



ANDREW M. CUOMO
Governor

Homes and Community Renewal

RUTHANNE VISNAUSKAS
Commissioner/CEO

May 6, 2020

Ms. Aida Solomon
Audit Manager, Division of State Government Accountability
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re.: Report 2019-F-44, Low-Income Housing Trust Fund Program (Follow-Up Review of 2013-S-32)

Dear Ms. Solomon:

This shall serve as our response to the reported results of the above-referenced follow-up review of the Low-Income Housing Trust Fund Program (2019-F-44). The following are our responses to the observations presented in the Office of the State Comptroller's (OSC) report dated April 2, 2020.

Recommendation 1: Adhere more closely to the policies and procedures in place for awarding low-income housing projects.

Status: Not Implemented

Agency Management's Response: New York State Homes and Community Renewal (HCR) disputes OSC's finding that the status of this recommendation is "not implemented." HCR disagrees that the agency has not been adhering to policies and procedures for awarding low income housing projects. HCR has and continues to adhere to established policies and protocols and staff do not deviate from established protocols as established by the state and federal requirements.

OSC, without any justification or explanation, asserted that six out of the sample of ten HCR projects that were awarded funding "deviated from established criteria and protocols." HCR's policies and procedures, which OSC claims were ignored, specifically allow the Commissioner to grant funding as long as the rationale for such awards are documented.

Three of the six projects identified in OSC's report as having been funded despite deviating from published criteria requested federal 9% Low-Income Housing Credit (LIHTC) in conjunction with Housing Trust Fund (HTF) funding. The LIHTC program explicitly allows funding for projects which exceed the costs of other

proposed projects (High Cost Project) if the Commissioner determines the project to be in furtherance of the State housing goals. The Commissioner also has discretion to award and allocate LIHTC to a project irrespective of the project's point ranking if the project meets the standards stated in the RFP.

OSC falsely states these three projects deviated from established procedures and protocols without documentation. As OSC acknowledges in its assessment of the status of Recommendation 2 below, HCR has already documented the rationale for these awards in Commissioner's Determinations posted on the agency's public website or in other internal documents and OSC has not identified any issue with the Commissioner's determinations. Two of the projects received a High Cost Commissioner's Determination which detailed the State housing goals each project met, along with other Agency priorities including coordinated governmental investments. The third project received both a High Cost Commissioner's Determination and utilized the agency's discretionary authority to award and allocate LIHTC to a project because the intended allocation met requisite standards.

State Comptroller's Comment – We made no false statements in our report. Our report stated that, of the ten sampled projects, four were funded based on established criteria and the remaining six were assessed less favorably than some other competing projects or had deviated from some other criteria; we stand by our finding. We are not questioning HCR's authority to use different criteria but rather are pointing out the deviations.

With respect to the remaining three projects, which were not subject to the LIHTC requirements, HCR complied with protocols and procedures by providing internal memorandums, project summaries, and review documents to support its determinations. Additionally, with all projects supported by HTF funding, a complete project summary along with supporting documentation, was presented to the Housing Trust Fund Corporation Board where they are independently reviewed and approved.

In planning and executing funding rounds, HCR considers State housing goals, which require that HCR makes awards to projects that advance and conform with those goals. HCR's annual Request for Proposals (RFP) identify several considerations for making award decisions including application scores, feasibility assessments, development team experience, program set-asides, overall project costs, proximity to locally undesirable land uses, whether projects advance State housing objectives, and whether awards will achieve a geographic distribution of funding across the State. HCR also considers the extent to which an application supplements or advances a coordinated investment by State agencies, federal government and local partners, and whether a proposed project clearly advances New York State's housing goals and objectives.

Recommendation 2: Document the reasons for any management decisions to fund projects that do not adhere to the established criteria.

Status: Implemented

Agency Management's Response: HCR agrees this recommendation has been implemented. The basis for award decisions adhere to established criteria for funding and are documented by HCR staff and management.

Recommendation 3: Develop a more formalized monitoring system that produces routine internal management reports, to monitor all aspects of the program – including the pre-construction phase – to ensure low-income housing units are produced more timely.

Status: Partially Implemented

Agency Management's Response: HCR disagrees with this finding in that the agency has, in fact, developed a more formalized monitoring system. HCR utilizes a routine centralized reporting and monitoring system that is verified and updated on a weekly basis using data provided through tracking spreadsheets and regular reports from staff. These reports track a number of critical deadlines that enable HCR to monitor progress from the time awards are made through construction completion and permanent conversion. HCR's monitoring system ensures the timely production of low-income housing units.

OSC has focused on tracking during the pre-construction phase of development but the alternative reporting and monitoring approach OSC proposes is impractical. The proposed monitoring does not consider the unique development pathways of low income housing projects. For example, HCR does not routinely monitor elapsed time from application to award date because Unified Funding RFPs have two submission deadlines for applications – one early and one regular. However, all subsequent awards are made at the same time making the proposed metric useless for monitoring the progress of project implementation because those projects awarded in the early round will artificially appear to take longer to complete. Instead, HCR's tracking of critical milestones more appropriately commences at the time of the award.

Please contact Ron Dickens, Director of Internal Audit and Quality Control, at (518) 486 - 6367 if you have any questions or require anything further.

Sincerely,



Jason R. Pearson

Vice President, Multifamily Programs & Operations

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