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

On Thursday, December 06, 2018, at 7:30 a.m. the meeting of the Audit and Finance Committee (the "Committee") of the Governing Board (the "Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") was held in the Texas Capitol Building, Capital Extension Room E2.026, 1100 Congress Avenue, Austin, Texas. Sharon Thomason presided over the meeting, and Mark Scott served as secretary. Committee members Sharon Thomason, Paul A. Braden, and Asusena Resendiz were in attendance and represented a quorum for the committee meeting. Mr. Leo Vasquez was not present during the roll call but arrived shortly after.

The first action item on the agenda was approval of the minutes of the September 6, 2018 meeting of the Committee. Minutes were adopted as presented, and were approved.

The second action item on the agenda was the presentation, discussion, and possible action to accept the report on the draft computation of the Housing Finance Division total and unencumbered fund balances and transfers to the Housing Trust Fund. The report was presented by Ernie Palacios, director of financial administration for TDHCA. At the end of his presentation Mr. Palacios stated that this report is included for review in the year-end financial statement audit performed by the State Auditor's Office and is therefore subject to revision based on such audit. He then asked the committee for acceptance of the draft and offered to answer any questions that the committee members may have. The committee voted to accept the report presented by Mr. Palacios.

The next item on the agenda was the Internal Audit of the HOME Fund Tracking, and the report was presented by Mr. Mark Scott, the director Internal Audit. Mr. Scott explained the challenges associated with the accounting aspect of the program due to the nature of its activities, and the latest GAO audit at the federal level which has resulted in changes within program's accounting structure.

The review included assessment of policies, processes and procedure in place for allocating and tracking HOME funds for FY 2011 through 2017, and testing of a sample contract for accuracy and consistency. It was concluded that the policies, processes, and procedures associated with HOME are generally performed accurately and according to applicable rules. With no questions from committee member Mr. Scott moved to the second report item which was the Internal Audit of Loan Servicing Division.

Mr. Scott explained the nature of activities covered under Loan Servicing Division, and complexity of transactions and programs that they administer. The audit included review of the processes involved in administering different loans and grants, and roles and responsibilities of staff. OIA identified areas of improvement to create efficiency, consistency, and also to protect TDHCA's financial interest. Management has agreed with the recommendations and will be working towards options that would meet those recommendations.

With no question from committee members Mr. Scott moved to the third report item which was the annual report on Internal Audit which is a report required by statute and includes a summary of the audit work during FY 2018. Mr. Scott stated that OIA has completed all of the audits on FY 18 audit plan as well as follow up audit on prior audit recommendations. The Annual Report also includes the audit plan for FY19, from which we're in the last phase of audit of the Public Information Request function in addition to starting the review of the Migrant Labor Housing program. At that point Mr. Scott offered to answer any questions from committee members.

With no questions Mr. Scott moved to the fourth and final report item which was the discussion of recent external audit activities. In October 2018 HUD monitoring staff finalized a review of the TDHCA ESG program with minor findings. The next external is by State Auditor's Office. They've started their annual audit of the TDHCA financial statements. HUD OIG has also started a review of the Community Service Block Grant (CSBG) program.

With no questions from committee members the meeting was adjourned at 7:42am.



# Action Item 2

**AUDIT AND FINANCE COMMITTEE ACTION REQUEST**

**INTERNAL AUDIT DIVISION**

**March 21, 2019**

Presentation, discussion, and possible action regarding the Texas State Auditor's Office audit report #19-017 "A Report of the Audit of the Texas Department of Housing and Community Affairs' Fiscal year 2018 Financial Statements".

**RECOMMENDED ACTION**

**WHEREAS**, the Department is required to undergo an annual audit of its books and accounts, an annual audit of the Housing Trust Fund, and to obtain audited financial statements for the Housing Finance Division and the Supplemental Bond Schedules,

**NOW, therefore, it is hereby**

**RESOLVED**, the annual financial audit, audit of the Housing Trust Fund and the audit of the Housing Finance Division and the Supplemental Bond Schedules are hereby accepted.

**BACKGROUND**

Audit requirements:

- 1) The Department's governing statute, Tex. Gov't Code §2306.074, requires an annual audit of the Department's books and accounts.
- 2) Tex. Gov't Code §2306.204 requires an annual audit of the Housing Trust Fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.
- 3) The Department's bond indentures required audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules.

Results of the audits conducted by the State Auditor's Office:

SAO Report on the "The Audit of the Department of Housing and Community Affairs Fiscal Year 2018 Financial Statements" Report # 19-017 available at:

<http://www.sao.texas.gov/reports/main/19-017.pdf>

- a) FY 2018 Basic Financial Statements (SAO Report # 19-306)
- b) FY 2018 Revenue Bond Program Audit (SAO Report # 19-308)
- c) FY 2018 Computation of Unencumbered Fund Balances (SAO Report # 19-309)
- d) FY 2018 Report on Compliance with the Public Funds Investment Act (SAO Report # 19-310)
- e) FY 2018 Report on Internal Control Over Financial Reporting and on Compliance and Other Matters (SAO Report # 19-307)

The basic financial statements will be available in their entirety at:  
<http://www.tdhca.state.tx.us/pdf/18-BasicFinancials.pdf>



A Report on

# The Audit of the Department of Housing and Community Affairs' Fiscal Year 2018 Financial Statements

December 28, 2018

Members of the Legislative Audit Committee:

In our audit reports dated December 20, 2018, we concluded that the Department of Housing and Community Affairs' (Department) basic financial statements and Revenue Bond Program Enterprise Fund financial statements for fiscal year 2018 were materially correct and presented in accordance with accounting principles generally accepted in the United States of America. We also concluded that the Department's computation of unencumbered fund balances of its Housing Finance Division complies with Texas Government Code, Sections 2306.204 and 2306.205. The Department published our audit reports as part of its financial statements, which it intends to post on its Web site at <https://www.tdhca.state.tx.us>.

We also issued a report on internal control over financial reporting and on compliance and other matters as required by auditing standards. Our procedures did not identify any material weaknesses in internal control over financial reporting or any noncompliance with laws or regulations that materially affected the financial statements. In addition, the major internal controls that we tested for the purpose of forming our opinions on the financial statements were operating effectively.

Our procedures were not intended to provide an opinion on internal control over financial reporting or to provide an opinion on compliance with laws and regulations. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance with laws and regulations.

Additionally, we 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. We also issued a report on the Department's compliance with the Public Funds Investment Act for the year ended August 31, 2018. The results of our tests disclosed no issues of noncompliance or other matters that are required to be reported under *Government Audit Standards*.

Auditors also performed agreed-upon procedures to assist the Department in determining whether the electronic submission of certain information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with related hard-copy documents. Our procedures determined that the Department's electronically submitted information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with the related hard-copy documents.

Auditors communicated certain issues that were not material or significant to the audit objectives in writing to the Department's management.

SAO Report No. 19-017

Members of the Legislative Audit Committee

December 28, 2018

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As required by auditing standards, we will also communicate to the Department's Board of Directors certain matters related to the conduct of a financial statement audit.

We appreciate the Department's cooperation during this audit. If you have any questions, please contact Hillary Eckford, Audit Manager, or me at (512) 936-9500.

Sincerely,

Lisa R. Collier, CPA, CFE, CIDA

First Assistant State Auditor

cc: The Honorable Greg Abbott, Governor  
Members of the Department's Board of Directors  
Mr. J.B. Goodwin, Chair  
Ms. Leslie Bingham Escareño, Vice-Chair  
Mr. Paul A. Braden  
Ms. Asusena Reséndiz  
Ms. Sharon Thomason  
Mr. Leo Vasquez  
Mr. David Cervantes, Acting Director



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## Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J.B. Goodwin, Chair

Ms. Leslie Bingham Escareño, Vice-Chair

Mr. Paul A. Braden

Ms. Asusena Reséndiz

Ms. Sharon Thomason

Mr. Leo Vasquez

### Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department of Housing and Community Affairs (Department), an agency of the State of Texas, as of and for the year ended August 31, 2018, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

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SAO Report No. 19-306

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department, an agency of the State of Texas, as of August 31, 2018, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Emphasis of Matters***

#### ***Department Financial Statements***

As discussed in Note 1, the financial statements of the Department are intended to present the financial position, the changes in financial position and, where applicable, cash flows of only that portion of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the State that is attributable to the transactions of the Department. They do not purport to, and do not, present fairly the financial position of the State of Texas as of August 31, 2018, the changes in its financial position, or where applicable, its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.



## ***Other Matters***

### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis, Schedule of Changes in Department's Net Pension Liability, Schedule of Employer Contributions, Notes to the Required Supplemental Information, Schedule of Changes in Department's Net OPEB Liability, Schedule of Employer Contributions, and Notes to the Required Supplementary Information, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### ***Other Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Department's basic financial statements. The supplementary bond schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The supplementary bond schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the basic financial statements as a whole.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 20, 2018, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



Lisa R. Collier, CPA, CFE, CIDA  
First Assistant State Auditor

December 20, 2018



## Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J.B. Goodwin, Chair

Ms. Leslie Bingham Escareño, Vice-Chair

Mr. Paul A. Braden

Ms. Asusena Reséndiz

Ms. Sharon Thomason

Mr. Leo Vasquez

### Report on the Financial Statements

We have audited the accompanying financial statements of the Revenue Bond Program Enterprise Fund (Program) of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2018, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes

evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Program of the Department, as of August 31, 2018, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Emphasis of Matters***

#### *Fund Financial Statements*

As discussed in Note 1, the financial statements present only the Program, an enterprise fund of the Department and of the State of Texas, and do not purport to, and do not, present fairly the financial position of the Department and of the State of Texas as of August 31, 2018, the changes in its financial position, or, where applicable, its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

### ***Other Matters***

#### *Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### *Other Information*

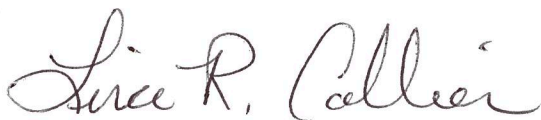
Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Program's basic financial statements. The supplementary bond schedules and supplemental schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The supplementary bond schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the basic financial statements as a whole.

The supplemental schedules have not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 20, 2018, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



Lisa R. Collier, CPA, CFE, CIDA  
First Assistant State Auditor

December 20, 2018



## Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J.B. Goodwin, Chair

Ms. Leslie Bingham Escareño, Vice-Chair

Mr. Paul A. Braden

Ms. Asusena Reséndiz

Ms. Sharon Thomason

Mr. Leo Vasquez

### Report on the Financial Statements

We have audited the accompanying Computation of Unencumbered Fund Balances (Computation) of the Department of Housing and Community Affairs' (Department) Housing Finance Division, as of August 31, 2018, and the related notes to the Computation.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of the Computation in accordance with the financial reporting provisions of Texas Government Code, Sections 2306.204 and 2306.205. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the Computation that is free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express an opinion on the Computation based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Computation is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Computation. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the Computation, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Computation in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Computation.

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SAO Report No. 19-309

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

***Opinion***

In our opinion, the Computation, referred to above, presents fairly, in all material respects, the unencumbered fund balances of the Department's Housing Finance Division, as of August 31, 2018, in accordance with the financial reporting provisions of Texas Government Code, Sections 2306.204 and 2306.205, as described in Note 1 of the Computation.

***Basis of Accounting***

We draw attention to Note 1 of the Computation, which described the basis of accounting. As described in Note 1 of the Computation, the Computation is prepared by the Department on the basis of the financial reporting provisions of Texas Government Code, Sections 2306.204 and 2306.205, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to meet the requirements of Texas Government Code, Sections 2306.204 and 2306.205. Our opinion is not modified with respect to this matter.

***Restriction on Use***

Our report is intended solely for the information and use of the Department and is not intended to be and should not be used by anyone other than this specified party.

***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 20, 2018, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



Lisa R. Collier, CPA, CFE, CIDA  
First Assistant State Auditor

December 20, 2018



## Report on Compliance with the Public Funds Investment Act

Department of Housing and Community Affairs Board of Directors

Mr. J.B. Goodwin, Chair

Ms. Leslie Bingham Escareño, Vice-Chair

Mr. Paul A. Braden

Ms. Asusena Reséndiz

Ms. Sharon Thomason

Mr. Leo Vasquez

Mr. David Cervantes, Acting Director, Department of Housing and Community Affairs

Ms. Monica Galuski, Director of Bond Finance, Department of Housing and Community Affairs

We have performed tests designed to verify whether the Department of Housing and Community Affairs (Department) complied with the requirements of the Public Funds Investment Act for the year ended August 31, 2018. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly we do not express such an opinion. The results of our tests disclosed no issues of noncompliance or other matters that are required to be reported under *Government Audit Standards*.

This report is intended solely for the information and use of the Department's Board of Directors, the Department's management, and the Legislature. However, this report is a matter of public record, and its distribution is not limited.

Lisa R. Collier, CPA, CFE, CIDA  
First Assistant State Auditor

December 20, 2018

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SAO Report No. 19-310





**Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards***

Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J.B. Goodwin, Chair

Ms. Leslie Bingham Escareño, Vice-Chair

Mr. Paul A. Braden

Ms. Asusena Reséndiz

Ms. Sharon Thomason

Mr. Leo Vasquez

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department of Housing and Community Affairs (Department) as of and for the year ended August 31, 2018, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements and have issued our report thereon dated December 20, 2018.

In addition, we have audited the financial statements of the Revenue Bond Program Enterprise Fund (Program) of the Department, as of and for the year ended August 31, 2018, and the related notes to the financial statements, which collectively comprise the Program's basic financial statements. We also have audited the Computation of Unencumbered Fund Balances (Computation) of the Department's Housing Finance Division, as of August 31, 2018, and the related notes to the Computation.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the Department's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

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A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Department's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Auditors communicated certain issues that were not material or significant to the audit objectives in writing to the Department's management.

### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purpose.



Lisa R. Collier, CPA, CFE, CIDA  
First Assistant State Auditor

December 20, 2018

# Report Item 1

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**An Internal Audit of the Public Information Request (PIR) Program**

**Audit Report # 19-003**

**Executive Summary**

The Office of Internal Audit (OIA) reviewed records, policies, processes and procedures for performing the duties of the Public Information Request (PIR) Program. We tested a sample of Public Information Requests (PIRs) and responses for completeness, accuracy and timeliness from receipt of the request, through responsive documents gathered and sent to the requestor, and closure of the specific public information request.

Based on the fieldwork performed, OIA concludes the PIR Program processes effectively deliver timely responses to all PIR requests. We noted the exceptions presented in the report. Three appendices accompany the report to provide the background, PIR rules and standards and the steps of public information requests in Texas.

**Findings and Recommendations**

Six Exceptions were noted.

**Objective, Scope and Methodology**

Based upon our risk assessment and other factors, we selected the PIR Program for review and testing. This audit was identified in the Fiscal Year 2019 Annual Audit Plan and included the objectives to evaluate and test the PIR Program's records, policies, processes and procedures in place for public information request received, responses provided and closure of the request, through documentation, database sample testing, and review of policies and procedures relevant to this program.

The current audit covered PIR requests that have been logged and tracked as of October 2018.



Mark Scott, CPA, CIA, CISA, CFE, MBA

Signed

1/9/19  
Date



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

JANUARY 9, 2019

Writer's direct phone # 512.475.3813  
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Board Members of the Texas Department of Housing and Community Affairs ("TDHCA")

RE: REVIEW OF THE PUBLIC INFORMATION REQUESTS (PIR)) PROGRAM

Dear Board Members:

This report presents the results of the Office of Internal Audit ("OIA") "*Review of Public Information Requests (PIR) Program*." This audit was identified in the Fiscal Year 2019 Annual Audit Plan and was conducted in accordance with applicable audit standards. It included the objectives of evaluating and explaining the PIR Program; and evaluating the policies and procedures, administrative, and internal control procedures related to the program.

Our scope included a review of the Texas Government Code (TGC), and the Texas Administrative Code (TAC). We also reviewed internal and external policies, processes, and procedures in the Office of Attorney General (OAG) guidance found at Texas OAG and Comptroller of Public Accounts (CPA), various reports, and other related documents. Based upon our preliminary understanding of the PIR Program, we identified critical points and risks; in order to develop audit objectives and an audit plan including methodology.

### BACKGROUND

The Texas Department of Housing and Community Affairs (TDHCA) administers the PIR Program in response to all public information requests submitted from all applicants, per the TDHCA PIR Rules and Standards found in Appendix 1, Audit # 19-003, TDHCA PIR Rules and Standards.

The Legal Division (LD) manages the intake, responses, deadlines, recordkeeping and monthly reporting to the OAG for the TDHCA PIRs. The TDHCA PIR database also holds the PIRs for the Manufactured

Housing (MH) Division, but MH maintains their own PIR records separately. In 2017 PIR recordkeeping changed from a calendar year to fiscal year basis for the PIR request and response records that had been in place. Also in 2017, this function was centralized and transferred from the Housing Resource Center (HRC) to the TDHCA Legal Division (at most state agencies, the function resides in the Legal Division).

The Texas Public Information Act (The Act) was originally implemented as the Texas Open Records Act in 1973. The Act states that “government is the servant and not the master of the people.”

The Act was passed as part of the reform resulting from the 1973 Sharpstown stock fraud scandal involving state officials.

TDHCA has a designated public information officer. Some key provisions of the Act are listed in Appendix 2, Key Provisions of the Texas Public Information Act, of this internal audit report.

Submitting a Public Information Request (PIR) is completed by the steps presented in Appendix 3, Steps to filing a Public Information Request, Audit # 19-002, Steps to Filing a Public Information Request (PIR) in Texas.

### **Audit Results:**

We found the PIR Program processes effectively deliver timely responses to all PIR requests, including media requests. We noted the findings listed below in the report.

### **Documentation:**

OIA performed research and review of internal and external documentation and interviewed PIR staff to gain an understanding of the effectiveness of the PIR program. OIA completed the Texas Office of Attorney General (OAG) public information request (PIR) training to gain an understanding of the standards to be met and observed.

#### **This review identified the following findings in documentation:**

##### **a.1 Internal Documentation**

###### **a.1. Standard Operating Procedures (SOPs) – There are no current SOPs, staff is creating.**

There are no SOPS, the current responses are considerably more complete than prior year records. Requests have been kept on different time bases. Older PIRs were kept on a calendar year basis and since transferred to the Legal Division on a fiscal year basis. In addition, program requests in different areas are received each year. The OAG training video states the number of PIRs is on the rise, illustrating the need to be efficient and correct in handling them.

##### **a.2 External Documentation**

###### **a.2.1 Record Retention documentation –**

The record retention schedule for PIRs is AC (after closed) plus 2 years. Any PIRs prior to November 2016 do not meet this requirement.

The PIR database includes records that need to be deleted to meet compliance with this requirement. Any PIRs prior to November 2016, which exceed the allowable Record Retention period, should be deleted from the TDHCA PIR database.

### Testing:

We documented the PIR program process from requests received, through assigning identifying the response documents (by the PIR officer to division PIR liaisons), sending the responsive documents to the requestor and closing the PIR, and tested eighteen sample requests, one per each PIR liaison for the following elements:

- PIR number
- Date PIR received
- Date PIR response due
- Date PIR response
- Name of PIR requestor
- PIR requestor organization
- PIR status
- PIR liaison name
- Legislative PIR
- Manufactured Housing (MH) PIR
- Nature of PIR
- PIR liaison is current employee
- Area of PIR request
- PIR charges
- PIR request treated uniformly
- Days in PIR closed
- PIR response within required 10 day response window
- PIR request in writing
- Complaints about PIR
- Length of PIR response

### **OIA identified the following findings in the testing:**

**b. 1 The dropdown menu in the PIR database input tab does not contain completely accurate or relevant PIR nature/type choices.**

The drop down menu in the Add PIR tab of the PIR database is not applicable to the majority of PIRs received and approximately 80% are placed in the generic "Other" category. PIR continues to work with IT to prioritize the task of correcting categories for PIR nature/type. PIRs are

complicated, and the OAG training film states the more accurate the details are, the better TDHCA can track PIR types and responsive documents provided.

**Management response: In 2016 PIR requested IT to update this list and will be asking for the current status of getting this change implemented.**

**b.2 PIR database user list has many names on it with no rights.**

PIR should review the current PIR database user list and update to hold current users only, removing those who no longer are.

**Management response: The database was designed to automatically designate users who do not engage with the database for six weeks or longer as “inactive”. A double-check of users will be performed regularly to ensure all separated personnel have been removed from the user list.**

#### **Administration:**

**OIA identified the following findings in the PIR administration review:**

**c.1 The responsive documents vary substantially in length and content.**

A library sheet of standard documents would provide a summary and guidance to double-check that all information is included. The PIR liaison is responsible for the content provided to the requestor. It is difficult to gain an understanding of the completeness and accuracy of the response from reviewing the whole of documents provided without guidance, as each response varies.

**Management response: The PIR staff is considering this summary list for large or complicated PIR responses.**

**c.2 PIR files are in several directory file locations.**


Review these various PIR files and directories and gather all current and relevant PIR requests and responses in a PIR Current/Active directory; consider a second directory for PIR Archive files.

**Management response: The PIR file locations are being reviewed for duplication and relevance, and possible needed corrections.**



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

Sincerely,

A handwritten signature in black ink that reads "Mark Scott". The signature is written in a cursive style with a large, sweeping flourish at the end.

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

MS/CK

Appendix 1, Audit # 19-002, TDHCA PIR Rules and Standards

**TDHCA PIR Rules and Standards**

[332 Records Retention Schedule Recertification.xlsx](#)

Texas Government Code (TGC) Section 552

<https://statutes.capitol.texas.gov/SOTWDocs/GV/htm/GV.552.htm>

Texas Office of Attorney General (OAG)

[https://www.google.com/search?q=Texas+office+of+attorney+general&rls=com.microsoft:en-US&ie=UTF-8&oe=UTF-8&startIndex=&startPage=1&gws\\_rd=ssl](https://www.google.com/search?q=Texas+office+of+attorney+general&rls=com.microsoft:en-US&ie=UTF-8&oe=UTF-8&startIndex=&startPage=1&gws_rd=ssl)

OAG Public Information Requests (PIR) Training (State of Texas)

<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/public-information-act-training>

Public Information Act Handbook 2018 (State of Texas)

[https://www.texasattorneygeneral.gov/sites/default/files/2018-06/PIA\\_handbook\\_2018\\_0.pdf](https://www.texasattorneygeneral.gov/sites/default/files/2018-06/PIA_handbook_2018_0.pdf)

OAG site

<https://www.texasattorneygeneral.gov/open-government>

Texas' Comptroller of Public Accounts (CPA) document:

[The Public's Right to Know.pdf](#)

Texas Public Information Act - Freedom of Information Foundation of Texas

source: <https://foift.org/resources/texas-public-information-act/>

Text cite:

## Texas Public Information Act

The **Texas Public Information Act** was originally known as the Texas Open Records Act, approved by the Legislature in 1973 in a reform atmosphere following the Sharpstown stock fraud scandal involving state officials. Spelled out in Chapter 552 of the Texas Government Code, the act states that "government is the servant and not the master of the people."

"The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know," the law states.

Some key provisions of the Texas Public Information Act are as follows:

### **Covered Entities**

The Texas Public Information Act applies to all governmental bodies, including all boards, commissions and committees created by the executive or legislative branch. It also may apply to a body that is supported by public funds or that spends public funds. Private organizations that hold records for governmental bodies also are covered. However, private individuals and businesses are not covered even though they supply goods or services through a government contract.

### **Types of Information**

Public information refers to information collected, assembled, produced or maintained in the course of transacting public business. It may be on paper or film or in electronic communications such as emails, Internet postings, text messages or instant messages.

### **Exceptions**

Some information is not open to the public. These types of information are listed as exceptions in the Texas Public Information Act. They include some information in personnel records, pending litigation, Home Blog Donate Legal Cases About Activities + Programs

Legislature FAQs **Resources** Contact

Texas Public Information Act - Freedom of Information Foundation of Texas 3

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competitive bids, trade secrets, real estate deals and certain legal matters involving attorney-client privilege. Attorneys' fees paid by a governmental body are generally public.

### **Law Enforcement**

Generally, the front page of a police report is public. Records that would hinder the investigation or prosecution of a crime if they are released are exempt from disclosure.

### **The Judiciary**

Information collected and maintained by the judiciary is not covered by the Texas Public Information Act. That information is governed by public access rules set by the Texas Supreme Court and other applicable rules and laws.

### **Making a Request**

Filing a request under the Texas Public Information Act is as simple as asking the government agency in writing for the desired information. The request can be made through a letter or via email or fax. It does not need to contain any particular language, but it's important to be clear. Try to be specific. This will help produce the information that is sought and can eliminate the need later for narrowing down a request that is too broad. The governmental body is not allowed to ask why the information is being requested.

### **Charges**

A governmental body or agency can charge for copies of the information, but the fee must be reasonable and cannot be used to discourage someone from asking for information. The requester is

entitled to an itemized bill if the charge is more than \$40. A governmental entity can also waive copying charges. For more information, see the Texas Cost Rules tab in the Resources section of our website. To avoid charges, the requester can ask to view the records in person on the premises of the governmental body.

**Withholding Information**

Public information is supposed to be released "promptly." There is a misconception that a governmental body or agency has 10 days to release information. The 10-day mark is the deadline for a governmental body, if it contends the information is not public, to ask for an attorney general's decision allowing it to withhold the records. (Texas' open records law is stronger than those in many other states in that if a governmental entity wants to withhold information, it has to ask the attorney general for permission to do so.) After a ruling is sought, the attorney general then decides within 45 days. The person making the original request can also offer written comments to the attorney general. If a governmental body fails to seek an attorney general decision in time, the information is presumed to be public.

Texas Public Information Act - Freedom of Information Foundation of Texas 3

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**Appealing an Open Records Decision**

When the attorney general's office agrees with a governmental body that information can be withheld from the public, the person making the original request has the option of filing a lawsuit in state district court to attempt to have the information released.

Texas Public Information Act - Freedom of Information Foundation of Texas 3

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### Appendix 3, Audit # 19-002, Steps to Filing a Public Information Request

TDHCA is committed to providing full access to public information. To request public records under the Texas Public Information Act:

1. Submit your PIR in writing by email.
2. Include your full first and last names, email address, daytime telephone number or other contact information and a clear description of the records you want.
3. PIRs will be accepted only at the following email address: [open.records@tdhca.state.tx.us](mailto:open.records@tdhca.state.tx.us)

We will promptly notify you by return email to confirm receipt of your emailed PIR. For additional information regarding filing a PIR, please review the information provided below or contact the TDHCA Public Information Coordinator, Kathleen Vale Castillo, at (512) 475-4144.

#### Tips for PIRs

- Only PIRs emailed to [open.records@tdhca.state.tx.us](mailto:open.records@tdhca.state.tx.us) will be accepted.
- Your PIR should be for documents or other information already in existence. Governmental bodies are not required to answer questions, perform legal research, or comply with a request to supply information on a periodic basis for information that will be prepared in the future.
- Be as specific as possible. Include a timeframe when appropriate. For example: *"I am seeking a chronological list of 'xyz' allocations for 'abs' program to all recipients in Travis County from 9/1/2014 through 8/31/2015."*
- If you believe we have not responded as required by the Public Information Act, you may contact your local County or District Attorney, or the Office of the Attorney General, Open Records Hotline, at (512) 478-6736 or toll-free (877) 673-6839. For complaints regarding overcharges, please contact the General Services Commission at 512-475-2497.

If you need special accommodation pursuant to the Americans With Disabilities Act (ADA), please contact our TDHCA Public Information Coordinator, Kathleen Vale Castillo at (512) 475-4144.

If this PIR relates to Disaster Recovery, effective July 1, 2011, the CDBG Disaster Recovery Programs have transferred to the Texas General Land Office (GLO) from the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Department of Agriculture (TDA). For Disaster Recovery related PIR processing, please visit the [GLO's PIR web page](http://www.glo.texas.gov/the-glo/public-information/requests/index.html) (<http://www.glo.texas.gov/the-glo/public-information/requests/index.html>)

## **The Public Information Act**

Texas Government Code, Chapter 552, gives you the right to access government records; and an officer for public information and the officer's agent may not ask why you want them. All government information is presumed to be available to the public. Certain exceptions may apply to the disclosure of the information. Governmental bodies shall promptly release requested information that is not confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought.

## **Rights of Requestors**

### **You have the right to:**

- Prompt access to information that is not confidential or otherwise protected;
- Receive treatment equal to all other requestors, including accommodation in accordance with the Americans with Disabilities Act (ADA) requirements;
- Receive certain kinds of information without exceptions, like the voting record of public officials, and other information;
- Receive a written statement of estimated charges, when charges will exceed \$40, in advance of work being started and opportunity to modify the request in response to the itemized statement;
- Choose whether to inspect the requested information (most often at no charge), receive copies of the information or both;
- A waiver or reduction of charges if the governmental body determines that access to the information primarily benefits the general public;
- Receive a copy of the communication from the governmental body asking the Office of the Attorney General for a ruling on whether the information can be withheld under one of the accepted exceptions, or if the communication discloses the requested information, a redacted copy;
- Lodge a written complaint about overcharges for public information with the General Services Commission. Complaints of other possible violations may be filed with the county or district attorney of the county where the governmental body, other than a state agency, is located. If the complaint is against the county or district attorney, the complaint must be filed with the Office of the Attorney General.

## **Responsibilities of Governmental Bodies**

### **All governmental bodies responding to information requests have the responsibility to:**

- Establish reasonable procedures for inspecting or copying public information and inform requestors of these procedures;
- Treat all requestors uniformly and shall give to the requestor all reasonable comfort and facility, including accommodation in accordance with ADA requirements;

- Be informed about open records laws and educate employees on the requirements of those laws;
- Inform requestors of the estimated charges greater than \$40 and any changes in the estimates above 20 percent of the original estimate, and confirm that the requestor accepts the charges, or has amended the request, in writing before finalizing the request;
- Inform the requestor if the information cannot be provided promptly and set a date and time to provide it within a reasonable time;
- Request a ruling from the Office of the Attorney General regarding any information the Governmental body wishes to withhold, and send a copy of the request for ruling, or a redacted copy, to the requestor;
- Segregate public information from information that may be withheld and provide that public information promptly;
- Make a good faith attempt to inform third parties when their proprietary information is being requested from the governmental body;
- Respond in writing to all written communications from the General Services Commission regarding charges for the information. Respond to the Office of the Attorney General regarding complaints about violations of the Act.

### **Procedures to Obtain Information**

- Submit a written request by mail, email, or in person, according to a governmental body's reasonable procedures (see instructions above).
- Include sufficient description and detail about the information requested to enable the governmental body to accurately identify and locate the information requested.
- Cooperate with the governmental body's reasonable efforts to clarify the type or amount of information requested.

### **A. Information to be released**

- You may review it promptly, and if it cannot be produced within 10 working days the public information officer will notify you in writing of the reasonable date and time when it will be available.
- Keep all appointments to inspect records and to pick up copies. Failure to keep appointments may result in losing the opportunity to inspect the information at the time requested.

### **Cost of Records**

- You must respond to any written estimate of charges within 10 days of the date the governmental body sent it or the request is considered automatically withdrawn.

- If estimated costs exceed \$100.00 (or \$50.00 if a governmental body has fewer than 16 full time employees) the governmental body may require a bond, prepayment or deposit.
- You may ask the governmental body to determine whether providing the information primarily benefits the general public, resulting in a waiver or reduction of charges.
- Make a timely payment for all mutually agreed charges. A governmental body can demand payment of overdue balances exceeding \$100.00, or obtain a security deposit, before processing additional requests from you.

#### **B. Information that may be withheld due to an exception**

- By the 10th business day after a governmental body receives your written request, a governmental body must:
  1. request an Attorney General opinion and state which exceptions apply;
  2. notify the requestor of the referral to the Attorney General; and
  3. notify third parties if the request involves their proprietary information.
- Failure to request an Attorney General opinion and notify the requestor within 10 business days will result in a presumption that the information is open unless there is a compelling reason to withhold it.
- Requestors may send a letter to the Attorney General arguing for release, and may review arguments made by the governmental body. If the arguments disclose the requested information, the requestor may obtain a redacted copy.
- The Attorney General must issue a decision no later than the 45th working day from the day after the attorney general received the request for a decision. The attorney general may request an additional 10 working day extension.
- Governmental bodies may not ask the Attorney General to "reconsider" an opinion.



# Report Item 2

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**An Internal Audit of the Migrant Labor Housing Program**

**Audit Report # 19-002**

**Executive Summary**

The Office of Internal Audit (OIA) reviewed TDHCA's Migrant Labor Housing program, and its policies and procedures that are currently in place. Based on our reviews and testing, the processes for inspecting facilities in the Migrant Labor Housing Facilities could be improved. Efforts to bring more migrant farmer housing into the licensing and inspection program have been commenced recently.

**Findings and Recommendations**

- OIA recommends that TDHCA maintain a manager-level point of contact to serve as liaison between TDHCA and MHD, and to monitor the effectiveness and progress of the program.
- All licenses should be supported by valid inspections, and evidence of re-inspections and follow ups (as needed).
- The inspection form should include a signature line for the representative of the facility to sign; along with inspector's signature, acknowledging that the non-compliant item (s) will be corrected.
- The inspector, or the Department, should provide the facility representative with a report indicating non-compliant items shortly after the inspection.
- Management should study how to evaluate occupancy during inspections.
- The program should monitor inspectors' reported hours and travel expenses to ensure that the correct codes and hours are being reported for migrant labor inspection related activities.
- OIA recommends that the logo be revised to include contact information of the TDHCA for any questions or concerns, and additional information such as "Licensed Migrant Labor Housing Facility".

**Response:**

Management agreed with the findings. Detailed responses are included in the body of the report.

**Objective, Scope and Methodology**

Our scope included a review of the Texas Government Code (TGC), and the Texas Administrative Code (TAC). We visited five Migrant Labor Worker facilities and reviewed records of inspections conducted by the Manufactured Housing Division. Based upon our preliminary understanding of the Migrant Labor Housing Program, we identified critical points and risks; in order to develop audit objectives and an audit plan including methodology.



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

3/12/2019  
Date Signed



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

*www.tdhca.state.tx.us*

Greg Abbott  
GOVERNOR

**BOARD MEMBERS**  
J.B. Goodwin, *Chair*  
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Paul A. Braden, Member  
Asusena Reséndiz, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

March 12, 2019

*Writer's direct phone # 512.475.3813*  
*Email: mark.scott@tdhca.state.tx.us*

Board Members of the Texas Department of Housing and Community Affairs ("TDHCA")

RE: INTERNAL AUDIT REVIEW OF TDHCA'S LICENSING, INSPECTION, AND OUTREACH FOR MIGRANT LABOR HOUSING

Dear Board Members:

This report presents the results of the Office of Internal Audit ("OIA") "*Review of Migrant Labor Housing.*" This audit was identified in the Fiscal Year 2019 Annual Audit Plan and was conducted in accordance with applicable audit standards. We reviewed the TDHCA activities related to subchapter LL of TGC 2306.

Our scope included a review of the Texas Government Code (TGC), and the Texas Administrative Code (TAC). We also reviewed policies, processes, and procedures in TDHCA guidance, Occupational Safety and Health Administration (OSHA), Environmental Protection Agency/Department of Labor (EPA/DOL), Migrant Seasonal Agricultural Protection Act (AWPA), Immigration and Nationality Act (H-2A Worker Program), Department of State Health Services (DSHS), Health and Human Service Commission (HHSC), Texas Comptroller of Public Accounts (CPA), Texas Workforce Commission (TWC) Texas Department of Agriculture (TDA), and various other reports and documents. Based upon our preliminary understanding of the Migrant Labor Housing Program, we identified critical points and risks; in order to develop audit objectives and an audit plan including methodology.

The Texas Department of Housing and Community Affairs (TDHCA) administers the Migrant Labor Housing Program on behalf of the State of Texas, in rural and urban parts of the state. This audit

covered activities and processes in place for fiscal year 2018 and prior, as well as processes currently in place.

This report is organized in accordance with the organization of the TGC requirements of Title 10, General Government, Subchapter G, Economic Development Programs Involving Both State and Local Governments, Chapter 2306, Texas Department of Housing and Community Affairs.

## **Audit Results**

The processes for inspecting facilities in the Migrant Labor Housing Facilities Program could be improved. Efforts to bring more migrant farmer housing into the licensing and inspection program have been commenced recently.

## **Background**

Effective September 1, 2005, responsibility for the licensing and inspection of migrant labor housing facilities was transferred from the Department of State Health Services (DSHS) to the Texas Department of Housing and Community Affairs (TDHCA). The law that governs these matters, formerly found at Chapter 147, Texas Health and Safety Code, was transferred to Texas Government Code, Chapter 2306. The law, as amended, also empowered the Board of TDHCA to set the fee for the license required to operate a migrant labor housing facility at up to \$250 for a one-year license (Texas Government Code §2306.929).

The original legislation, HB 1099, in 2005 required TDHCA to “survey and research” the quantity, availability, need, and quality of migrant labor housing facilities in this state and produce reports on its findings. The bill did not require that housing be provided for migrant workers. A special report on Migrant Labor Housing Facilities in Texas was issued on September 1, 2006.

A subsequent bill related to migrant farm workers, SB 2288 in 2009, did not pass, but the discussions about the bill resulted in the procurement by TDHCA of a report by Bowen National Research. The report, referred to as “the Bowen Report”, which was issued in September 2012, was the subject of a Rural Housing Workgroup (RHW). The Bowen Report is discussed further in the section of this internal audit report titled Prior Studies and Reports on Migrant Labor Housing.

## **Migrant Labor Housing Facility**

A Migrant Labor Housing Facility is defined in TGC 2306.921, and the Texas Administrative Code, Title 10 Community Development, Part 1 Texas Department of Housing and Community Affairs, Chapter 90 Migrant Labor Housing Facilities definitions, for the purposes of this audit and HB 1099 (“The Act”), as “a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers, whether or not rent is paid or reserved in connection with the use of the facility.” In Texas, an application to operate a migrant labor housing facility must be submitted to TDHCA between

45 to 60 days prior to the intended operation date of the facility. Each facility must meet the minimum standards set by The Act prior to receiving their license.

### **Migrant Labor Housing Facility Standards**

Licensed migrant labor housing facilities must meet standards of construction, sanitation, equipment, and operation. In Texas, these standards address:

1. Facility construction;
2. Sanitary conditions;
3. Water supply;
4. Toilets;
5. Sewage disposal;
6. Storage, collection, and disposal of refuse;
7. Light and air;
8. Safety requirements;
9. Fire protection;
10. Equipment;
11. Maintenance and operation of the facility; and
12. Any other matter appropriate or necessary for the protection of the health and safety of the occupants.

### **Migrant Labor Farm Worker**

A migrant labor farm/agricultural worker, as defined in the Act, is “an individual who is (a) working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry and (b) moves one or more times during a year from one place to another to perform seasonal or temporary employment, or to be available for seasonal or temporary employment.” Migrant laborers who move within the U.S. may go from picking onions in Texas, to picking tomatoes in Florida, to picking strawberries in Michigan. The harvests may last a month or two; then the workers must seek work in a different harvest as seen in the map of the agricultural regions of Texas (see Appendix 1).

Migrant laborers are defined as the following two categories:

- US citizens and permanent legal residents are individuals who travel to agricultural work sites, defined by distance as greater than 75 miles is “migrant” labor; traveling less than 75 miles to the worksite is a “seasonal” farm worker.
- H2A visa holders are persons born outside the U.S. who have temporary legal permits to work in the U.S. They follow Department of Labor (DOL) protocol, which requires the agricultural employer and the visa holder to be registered with DOL.

## Need for Housing

Texas agriculture is a \$25 billion per year industry<sup>1</sup>. According to the Texas Department of Agriculture website, Texas leads the nation in number of farms and ranches, with 248,000 covering 130.2 million acres<sup>2</sup>. Much of the production is labor intensive. Because crops are seasonal, workers who harvest crops move from one place to another throughout the year and during different seasons. These workers are termed “migrant agricultural workers.” The agricultural worker population in Texas includes domestic individuals, who are U.S. citizens, H2A visa holders and a large percentage of undocumented workers.

As further described in this internal audit report, different housing facilities may be necessary depending on the nature of the work and type of the harvest. For example; tomatoes and the pesticides used in their growing require more extensive washing facilities than for migrant workers who are truck drivers.

Employers must provide housing for H2A visa holders. For domestic farm workers, the employers are not required to provide housing; however, if the employer does provide housing it must be licensed by TDHCA. The H2A visa holders comprise from 5 to 20% of the migrant labor workforce. In the case of H2A visa holders the employers must provide housing for the farm workers. Both the employer and the farm worker are registered with DOL through a petition process, which is the application that the agricultural employer files with DOL when they want to hire H2A visa workers.

TDHCA started reviewing the DOL job opportunity listing and the Texas Workforce Commission records to locate the H2A housing facilities that might be subject to TDHCA license requirements too. As of December 2018, the coordination between TDHCA’s efforts and the records and data available through DOL and TWC has increased the number of inspected and licensed facilities to 88 (approximate).

The domestic farm worker housing, which is estimated at 30% of the migrant labor population, does not have the same housing registration requirement as H2A visa holders. Approximately 58% of this farm worker group lives in single family housing<sup>3</sup>.

## Current Housing

Migrant laborers include US citizens and H2A visa holders. They are documented workers. Estimates of documented migrant workers vary widely (Details are available in appendix 2 of this report). Some estimates may include undocumented workers. Some estimates seem to include entire families. Some of the children do work the fields. Also some estimates include workers who do not travel the 75 mile distance which defines a migrant laborer situation.

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<sup>1</sup> United States Department of Agriculture, 2014

<sup>2</sup> Texas Department of Agriculture, 2012

<sup>3</sup> Motivation, Education and Training (MET), 2015

According to the record of the currently licensed migrant labor housing facilities the aggregate capacity of workers who could reside in these facilities is approximately 4,200. This information is based on the data available on the TDHCA website as of the start of this audit.

**Memorandum of Understanding**

TDHCA and the Manufactured Housing Division (MHD) agreed that MHD could provide the required inspections and administer the issuance of licenses under the Migrant Labor Housing program through a Memorandum of Understanding (MOU). Under this MOU, which was last revised in March 2016, MHD staff have been tasked with conducting all inspections required under the program, which may include both inspections required in connection with obtaining and maintaining a required license as well as inspection or other observation of facilities that may be conducting unlicensed housing activity. MHD staff performing such inspections is reimbursed by TDHCA for time worked and for their travel expenses. Licenses prepared by MHD are executed by the Executive Director of TDHCA or his designee.

Under this MOU the responsibility for the development and implementation of outreach strategies to support compliance with Tex. Gov. Code, Chapter 2306, Subchapter LL remained with TDHCA’s Division of Policy and Public Affairs. In November 2017 the function was moved to the Program Controls and Oversight. TDHCA’s current outreach activities and efforts will be discussed further under the “Outreach Opportunities” section of this audit report.

In our review we’ve noted that prior to November 2017 there was no TDHCA point of contact assigned to manage TDHCA’s responsibilities under the statute and under the 2016 MOU. A point of responsibility is an essential element of any agreement of a state agency. It enables efficiency and effectiveness of the agreement between two parties. This situation resulted historically in lack of communication and coordination between TDHCA and MHD in matters such as review and quality control of the inspections and licenses. Because no manager level point of contact had historically been specifically assigned, TDHCA is also lacking formal procedures and central location for managing complaints, as well as records and outcomes of each complaint.

Finding Item Number	Status Pertaining to the Recommendations and Action to be Taken	Target Completion Date	Responsible Party
19-002.01	OIA recommends that TDHCA maintain a manager level point of contact to serve as liaison between TDHCA and MHD, and to monitor the effectiveness and progress of the program.	Implemented	T. Gouris

**Management response**

*Management agrees maintaining a management level point of contact responsible for its migrant labor housing facility activity is important to the success of the activity and has assigned the responsibility for this activity to the Director of HOME and Homelessness and Special Initiatives under Programs Oversight and Controls. TDHCA will reevaluate the MOU with MHD and make the necessary changes to clarify roles and oversight.*

## Inspection and Licensing of Migrant Labor Housing Facilities

A license from the TDHCA is required to establish, maintain, and operate a migrant labor housing facility. As stated earlier, the task of inspection and licensing of migrant labor housing facilities has been delegated to MHD under a MOU with TDHCA. Our review of licensing and inspections included tours of the housing facilities, and tours of the work sites, in addition to review of the inspection records and applications. We think it is important to note that the type of work done by farm workers has an effect on the type of facilities needed. We toured the facilities in the winter, not during a cotton, tomato or chile harvest season when extensive showers, etc., would be needed. With that caveat, the facilities we reviewed appeared to be well-kept.

We visited and toured a total of five licensed facilities that provided housing to domestic migrant farm workers and H2A visa holders. Two of these facilities are apartment complexes located in south Texas and provide housing to migrant farm workers as well as low income families. The tenants are mainly families and they work in a variety of different fields and crops in the surrounding areas. The facilities provide them with flexibility to vacate the apartment at any time without any penalties to follow the harvesting season at a different location. We toured three vacant units at each facility and they all seemed to meet the minimum standards required under The Act.

The third facility was in closer proximity to Austin. It houses mainly H2A visa holders who work as truck drivers for the farm. All the units at this facility were occupied at the time of our visit and we were unable to tour the inside of the unit as the farm workers were sleeping. Based on the description that was provided to us by the representative; the 5 bedroom house is used to house 32 workers, and the 4 bedroom house is used for 22 workers. Due to the nature of their work, and the fact that drivers are on the road several days at a time, a large number of farm workers were assigned to each unit.

The other two facilities are owner-operated facilities and seemed to be in good condition and in compliance with the minimum standards. In both cases the owner/operator of the facility gave us a tour of the inside of the units, and provided us with information regarding the nature of the work performed by the farm workers. This helped us in better understanding the housing needs of farm workers.

We also reviewed records of license applications, inspection reports, and licenses that have been issued to migrant labor housing facilities since the program was transferred to TDHCA. A sample of 40 licensees was tested and reviewed for completion, consistency, and compliance. In our review we noted the following:

- Discrepancies exist on the inspection list as it relates to items such as showers, marked differently, as "N/A" one year and "noncompliant" another year for the same facility.
- Discrepancies exist in the number of units and/or total capacity between the license application and the inspection report, and in some cases the discrepancies continued for multiple years.
- In multiple cases the inspection report indicated areas of non-compliance along with the inspector's note that "the owner will be fixing the issues". Licenses were issued without records of re-inspection.



- In one case the facility’s total capacity increased from 1300 to 1400 in 2016 with no changes in the number of units and no explanations or justification on the application or the inspection report. License was issued for 1400. In 2017 the total capacity was back to the original 1300.
- The inspection reports for 2012 through 2015 for a facility lists the exact same findings every year and the same notes from the inspector. The license was issued each year.
- Two licenses were issued for the same facility and for the same year, but with different application and inspection reports.
- In multiple cases the inspection date was either prior to receipt of the application or after the effective date of the license.
- In multiple cases the inspection date was more than 30 days after the receipt of the application
- In 3 cases the effective date of the license seems to have been back dated to prior to receipt of the application and date of the inspection.

The process could be improved by better documentation of the inspections and follow ups. A follow up and evidence of corrections, such as photos and receipts of necessary repairs, should also be documented along with the re-inspection report. A verbal assertion by the owner/representative of the facility should not be accepted.

Finding Item Number	Status Pertaining to the Recommendations and Action to be Taken	Target Completion Date	Responsible Party
19-002.02	All licenses should be supported by valid inspections, and evidence of re-inspections and follow ups (as needed).	Immediately	J. Garcia
19-002.03	The inspection form should include a signature line for the representative of the facility to sign along with inspector’s signature, acknowledging that the non-compliant item (s) will be corrected.	Immediately.	J. Garcia and T. Gouris
19-002.04	The inspector, or the Department, should provide the facility’s representative with a report indicating non-compliant items shortly after the inspection.	Immediately.	J. Garcia
19-002.05	Management should study how to evaluate occupancy during inspections. The number of rooms and shower facilities required for summer cotton harvesting will differ from what is required for truck driver’ sleeping quarters, for example.	September 2019	T. Gouris

**Management response:**

*The new internal SOP that was created is being revised and the staff will be trained on the revised procedures. Additionally, over the next 30 days, MHD staff will be reviewing every file after license is issued to ensure that all requirements have been met, every inconsistency is noted and addressed, and that all supporting documents are in the licensing file. Following that, we intend to conduct a quality control sampling of 10 processed applications each month.*

Management agrees with the proposed actions and has implemented those identified in findings 2.02 -.04 and will revise forms, as necessary. MHD has provided OLA a detailed response and has revised internal SOP's to cover each of the noted concerns.

Finding 2.05 proposes TDHCA consider a new occupancy standard for inspectors to address. TDHCA will evaluate and consider the feasibility of a rule to propose for consideration in the next rule making cycle regarding an overall maximum capacity for each building or facility to be published with the list of facilities on the Department's website and noted on the face of the license issued.

***The following explanation and future changes are being provided for each of the concerns noted.***

- Discrepancies exist on the inspection list as it relates to items such as showers, marked differently, as "N/A" one year and "noncompliant" another year for the same facility.

*Inspection items that could be noted as "N/A" one year and non-compliant the next would be a urinal, for example, as it is not required, but must pass inspection if present.*

- Discrepancies exist in the number of units and/or total capacity between the license application and the inspection report, and in some cases the discrepancies continued for multiple years.

*This has been addressed. When the field conducts the inspection, they are inspecting the unit as it was reported and is seen, they have no idea what was reported the previous year or what is listed on the application and the Austin staff did not compare what was on the inspection reports with the application.*

*Moving forward, the inspector will be provided with a copy of the application at the time the inspection request is forwarded to the field. Additionally, the Austin staff will begin contacting the applicant if any information on the application varies from the previous year and make notation of the conversation. Finally, the Austin staff will also compare the data on the inspection report with the application.*

- In multiple cases the inspection report indicated areas of non-compliance along with the inspector's note that "the owner will be fixing the issues". Licenses were issued without records of re-inspection.

*As provided by § 90.3(h)(2) of the Administrative Rules, the inspectors would allow verbal confirmation that deviations noted on the inspection report were corrected then they would send in the original report leaving the deviations so there would be a record of deviations encountered.*

*Moving forward, the inspectors will note deviations on the inspection report and provide a copy to the applicant within 24 hours and send the report to the Austin staff who will place application on hold until confirmation of corrections is received from the application in writing along with any photos then forwarded to Austin to verify all requirements have been met and the license will be issued with all required supporting documentation.*

- In one case the facility's total capacity increased from 1300 to 1400 in 2016 with no changes in the number of units and no explanations or justification on the application or the inspection report. License was issued for 1400. In 2017 the total capacity was back to the original 1300.

*In this case, the housing is provided by the local housing authority and number of units used may vary from year to year. Moving forward, the Austin staff will contact the applicant for justification of information which varies from previous years.*

- The inspection reports for 2012 through 2015 for a facility lists the exact same findings every year and the same notes from the inspector. The license was issued each year.

*We have addressed this issue. Apparently, our inspector used the inspection report from previous years with each inspection to streamline the form preparation and data entry process. The problem is that the inspector failed to remove comments from past years from the form. Moving forward, the inspectors will print a blank copy of the inspection report for each inspection performed.*

- Two licenses were issued for the same facility and for the same year, but with different application and inspection reports.

*This was an internal error where the employee listed the wrong effective and expiration date.*

- In multiple cases the inspection date was either prior to receipt of the application or after the effective date of the license.

*Inspection date prior to receipt of application: To minimize travel time, the inspectors would take the initiative to stop by neighboring migrant labor housing facilities while in the area and ask if they planned on renewing their license. If so, they would conduct an inspection so they would not have to drive back to that area.*

*In other cases, the license holder would request an inspection before the application and fee was received to expedite the licensing process and allow them to house their employees right away.*

*Moving forward, it is recommended that we continue this practice but document it better for future reference.*

*Inspection date after effective date of renewal application: The Austin staff maintained the same effective date as initially issued with each license renewal received, licenses were not “back dated”. This is the same practice used with the MHD’s occupational licenses. Since the facilities were vacant at the time of inspection there was no issue with the validity of the license but clearly it appears that the license holder was authorized to work before they were inspected.*

*Moving forward, the effective date placed on each license will be the day after the facility passes inspection so the dates will coincide.*

- In multiple cases the inspection date was more than 30 days after the receipt of the application. *An inspection legitimately performed beyond 30 days from the date the application was received by TDHCA occurs occasionally when the applicants has scheduling issues. Moving forward, the applicant will be required an provide a written request for an inspection date that is beyond the required 30 day period and added to the application file.*

*There were a couple of instances, however, where the inspection was not conducted in time. Moving forward, the inspections assigned to the field will be monitored to ensure that they are completed in within the required 30 days.*

- In 3 cases the effective date of the license seems to have been back dated to prior to receipt of the application and date of the inspection.

*The license effective and expiration assigned at when the license was initially issued has been maintain throughout the history of the licensed which is why the inspection may have been performed after the “effective date” of the license. This did not seem to be an issue as the facility was vacant at the time of inspection so it was not in operation.*

*Moving forward, the effective date of each license will be the first day after the facility successfully passes inspection.*

During our testing of inspection records we also reviewed the time reporting and payroll coding of a sample of 26 inspections. In 6 instances out of a total of 26 the inspectors did not report their hours accurately and under the correct coding as MGTLB, which is the proper code for Migrant Labor Inspections activities. Better tracking and reporting of migrant labor housing inspection related hours would facilitate better understanding of the total cost of administering the program, and also seeking funding for inspection activities.

Finding Item Number	Status Pertaining to the Recommendations and Action to be Taken	Target Completion Date	Responsible Party
19-002.06	The program should monitor inspectors’ reported hours and travel expenses to ensure that the correct codes and hours are being reported for migrant labor inspection related activities.	Immediately	J. Garcia and T. Gouris

**Management response:**

*Management agrees and MHD staff has been directed to accurately document and input correct time and travel codes to activities conducted with regard to Migrant Labor Housing Facilities inspections and licensing. In addition, the TDHCA point of contact will begin receiving and reviewing monthly expenditure reports from accounting to ensure that travel and time for migrant housing licensing activities are being reported.*

As part of the new initiative and outreach program that started in summer of 2018 TDHCA has created a logo for the program to create awareness of the licensed facilities (see below). The decal of this logo is intended to be distributed to licensed facilities each year when a license is issued or renewed, and to be displayed in public view to identify the facility as a licensed facility. During our tour of the five facilities mentioned earlier we noticed that one facility had the decal displayed on the window at the leasing office along with other notices and information. The logo, as seen below, can be a great eye-catcher for workers and tenants, however, it lacks the necessary information to convey its intended message.



Finding Item Number	Status Pertaining to the Recommendations and Action to be Taken	Target Completion Date	Responsible Party
19-002.7	OIA recommends that the logo be revised to include contact information of the Department for any questions and concerns, and additional information such as “Licensed Migrant Labor Housing Facility”.	September 2019	T. Gouris

**Management response:**

*Management agrees, generally, with the recommendation, and TDHCA will research and consider adding words to the decal or propose a rule requiring the decal to be posted in an outward facing window at the front of the building or other conspicuous locations with the license.*

This concludes the audit results on inspections. The next part of the audit report addresses outreach opportunities. This section contains no formal findings. These are opportunities and not legal requirements.

## Prior Studies and Reports on Migrant Labor Housing

### Conducted by TDHCA

OIA reviewed and analyzed the two primary reports on Migrant Labor Housing compiled between 2005 and 2019. The 2006 TDHCA report, A Report on the Quantity, Availability, Need and Quality of Migrant Labor Housing in the State, and the 2012 Bowen Report. The highlights of each are presented below:

In September 2006, TDHCA presented the report required by HB 1099, A Report on the Quantity, Availability, Need and Quality of Migrant Labor Housing in the State (hereafter called the “2006 Report”). It stated in a fiscal note that sufficient funding existed within the agency to cover the costs of these responsibilities. The report presents the baseline numbers of 31 licensed migrant labor housing facilities at that time with potential to house 3,245 persons, an estimated count of 132,034 agricultural workers in Texas, and 78,078 non-farm workers. It addresses the location of work having much to do with migrant labor housing facilities, the substandard quality of much of the housing, defines migrant and seasonal farm workers, and says that Texas is the second leading state in agricultural production. The 2006 report states that migrant workers are eligible for many of TDHCA’s programs.

The Bowen Report was commissioned in May 2011, subsequent to SB 2288 of the 81(R) Legislative Session in 2009, at a cost of \$86,440 to TDHCA. The report’s purpose was to address several requests to identify rural and agricultural worker housing needs in Texas. A workgroup, the Rural Housing Workgroup (RHW) was formed and began meeting in January 2010, around the time the research for The **Bowen Report** was being conducted. The workgroup apparently disbanded in November 2012. **The Bowen Report** was presented to the TDHCA Board on May 10, 2012. Since then, **The Bowen Report** has been referenced in the **State Low Income Housing Plan and Annual Report**. Like the **2006 Report**, **The Bowen Report** references other states’ strong programs such as those in California, Florida and Oregon.

No studies have been done on migrant labor housing since the Bowen Report. **The 2018 State of Texas Low Income Housing Plan and Annual Report** says that periodic studies are conducted on farmworker needs. OIA reviewed the above mentioned reports and subsequently identified and researched resources and interviewed individuals cited in the reports.

### Outreach observation:

Outreach is not specifically addressed in T.G.C. 2306 Subchapter LL Migrant Labor Housing Facilities. The TDHCA duties of enforcing the licensing and inspection aspects of the subchapter require knowledge of the location of the facilities. In November 2017, TDHCA began a program of outreach designed to locate facilities and bring them under the TDHCA licensing purview.

The outreach efforts are still being developed. Additional outreach networks and sources of information to increase outreach to the migrant labor population about housing opportunities could be pursued.

Outreach efforts to date are effective in regard to the H-2A visa housing population. It is required and is petition driven by the farmers who want to use this labor source. The domestic farm worker labor housing sector is still much an unknown and TDHCA is in the planning phase of how to approach that.

In 2017 TDHCA created a Migrant Labor Housing Program so that a senior manager was placed in charge of inspection and finding unlicensed migrant labor housing locations. At that time there was no database of those. The first efforts were made with the H2A housing, which comes from the Department of Labor (DOL), where there are H2A applications and DOL job postings for labor.

*“Motivation, Education and Training”*, a migrant labor advocacy group, put out a report in 2015 that says 58% of migrant farmworkers live in single family housing. Texas Rio Grande Legal Aid (TRLA) states that many migrant workers, single or with families, will double up or more in the available facilities, so it is difficult to accurately assess need.

Future outreach efforts could help to locate and encourage licensing and inspection of migrant labor housing, increasing the licensing fees collected. OIA conducted a companion review of funding sources available and utilized in other states. Information on this was communicated separately to management.

**Possibilities for outreach sources for migrant labor housing:**

Request that USDA fund the development of a survey to identify the needs of migrant labor and farmworker services, the community resources available to them, and the gaps that exist so that as TDHCA crafts a plan it is as effective as possible. In 2005, USDA performed a similar survey in Florida that gave the state the data needed to develop the migrant farmworker resources they now have available.

Create a collective page for migrant labor services, using Florida and California as examples.

Create various media migrant farmworker contact pages: Facebook page, website, phone number, and one page flyers.

Move the migrant housing program to the program tab on the TDHCA website. Under Support Services, its current location is not where individuals would look first.

Put a translation application on the website for applicants

Use the Community Health Workers, CHWs, as a network to reach the migrant labor/farmworkers. They are within these communities and trusted, often making direct service referrals for TWC.

Use TDA’s Office of Rural Affairs hospital network to place TDHCA flyers and post contact information.

Use TWC’s 13 centers to work with the migrant labor specialist in each one as a source for learning the gathering places and time of year the farmworkers can be found, put information at those gathering places; work sites, laundromats, grocery stores are examples.

Utilize the migrant outreach network described by TWC to disseminate housing information through crop groups, local boards, state agency work groups, advocacy groups, and local council of governments.

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

Sincerely,



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

MS/CK, NS



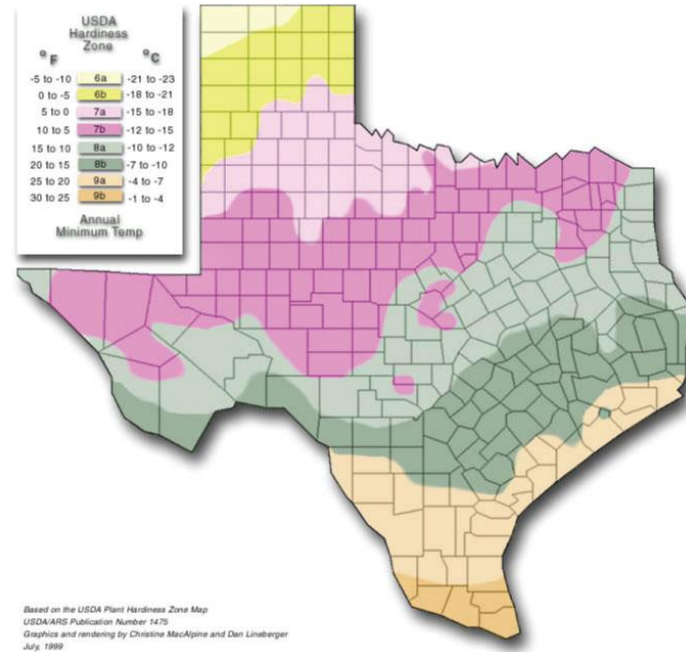
Appendix 1 – Texas Crop Growing Seasons

<https://www.ufseeds.com/learning/planting-schedules/texas-vegetable-planting-calendar/>

## Texas: Vegetable Planting Calendar

Planting vegetable seeds or transplants at the correct time is important to getting the most out of your garden. Knowing your first and last frost dates will help you start your vegetable seeds at the right time.

Texas is in USDA plant hardiness zones 6-9.



### Texas Last & First Frost Dates

City	Last Frost Date	First Frost Date
Arlington	3/21	11/14

Austin	2/17	11/5
Corpus Christi	2/1	12/21
Dallas	3/21	11/14
El Paso	3/24	11/8
Fort Worth	3/21	11/14
Laredo	2/9	12/5
Houston	3/1	11/29
Plano	3/20	11/13
San Antonio	3/20	11/12

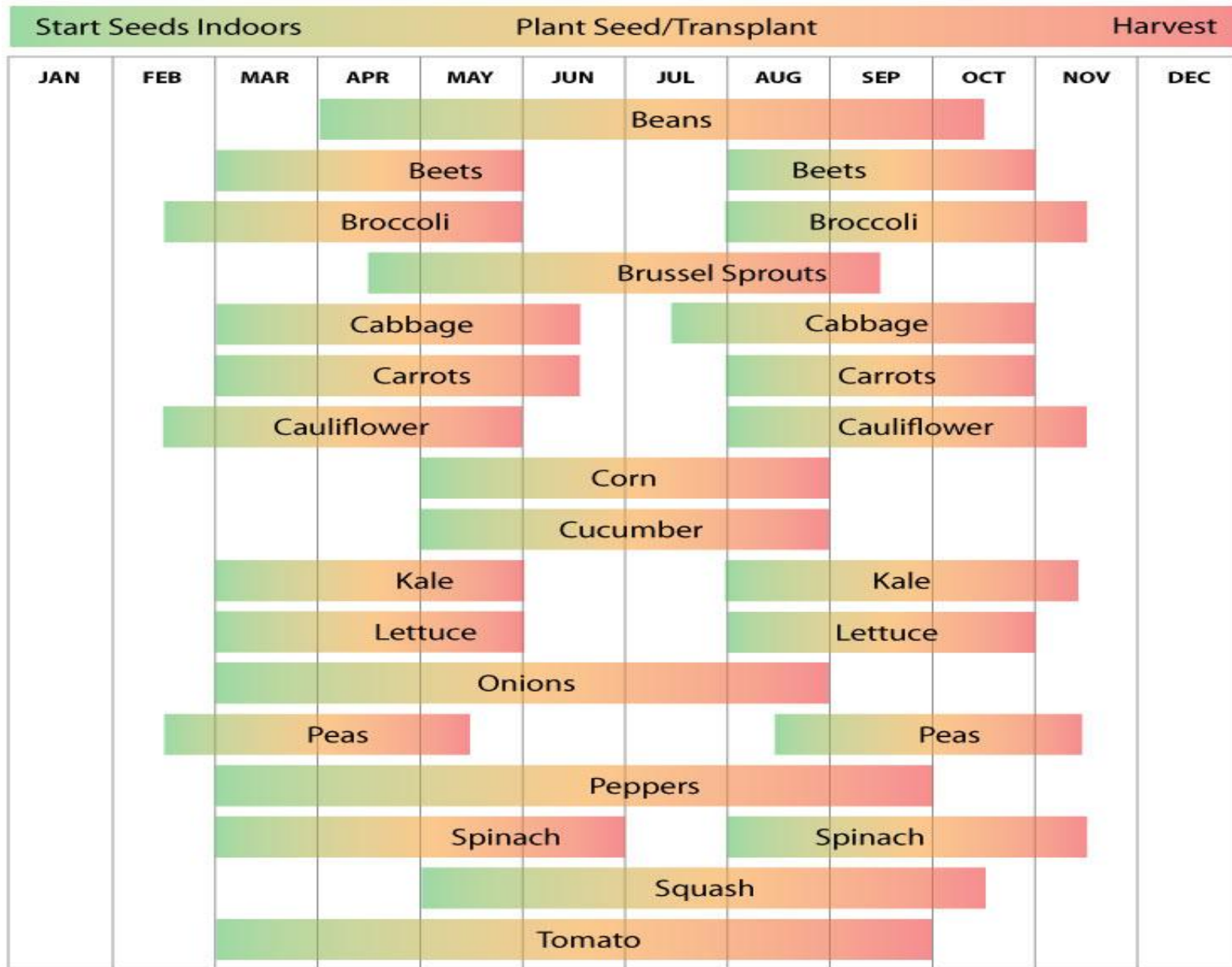
\*Based on statistics there is a 10% chance that frost will occur before or after these dates. Watch your local weather for more accurate dates.

Texas on average has approximately 250 days between the last and first frost. Using the planting schedules below will help you get the most out of your garden.

Zone 6 Planting Schedule

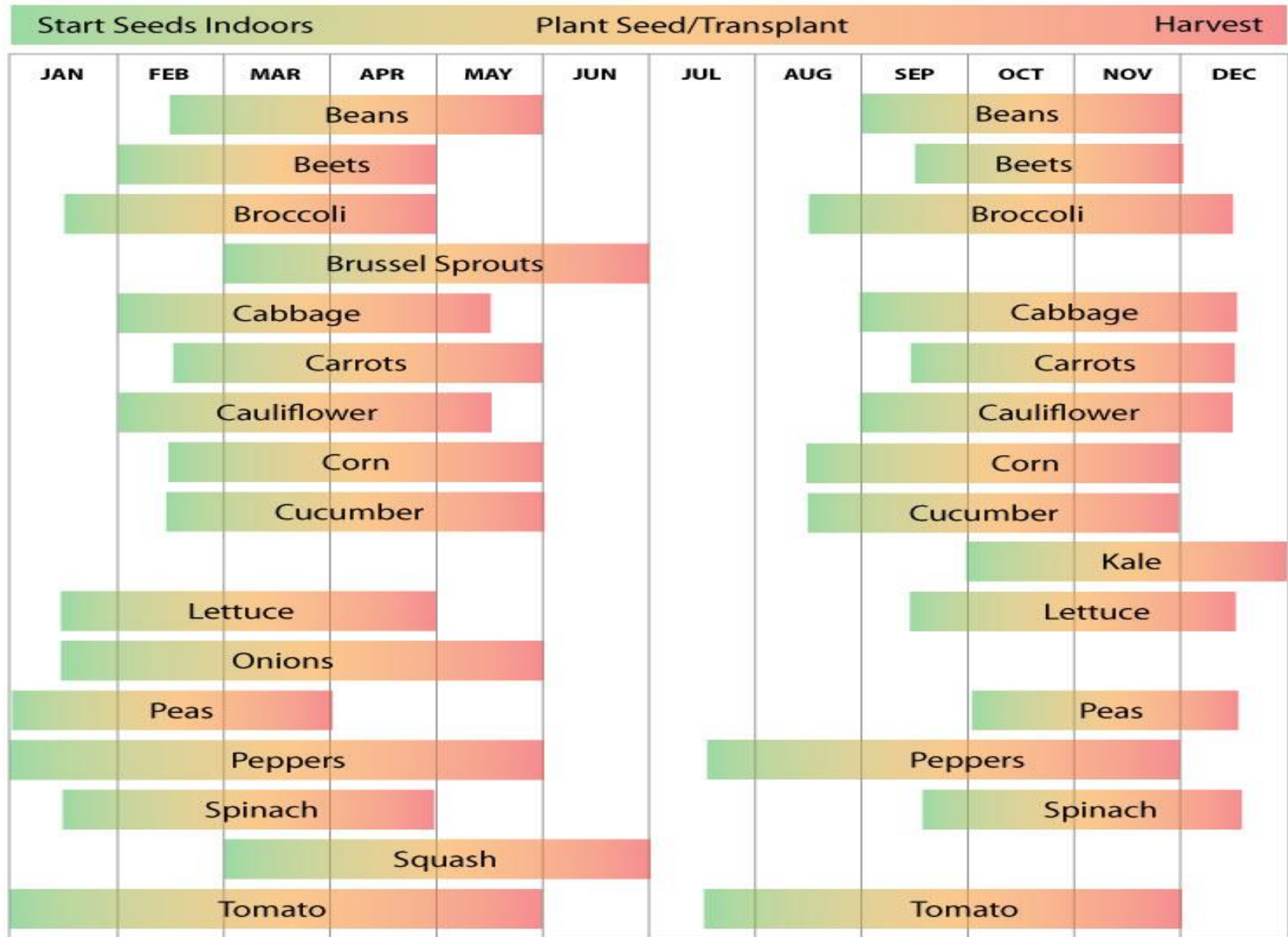
Start Seeds Indoors			Plant Seed/Transplant							Harvest	
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
						Beans					
			Beets				Beets				
		Broccoli					Broccoli				
				Brussel Sprouts							
				Cabbage							
			Carrots				Carrots				
		Cauliflower									
				Corn							
				Cucumber							
		Kale					Kale				
		Lettuce					Lettuce				
				Onions							
		Peas					Peas				
				Peppers							
		Spinach					Spinach				
				Squash							
				Tomato							

## Zone 7 Planting Schedule





Zone 9 Planting Schedule



Start Seeds Indoors      Plant Seed/Transplant      Harvest

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
			Beans						Beans		
		Beets							Beets		
	Broccoli								Broccoli		
		Brussel Sprouts									
	Cabbage								Cabbage		
		Carrots							Carrots		
	Cauliflower								Cauliflower		
		Corn							Corn		
		Cucumber							Cucumber		
										Kale	
	Lettuce								Lettuce		
		Onions									
	Peas									Peas	
		Peppers							Peppers		
		Spinach							Spinach		
			Squash								
	Tomato								Tomato		

## Appendix 2 - Population Estimates, #19-002

The migrant labor population is comprised of three primary farm worker population groups: undocumented workers, 50%, H2A visa holders, 20%, and domestic farm workers, 30%<sup>1</sup>.

The migrant labor population cites we found vary widely: 132,064<sup>2</sup>, to 411,209<sup>3</sup>, 360,000<sup>4</sup>, and 34,520<sup>5</sup>. The USDA self-reported migrant labor number is 4,915 for 2012. Agency personnel states they suspect this number is low. The USDA will have new estimates in April of this year.

These totals are cited for context, as an exact count is problematic for various reasons beyond the scope of this audit. A representative number of migrant farm workers from the estimate approach that the Migrant Labor Housing Program uses is illustrated here:

The Migrant Labor Housing Program uses data from the DOL/ETA report <https://www.foreignlaborcert.doleta.gov/map/2016/TX.pdf>:

number of H2A positions applied for of 3,116<sup>6</sup>, and percentage of total positions applied for, 4.29% + .01 and from the NAWS\_Research\_Report\_13<sup>7</sup> report equals 5% is the percentage of H2A<sup>8</sup> workers of all migrant labor workers.

$3,116 / .05 =$  estimated number of domestic farm workers, 62,320.

$3,116 + 62,320 = 65,436$  total estimated domestic and H2A migrant labor workers, and if 50% are undocumented as MET estimates in footnote 1, then, the estimated total migrant labor populations is:

$65,436$  (estimated domestic and H2A) +  $65,436$  (undocumented) =  $130,872$  total migrant labor workers

This number more conservative than the other estimates cited, illustrating the difficulty of gathering accurate information on migrant labor housing needs<sup>9</sup>. It is also important to point out that the NAWS does not include seasonal workers in their migrant labor population number.

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<sup>1</sup> MET 2015 (Data from 2000)

<sup>2</sup> Migrant Labor Housing Facilities in Texas, A Report Required by HB 1099. Michael Gerber, ED, TDHCA, September 1, 2006

<sup>3</sup> National Advisory Council on Migrant Health (NACMH) Presentation, San Antonio,, May 4 - 5, 2015, US HHS

<sup>4</sup> "What You Don't Know About Farm Workers May Surprise You", Texas State Affordable Housing Corporation, Michael Wilt, March 4, 2016 (This is based on data from 2000)

<sup>5</sup> The Bowen Report, Bowen National Research, 2012

<sup>6</sup> <https://www.foreignlaborcert.doleta.gov/map/2016/TX.pdf>

<sup>7</sup> NAWS\_Research\_Report\_13

<sup>8</sup> NASS

<sup>9</sup> Cite, Bowen Report, 2012 and National Center for Farmworker Health, 2012



# Report Item 3

AUDIT AND FINANCE COMMITTEE REPORT ITEM

INTERNAL AUDIT DIVISION

March 21, 2019

Discussion and review of the status of FY19 Internal Audit Plan

# ORAL PRESENTATION