



Audit Report



OIG-19-035

Domestic and International Assistance Programs

Audit of Michigan State Housing Development Authority's Payment Under 1602 Program

May 7, 2019

Office of Inspector General
Department of the Treasury

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Abbreviations

1602 Program	Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009
FY	fiscal year
IRC	Internal Revenue Code
LIHTC	Low Income Housing Tax Credit
MSHDA	Michigan State Housing Development Authority
OFAS	Office of the Fiscal Assistant Secretary
OIG	Office of Inspector General
QAP	Qualified Allocation Plan
Recovery Act	American Recovery and Reinvestment Act of 2009
Treasury	Department of the Treasury

*The Department of the Treasury
Office of Inspector General*

May 7, 2019

David A. Lebryk
Fiscal Assistant Secretary

As part of our ongoing oversight of the Department of the Treasury's (Treasury) Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009 (1602 Program),¹ authorized by Section 1602 of the American Recovery and Reinvestment Act of 2009 (Recovery Act),² we conducted audits of awards made to selected State housing credit agencies. The objective of these audits was to assess whether the agencies awarded funds under Treasury's 1602 Program complied with the program's overall requirements and the "Grantee Terms and Conditions" (together referred to as 1602 Program requirements). In this report, we provided our assessment of Michigan State Housing Development Authority (MSHDA) compliance with the 1602 Program requirements. MSHDA was statistically selected from a universe of 55 States and territories eligible to receive 1602 Program funds.

To determine 1602 Program eligibility, our audit scope comprised \$285,935,362 of funds awarded to MSHDA in May and December of 2009. Of this amount, \$285,665,362³ was disbursed to 68 eligible low-income housing projects from which we statistically selected 13 low-income housing projects (comprising \$52,171,105) to further assess MSHDA's compliance with 1602 Program subaward requirements. We also tested a non-statistical sample comprising, at a minimum, 50 percent of the disbursements made for each of the 13

¹ Treasury's Office of the Fiscal Assistant Secretary administers this program.

² Public Law 111-5, 123 Stat. 362-364 (February 17, 2009). Under section 1602 of the Recovery Act, Treasury shall make a grant to the housing credit agency of each State in an amount equal to such State's "Low-income Housing Grant Election Amount." The "Low-income Housing Grant Election Amount" is further discussed in footnote 7 of this report.

³ MSHDA did not subaward \$270,000 of 1602 Program funds and returned the amount to Treasury by the December 31, 2011 deadline, as required by the 1602 Program requirements.

projects for a total of \$34,760,946. Appendix 1 provides a more detailed description of our audit objective, scope, and methodology.

Results in Brief

We found that MSHDA substantially met the eligibility and compliance requirements set forth in both Section 42 of the Internal Revenue Code (IRC) and Section 1602 of the Recovery Act for receiving its 1602 Program award. However, MSHDA did not meet all 1602 Program requirements for subawarding those funds to low-income housing projects. Specifically, MSHDA earned interest of \$355 in excess of \$200 allowed by 1602 Program requirements. Interest earned annually in excess of \$200 that is not applied to project disbursements must be returned to Treasury. Furthermore, MSHDA was unable to support the costs of performing initial asset management and as a result, could not verify that \$5,689,077 of initial asset management fees collected from all 68 1602 Program subawardees did not exceed the cost of performing the function. As such, we questioned the \$355 of interest earned and all \$5,689,077 of MSHDA's initial asset management fees. See appendix 2 for the definition of a questioned cost included as part of the schedule of questioned costs.

With respect to MSHDA's compliance with 1602 Program requirements regarding compliance and asset management, we concluded that MSHDA established compliance and asset management processes to ensure that 1602 Program funded low-income housing projects comply with Section 42 of the IRC and remain compliant during the 15-year compliance period.⁴ At the time of our review, there were no matters impacting compliance and the long-term viability of 1602 Program funded projects. MSHDA also complied with 1602 Program reporting requirements in submitting quarterly project performance reports and annual certification reports to Treasury. That said, we also

⁴ Section 42 of the IRC defines the compliance period as the 15 taxable years beginning with the calendar year in which the project is placed in service or the succeeding taxable year, based on the election of the project owner.

want to emphasize the need for continued diligence on the part of Treasury and MSHDA to ensure compliance with the 1602 Program requirements over the remaining 15-year compliance period.

In all, we recommend that the Fiscal Assistant Secretary ensures that (1) MSHDA reimburses Treasury \$355 of interest earned in excess of \$200 allowed by 1602 Program requirements; and (2) appropriate action is taken under Section 11 of the "Grantee Terms and Conditions" (included as appendix 3 of this report) regarding MSHDA's unsupported costs of \$5,689,077 associated with its initial asset management fees, to include seeking reimbursement of any excess 1602 Program payments.

As part of our reporting process, we provided MSHDA management an opportunity to comment on a draft of this report. In a written response, MSHDA management agreed with our audit results in part as they related to the excess interest earned but disagreed that asset management fees were not supported. Based on our evaluation of the response, the results of our audit have not changed. We have summarized the response and our evaluation in the "Finding" section of this report. MSHDA management's response, in its entirety, is included as appendix 4 of this report.

After incorporating MSHDA's response, we provided a draft of this report to Treasury management for comment. In a written response, Treasury management concurred with our recommendations. In summary, management responded that it will take action to recoup funds related to the excess interest earned, and will work with MSHDA to further examine its accounting for fees related to initial asset management. The response also stated that, in the event that the fees violated program rules, management will determine what remedies are legally available and take action as appropriate. Treasury management's stated actions included in the response meet the intent of our recommendations. The response, in its entirety, is included as appendix 5 of this report.

Background

The low-income housing tax credit program codified in Section 42 of the IRC was authorized by the Tax Reform Act of 1986.⁵ The tax credit is an incentive for individuals and corporations to invest in the construction or rehabilitation of low income housing. For projects meeting the program requirements, the tax credit provides the investor a dollar-for-dollar reduction in personal or corporate federal income tax liability for a 10-year period.

The Recovery Act intended to provide relief to the conditions caused by the economic crisis at the time. Part of that relief, provided in Section 1602 of the Recovery Act, consisted of grants awarded to States⁶ for low-income housing projects in lieu of low-income housing credit allocations. The purpose of Section 1602 was to fill the gap left by the reduced demand for low-income housing tax credits that would enable low-income housing projects to continue or begin in cases where developers could not obtain private investment, as well as, increase the availability of affordable housing. The Secretary of the Treasury is responsible for carrying out the requirements of Section 1602.

Eligibility Under the 1602 Program

Under the Recovery Act, State housing credit agencies were allowed to exchange a portion of their low-income housing credits for Section 1602 funds. The maximum funds available to a State could not exceed its "Low-income Housing Grant

⁵ Public Law 99-514, Stat. 2189 (October 22, 1986)

⁶ According to Treasury's "Grantee Terms and Conditions," (appendix 3), "... 2. Grantee Eligibility a. The grantee is the housing credit agency for one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Northern Mariana Islands which files Form 8610, Annual Low-Income Housing Credit Agencies Report with the Internal Revenue Service."

Election Amount”⁷ as determined under Section 1602. In turn, State housing credit agencies would disburse funds to eligible subawardees to help finance either the construction or the acquisition and rehabilitation of qualified low-income housing projects. Section 1602 also provided that subawarded projects be subject to the same eligibility and compliance requirements as the low-income housing credits found in Section 42 of the IRC. In addition to following the IRC Section 42 eligibility and compliance requirements, Section 1602 required that state housing credit agencies:

- (1) establish a process to ensure that applicants who were allocated low-income housing credits demonstrate “good faith efforts” to obtain investment commitments for credits elsewhere;
- (2) perform asset management functions to ensure subaward compliance with Section 42 of the IRC and the long-term viability of projects;⁸ and
- (3) recapture funds in the event of subawardees’ noncompliance payable to Treasury.

As part of its overall administration of Treasury’s 1602 Program, the Office of the Fiscal Assistant Secretary (OFAS) developed the “Grantee Terms and Conditions” of award to identify the eligibility and compliance requirements set forth in both Section 42 of the IRC and Section 1602 of the Recovery Act. State housing credit agencies and subawards funded by them are subject to these terms and conditions for the 15-year compliance period. Among the terms and conditions, State housing credit agencies are required to provide financial status and project performance reports quarterly and other applicable reports for ensuring compliance with the terms and conditions

⁷ “Low-income Housing Grant Election Amount” may not exceed 85 percent of the sum of (1) 10 times (a) the unused State housing credit ceiling (if any) for calendar year 2008 and (b) the amount of State housing credit ceiling returned in 2009, plus (2) 10 times 40 percent of (c) the greater of \$2.30 multiplied by the State population or \$2,665,000 and (d) unused housing credit carryover allocated to the State in the 2009 National Pool.

⁸ Low-income housing projects must be financially feasible and remain viable throughout the 15-year compliance period required by Section 42 of the IRC.

of their 1602 Program awards. In its post subaward reporting guidance, OFAS required that State housing credit agencies certify annually that (1) the amount of Section 1602 funds subawarded to a project was equal to or less than 85 percent of the project's eligible basis; and (2) funded projects remain qualified projects throughout the 15-year compliance period. Appendix 3 provides the detail contained in OFAS' "Grantee Terms and Conditions."

Since awards under the 1602 Program are not conventional grants, but an exchange of low-income housing credits falling under the requirements of Section 42 of the IRC, they are not within the scope of the *Single Audit Act of 1984*⁹ nor a part of the audit universe explicitly set by the Office of Management and Budget. Therefore, unless the State auditor specifically audits these awards, the awards to the respective States and their subawardees will not receive audit coverage.

Michigan State Housing Development Authority



La Vogue Square
(Shelborne Development Photograph)

MSHDA, established in 1966, provides financial and technical assistance through public and private partnerships to create and preserve safe and decent affordable housing, engage in community economic development activities, develop vibrant cities, towns and villages, and address homeless issues. MSHDA is responsible for administering Michigan's

low-income housing tax credit program and allocates credits based on the selection criteria set forth in its Qualified Allocation Plan (QAP).¹⁰

⁹ Public Law 98-502, amended by Public Law 104-156, *Single Audit Act Amendment of 1996*

¹⁰ The QAP establishes the criteria used by the housing credit agency to determine the State's housing priorities that are appropriate to the local conditions, and along with other requirements, gives preference to allocating credit dollar amounts among selected projects.

In 2009 and 2010, MSHDA was awarded \$285,935,362 under the 1602 Program which funded 68 projects, many of which were stalled due to the downturn in the low-income housing tax credit equity market. The funded projects yielded 5,728 housing units which were set aside as low-income for qualifying residents throughout Michigan. Projects were certified for occupancy and placed in service between January 2010 and December 2012.

**Finding Michigan State Housing Development Authority
Did Not Fully Comply with 1602 Program
Requirements**

We found that MSHDA substantially met the eligibility and compliance requirements set forth in both Section 42 of the IRC and Section 1602 of the Recovery Act for receiving its 1602 Program award. However, MSHDA did not meet all 1602 Program requirements for subawarding those funds to low-income housing projects. Specifically, MSHDA earned interest of \$355 in excess of \$200 allowed by 1602 Program requirements. Interest earned annually in excess of \$200 that is not applied to project disbursements must be returned to Treasury. Furthermore, MSHDA was unable to support the costs of performing initial asset management, and as a result, could not verify that \$5,689,077 of initial asset management fees collected from all 68 subawardees did not exceed the costs of performing asset management functions in accordance with 1602 Program requirements. As described in more detail below, we questioned \$355 of interest earned and all \$5,689,077 of MSHDA's initial asset management fees collected.

Also detailed below, we found that MSHDA established a process for monitoring the long-term viability of projects and their compliance with 1602 Program requirements. At the time of our review, MSHDA found no matters impacting the long-term viability of low-income housing projects. MSHDA also met all Treasury quarterly and annual reporting requirements.

Awarding

MSHDA requested and was awarded \$285,935,362 of 1602 Program funds, which we verified was equal to MSHDA's "Low-income Housing Grant Election Amount" requested in its application packages.

As required by the 1602 Program requirements, MSHDA subawarded funds to 68 low-income housing projects, which (1) qualified under Section 42 of the IRC; (2) demonstrated "good faith efforts" to obtain investments elsewhere; and (3) did not exceed the amounts necessary to make the projects financially feasible and viable throughout the 15-year compliance period.

Subawarding

In identifying the 68 qualified low-income housing projects, MSHDA applied the selection criteria set forth in its QAP as required by Section 42 of the IRC. These projects were stalled due to the downturn in the low-income housing tax credit equity market, and therefore, were subawarded 1602 Program funds.

MSHDA subawarded and disbursed \$285,665,362 of its \$285,935,362 1602 Program award to all 68 subawardees. MSHDA de-obligated and returned \$270,000 of unused funds to Treasury by the December 31, 2011 disbursement deadline, as required by the 1602 Program requirements. As part of our review of MSHDA's compliance with 1602 Program subaward requirements, we tested a non-statistical sample comprising, at a minimum, 50 percent of the disbursements made for each of the 13 projects for a total of \$34,760,946. We found no instances of noncompliance with 1602 Program subaward requirements specific to MSHDA's expenditure and accounting for funds in accordance with State policies and procedures for disbursements. However, MSHDA did not disburse all 1602 funds to subawardees within 3 days of drawing funds from its Treasury account. To minimize the time between the receipt of funds and disbursement to subawardees, the 1602 Program required that funds not be drawn in advance of need, and once drawn, funds had to be expended as a subaward within 3 days.

In the case of MSHDA, 5 draws from its Treasury account totaling approximately \$3,845,492 were deposited into an interest-bearing account during calendar year 2011.¹¹ Funds were held beyond the 3 day disbursement period (ranging between 10 and 99 days) that resulted in \$548 of interest earned in calendar year 2011. According to 1602 Program requirements, interest earned on 1602 Program funds in excess of \$200 annually, must be disbursed to low-income housing projects or returned to Treasury. MSHDA neither disbursed the excess \$348 of interest earned for other subawards nor returned the funds to Treasury.

While MSHDA acknowledged that excess interest was owed to Treasury, no reimbursement has been made as of the completion of the audit. As of May 2018, the excess interest owed to Treasury totaled \$355.¹² Accordingly, we question a total of \$355 of interest earned that exceeded the \$200 minimum allowed.

MSHDA Management Response

In a written response to a draft of this report, MSHDA management acknowledged the interest earned in excess of the \$200 allowed by the 1602 Program requirements resulted from disbursing funds beyond the 3-day disbursement period and resulted in \$548 of interest earned in 2011. Management acquiesced to our finding given the small amount of \$355 at issue. As discussed below, MSHDA management did not agree with our finding regarding initial asset management fees. See appendix 4 for MSHDA's management's response in its entirety.

¹¹ Interest was calculated for calendar year 2011 using the Treasury's "Certified Interest Rates– Federal Credit Similar Maturity Rate" for funds held less than one year. These rates are based on the Federal fiscal year (FY), October 1 through September 30 of the following calendar year. Interest rates applicable to MSHDA's 1602 Program funds were 0.14 percent for FY 2011, and 0.11 percent for FY 2012.

¹² Additional interest earned on the excess \$348 held from calendar year 2012 through May 31, 2018 was calculated using Treasury's "Certified Interest Rates– Federal Credit Similar Maturity Rate." Applicable interest rates were .11 percent for FY 2012, .10 percent for FY 2013, .07 percent for FY 2014, .12 percent for FY 2015, .39 percent for FY 2016, and .85 percent for FY 2017. Treasury's FY 2018 interest rates were not published at the time of our audit. Therefore, we used the FY 2017 interest rate in our recalculation of interest earned.

Compliance and Asset Management

As required by Section 1602 of the Recovery Act, MSHDA established compliance and asset management oversight functions to ensure that low-income housing projects comply with Section 42 of the IRC and remain viable during the 15-year compliance period.

Section 1602 of the Recovery Act also required that State housing credit agencies impose conditions and/or restrictions, including recapture requirements, on subawardees to ensure low-income housing projects remain qualified during the 15-year compliance period. OFAS further stipulated in its terms and conditions that recapture requirements be included in State credit housing agencies' written subaward agreements. Furthermore, State housing credit agencies were required by OFAS to have procedures in place for monitoring 1602 Program subawardees to identify and correct issues of noncompliance during the compliance period. In the event of noncompliance, State housing credit agencies must impose consequences such as possible State program debarment and the recapture of 1602 Program funds, payable to Treasury.¹³

In the case of MSHDA, the requisite recapture requirements were included in its subaward agreements in the event of subawardee noncompliance. MSHDA structured its 1602 Program subawards as tax credit exchange funds, subject to recapture in the event a low-income building does not remain qualified during the 15-year compliance period. All 13 projects in our sample had commenced the first year of their respective 15-year compliance period. MSHDA's compliance monitoring procedures included performing on-site inspections of project buildings and units, and reviews of project tenant files for compliance with Section 42 of the IRC regarding the following: tenant incomes, program eligibility of each household (i.e. student status, elderly status), rent amount charged to each household, and utility allowance for each unit. There were no

¹³ Treasury, "Section 1602—Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009 Recapture Guidance"

matters impacting compliance with Section 42 of the IRC at the time of our review.

MSHDA's policy requires that an annual asset management review be performed on each 1602 Program project following a project's placed-in-service date, to ensure its long-term viability. MSHDA reviewed monthly income and expense reports, audited financial statements, annual budgets and periodic capital needs assessments to determine fiscal health and long-term viability of low-income housing projects. MSHDA found no matters impacting the long-term viability of low-income housing projects at the time of our review. MSHDA's continuous compliance monitoring and review of asset management reports for the remainder of the 15-year compliance period should help ensure 1602 Program projects maintain qualified low-income buildings.

Initial Asset Management Fees

1602 Program requirements allow State housing credit agencies to "collect reasonable fees from a subawardee to cover expenses associated with performance of its duties under Section 1602(c)(3) of the Act, Compliance and Asset Management. Reasonable fees are amounts customarily charged for the same or similar services and in no event may exceed costs." In addition, "the grantee must maintain program, financial, and accounting records sufficient to demonstrate that grant funds were used in accordance with the Section 1602 program and these terms and conditions."

MSHDA charged all 68 subawardees initial asset management fees totaling \$5,689,077, which was paid with 1602 Program funds. According to a MSHDA official, a two percent loan commitment fee had been charged under the State's direct lending programs. When MSHDA participated in the 1602 Program, it was determined that the two percent commitment fee would be appropriate, however the fee was called an initial

asset management fee instead of a loan commitment fee.¹⁴ We were told that the fee was used to offset the cost of underwriting, loan closing, oversight of construction and disbursements; and monitoring the development stage of 1602 Program projects, which could last from 1 to 2 years. Moreover, it was explained that the initial asset management fee was intended to cover the costs of more robust underwriting, similar to that of its direct lending programs. This was deemed necessary because of the 1602 Program low-income housing projects' long term viability requirement.

MSHDA could not provide records to support asset management costs associated with performing initial asset management functions and the fees collected. According to a MSHDA official, the Rental Development Division performs the same asset management functions for other MSHDA programs, and does not track expenses by individual program.

While we acknowledge MSHDA was allowed to charge an initial asset management fee, we question all \$5,689,077 of initial asset management fees collected because MSHDA could not support the cost of performing the associated functions. As noted above, the State must maintain program, financial, and accounting records sufficient to demonstrate that funds were used in accordance with the 1602 Program. As a result, MSHDA could not support that the fees collected did not exceed the cost of performing initial asset management in accordance with 1602 Program requirements.

MSHDA Management Response

In its written response, MSHDA management did not agree that it failed to maintain program, financial, and accounting records sufficient to demonstrate that initial asset management fees of \$5,689,077 were used in accordance with 1602 Program

¹⁴ According to a MSHDA official, the two percent initial asset management fee was based on each project's 1602 Program subaward. However, when recalculating the fees based on projects' final 1602 Program subawards, we noted fees charged were not always equal to two percent of the final 1602 Program subawards. Therefore, we used a combination of the certified independent public accountant's final cost certifications and MSHDA's 1602 Program draw documentation to determine that a total of \$5,689,077 was collected from its 1602 Program subawardees.

requirements. MSHDA management believed that the 1602 Program required enhanced asset management beyond what would be typically required for the Low Income Housing Tax Credit (LIHTC) program, and included recapture provisions against the allocating agency. Management decided to utilize MSHDA's direct lending program process, which had been in existence for 40 years, and included the two percent initial asset management fee. This fee was intended to cover the cost of evaluating each "Section 1602" project to ensure that each was set up to have a long standing financial stability to meet the requirements of "Section 1602" program. According to the response, the fee was an allowable charge, as acknowledged in the audit, to cover costs of oversight functions that included underwriting, design review, market study review, environmental review, construction oversight, and reviews of funding draws during the construction process of each project that received "Section 1602" funds. Management also noted that, at the time of the allocation of the "Section 1602" funds, no guidance had been given on the type of records required to be maintained.

In describing its methodology for determining the two percent loan commitment fee, management explained that, many years ago, MSHDA generated a schedule to calculate the cost of performing asset management functions for projects that received a MSHDA direct loan. The same standard was applied to the 1602 Program for initial asset management services. Management further stated that the method used in determining the initial asset management fee was methodically calculated using historic costs and a common industry practice among lender commitment fees in a typical affordable housing transaction.

MSHDA's response asserted that the rationale for charging program fees based on percentage of the funding being provided is not unique and a common approach taken by housing finance agencies when administering their programs. MSHDA adopted the practice of charging a fee equal to six percent of the LIHTC amount awarded to each project to cover the cost of reviewing the project and the administration of the program. MSHDA management also stated that the

methodology for fee calculation and record keeping used for both the 1602 Program and LIHTC are quite similar. Given the long track record and successful history of the LIHTC program, management believed it was reasonable to have approached the 1602 Program similarly in certain aspects. MSHDA management believed that the audit found the methodology used in determining the amounts and the record keeping for ongoing asset management to be acceptable. Management also believed that it was inaccurate to conclude that MSHDA was unable to support any amount of the initial asset management fees collected as the audit acknowledged that the services provided and charging fees for those services were acceptable. According to management, the initial asset management fee did not provide a financial windfall for MSDHA and that substantial information was provided to support that the fee did not exceed the cost of performing initial asset management functions. See appendix 4 for MSHDA's management's response in its entirety.

After evaluating MSHDA management's response, we maintain that MSHDA was unable to sufficiently support the fees collected from performing initial asset management on 1602 Program funded projects. It should be noted that this audit reported on the methodology used in determining the initial asset management fees and related record keeping separate from the "ongoing" asset management fees, which are collected from the project developers and are not 1602 Program funds. While we found no issues with MSHDA's process for "ongoing" asset management required by the 1602 Program requirements as discussed in this report, we did not report on the records to support the "ongoing" asset management fees since they were not 1602 Program funds. As already noted above, we acknowledged that fees associated with performance of initial asset management functions were allowable. However, the \$5,689,077 of initial asset management fees were based on an estimate at the time they were collected. In its response, MSHDA stated that 1602 Program required "enhanced" asset management functions beyond those for its LIHTC program and included recapture provisions against the allocating agency. However, we did not find that MSHDA performed services that were significantly different than those performed under its LIHTC program. Moreover, the 1602 Program's recapture

provisions were not applicable during the initial asset management period, which was comprised of activities performed prior to placing a low-income housing project in service. Activities and associated costs related to recapture events are part of long-term asset management functions. Furthermore, MSHDA would not assume financial risk in the event of a recapture provided that it follows Treasury's recapture guidance.¹⁵

While Treasury did not provide guidance on the specific type(s) of records that were required to be maintained, it did require that the "grantee must maintain program, financial, and accounting records sufficient to demonstrate that grant funds were used in accordance with the Section 1602 Program and these terms and conditions." Furthermore, the 1602 Program requirements stated that "the grantee must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the designated State housing credit agency must be sufficient to permit preparation of required reports and permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Effective control and accountability must be maintained for all grant funds." As noted in MSHDA's response, the record provided to us was the schedule for determining the two percent loan commitment fee that was applied to the 1602 Program subawardees. However, the schedule presented estimated costs totaling \$4,969,463, which was \$719,614 less than the \$5,689,077 of asset management fees collected. It should also be noted that MSHDA's schedule may have included administrative costs (i.e. legal fees) that were prohibited under the 1602 Program requirements. Furthermore, MSHDA was unable provide a reconciliation between its

¹⁵ According to "Section 1602 – Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009, Recapture Guidance" (August 2010), "if the State agency is unable to collect the recapture amount from a liable party, Treasury would not require the State agency to return the recapture penalty provided the State agency took appropriate actions to collect the funds from the liable party."

estimated cost and the costs incurred after initial asset management was performed.

We also acknowledge that MSHDA has historically charged a fee of six percent for the administration of its LIHTC program. That said, this fee covers program administration beyond initial asset management. Furthermore, the six percent fee is applied to the tax credit amount, which differs from the 1602 Program subaward amount. Under MSHDA's LIHTC program, a six percent fee applied to a tax credit would equate \$2,016,461 compared to the \$5,689,077 of initial asset management fees collected. On average, this would equate to \$29,654 versus the \$83,663 of fees collected per project.

Accordingly, MSHDA's initial asset management fees of \$5,689,077 remain in question as unsupported costs.

Quarterly and Annual Reporting

OFAS requires that State housing credit agencies submit financial status and project performance reports for each low-income housing project on a quarterly basis during the development stage as well as other reports deemed necessary to ensure compliance with provisions of Section 1602. In its post sub-award reporting guidance, OFAS also requires that State housing credit agencies provide two additional certification reports. The first report is to certify each project's placed-in-service date and whether 1602 Program funds used were equal to or less than 85 percent of the project's eligible basis. The second report is required each year thereafter for the project's annual compliance throughout the 15-year compliance period once the project is placed in service.

We found that MSHDA complied with OFAS' reporting requirements. That is, MSHDA submitted quarterly project performance reports during each project's developmental stage and annual certification reports after the project was placed in service.

Recommendations

We recommend that the Fiscal Assistant Secretary do the following:

1. Ensures that MSHDA reimburses Treasury \$355 of interest earned in excess of \$200 allowed by 1602 Program requirements.

Management Response

Management concurred with this recommendation and stated that it will take action to recoup these funds.

OIG Comment

Management's response meets the intent of our recommendation.

2. Ensures that appropriate action is taken under Section 11 of the "Grantee Terms and Conditions" (included as appendix 3 of this report) regarding MSHDA's unsupported costs of \$5,689,077 associated with its initial asset management fees, to include seeking reimbursement for any excess 1602 Program payments.

Management Response

Management generally concurred with this recommendation and stated that it will work with MSHDA to further examine its accounting for fees. Management also stated that in the event OFAS concludes that the fees violated program rules, OFAS will determine what remedies are legally available and take action as appropriate.

OIG Comment

Management's response meets the intent of our recommendation.

* * * * *

We appreciate the courtesies and cooperation extended by your staff during this audit. Major contributors to this report are listed in appendix 6. A distribution list for this report is provided as appendix 7. If you have any questions, you may contact me at (202) 927-5784 or Paul Harris, Audit Manager, at (202) 927-8781.

/s/

Donna Joseph
Deputy Assistant Inspector General for Audit

In August 2012, we initiated an audit of the Michigan State Housing Development Authority (MSHDA) as part of our audits of State housing credit agencies funded under the Department of the Treasury's (Treasury) Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credit Allocations for 2009 (1602 Program) authorized by section 1602 of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The objective of these audits was to assess whether State housing credit agencies awarded funds under Treasury's 1602 Program complied with the program's overall requirements and the "Grantee Terms and Conditions" (together referred to as 1602 Program requirements). To meet our objective we assessed whether MSHDA properly received and subawarded 1602 Program funds, implemented compliance and asset management processes, and met Treasury's reporting requirements.

We statistically selected MSHDA from the universe of 55 states and territories eligible to receive 1602 Program funds. We caution, however, that our sample was randomly selected to avoid bias and not for the purpose of projecting results to the universe or concluding on the effectiveness of the 1602 Program. Our audit scope comprised \$285,935,362 of 1602 Program funds awarded to MSHDA in May and December of 2009. Of this amount, MSHDA subawarded and disbursed \$285,665,362 to 68 low-income housing projects from which we statistically selected and reviewed 13 projects (comprising \$52,171,105) to further assess MSHDA's compliance with 1602 Program subaward requirements. Our subaward sample was not for the purpose of projecting testing results across all 68 projects but to ensure each project had an equal chance of being selected. As part of our review of MSHDA's compliance with 1602 Program subaward requirements, we also tested a non-statistical sample comprising at a minimum 50 percent of the disbursements made for each of the 13 projects for a total of \$34,760,946. As MSHDA did not subaward \$270,000 of its 1602 Program funds by the 1602 Program deadline of December 31, 2011, it returned such amount to Treasury.

In performing our work, we reviewed applicable laws and regulations governing the 1602 Program to include the Recovery Act and Section 42 of the Internal Revenue Code, as well as Treasury's policies and procedures, and guidance provided in *Frequently Asked Questions and Answers*. We visited MSHDA in Lansing, Michigan, where we interviewed key personnel of MSHDA; reviewed documents used to support Michigan's "Low-income Housing Credit Grant Allocation Amount," selection of subawards, low-income housing projects' existence, and cash disbursements in our sample; and conformance with compliance monitoring, asset management, and 1602 Program reporting requirements. Specifically, we reviewed and/or tested the following documents:

- MSHDA's signed "Grantee Terms and Conditions" with Treasury providing all 1602 Program compliance requirements;
- MSHDA's "Annual Low-Income Credit Agencies Report" ("IRS Form 8610") supporting MSHDA's low-income housing credit allocations for calendar years 2009 and 2010;
- MSHDA's "Qualified Allocation Plan" providing selection criteria for identifying eligible projects to be subawarded;
- project developers' market studies supporting low-income housing development needs in specified MSHDA communities;
- project developers' documents demonstrating that project developers made "good faith efforts" to obtain financing prior to receiving a subaward;
- MSDHA's financial feasibility studies demonstrating the financial solvency and viability of low-income housing projects;
- MSDHA's signed "Section 1602 Exchange Program Agreements" with low-income housing project developers specifying subaward amounts and 1602 Program terms and conditions;
- subawardee draw requests supporting cash disbursements;
- JPMorgan Chase Bank, N.A., "Cash Reporting – Summary" and Treasury's "Certified Interest Rates– Federal Credit Similar Maturity Rates" for fiscal years

2011 through 2017, and supporting interest earned on 1602 Program funds;

- projects' certificates of occupancy supporting projects' existence and qualification as a low-income housing unit;
- projects' certified public accountants "Final Cost Certification" reports verifying costs included as part of each project's eligible cost basis;
- MSDHA's compliance monitoring and asset management reports; and
- MSDHA's quarterly and annual certification reports provided to Treasury ensuring that the 1602 Program subaward was less than or equal to 85 percent of the project's eligible basis, and that the projects remain qualified projects throughout the 15-year compliance period.

We performed our fieldwork between August 2012 and May 2018, which included site visits to three projects located in Ann Arbor, Detroit, and Pontiac, Michigan.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

A questioned cost is a cost that is questioned by the auditor because of an audit finding: (1) which resulted from an alleged violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds; (2) where the costs, at the time of the audit, are not supported by adequate documentation; or (3) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances. Questioned costs are to be recorded in the Joint Audit Management Enterprise System (JAMES). Questioned costs will also be included in the next Office of Inspector General Semiannual Report to Congress.

<u>Recommendation Number</u>	<u>Questioned Cost</u>
Recommendation 1	\$355
Recommendation 2	\$5,689,077

The questioned costs relate to funds that the Department of the Treasury awarded to Michigan State Housing Development Authority (MSHDA) under the Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009 (1602 Program). As discussed in the audit report, MSHDA (1) earned \$355 of interest in excess of \$200 allowed by 1602 Program requirements that was neither disbursed to subawardees nor returned to Treasury; and (2) could not provide records to support that the \$5,689,077 fees collected from all 68 subawardees did not exceed the cost of performing initial asset management functions in accordance with 1602 Program requirements.

**Grants to States for Low-Income Housing Projects in Lieu of Low-Income Housing
Credits for 2009**

GRANTEE TERMS AND CONDITIONS

1. Authority

a. Section 1602 of the American Recovery and Reinvestment Tax Act of 2009 (Act) authorizes the United States Department of the Treasury (Treasury) to issue grants to State housing credit agencies in lieu of low-income housing credits.

b. The grantee has authority to receive Section 1602 grants.

2. Grantee Eligibility

a. The grantee is the housing credit agency for one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Northern Mariana Islands which files Form 8610, Annual Low-Income Housing Credit Agencies Report with the Internal Revenue Service.

b. The grantee shall be the sole recipient of the Section 1602 funds in the State and must coordinate with other housing credit agencies within the State (including any constitutional home rule cities) to determine how much of their 2009 credit ceiling the other agencies would elect to take in the form of a grant election amount and will provide to those agencies their proportionate share.

c. The grantee shall enter into written agreement with any other participating housing credit agencies within the State, binding the participating agency to comply with the terms and conditions applicable to the grantee or designated state agency in the sections 3 through 10 of these terms and conditions.

d. The grantee is the party responsible to Treasury for all grant matters.

3. Eligible Projects

a. The grantee shall only select projects for subawards which are qualified low-income buildings under Section 42 of the Internal Revenue Code (the Code).

b. The grantee must ensure that the subaward is consistent with the requirement of section 42(m)(2) of the Code that the subaward made for a project [building(s)] does not exceed the amount necessary to ensure the financial feasibility of the project and its viability as a project throughout the credit period.

4. Use of Grant Funds

- a. The grantee is receiving an initial grant election amount. The grantee may apply for additional grant funds through 2010. If the Treasury Department approves the request, the Treasury Department will amend the award to increase the grant amount.
- b. The grantee shall use all grant amounts to make subawards, or for transfer to other agencies to make subawards. The subawards shall be in the form of cash assistance and are not required to be repaid unless there is a recapture event with respect to the qualified low-income building. The grantee shall not use grant election amounts for any other purpose, including administrative costs. The grantee may collect reasonable fees from a subawardee to cover expenses associated with performance of its duties under Section 1602(c)(3) of the Act, Compliance and Asset Management. Reasonable fees are amounts customarily charged for the same or similar services and in no event may exceed costs.
- c. The grantee may disburse grant funds to subawardees in 2009 and 2010. The grantee may disburse grant funds to subawardees in 2011 provided the subaward has been made to the subawardee on or before December 31, 2010 and the subawardee has, by the close of 2010, paid or incurred at least 30 percent of the subawardee's total adjusted basis in land and depreciable property that is reasonably expected to be part of the low-income housing project for which the disbursements are made.
- d. The subawards shall finance the construction or acquisition and rehabilitation of qualified low-income buildings in accordance with Section 1602(c) of the Act.
- e. The grantee shall make subawards in the same manner and shall be subject to the same limitations as an allocation of housing credit dollar amount allocated under Section 42(m) of the Code, except for the additional determinations required in subsection g of this section.
- f. Prior to making any subaward, the grantee shall establish a written process for making a determination that applicants for subawards have demonstrated a good faith effort to obtain investment commitments for tax credits in lieu of a subaward.
- g. Prior to making any subaward, the grantee shall make a determination that the applicant for the subaward has demonstrated a good faith effort to obtain investment commitments for tax credits in lieu of the subaward.

5. Written Agreements and Disbursements to Subawardees

- a. The grantee shall execute a legally binding written agreement with the entity receiving a subaward. The grantee and the subawardee must execute the written agreement before any Section 1602 funds are disbursed to the subawardee.
- b. The written agreement must set forth (explicitly, or incorporated by reference) all Section 1602 program requirements, including the requirements of Section 42 of the Code, applicable to the subaward.

c. The written agreement shall impose conditions or restrictions, including a requirement providing for recapture, so as to assure that the qualified low-income building remains a qualified low-income building during the 15-year compliance period. The written agreement may include the extended low-income housing commitment under Section 42(h)(6)(B) of the Code.

d. The written agreement shall require the subawardee to provide sufficient information to the grantee to report on the use of grant funds as required by section 8 of these terms and conditions.

6. Asset Management

a. The grantee shall perform asset management functions so as to ensure compliance with Section 42 of the Code and the regulations thereunder (including Title 26 Code of Federal Regulations section 1.42.9), and the long-term viability of the buildings funded by a subaward under the Act in accordance with Section 1602(c)(3) of the Act.

7. Compliance with the 2009 State Housing Credit Ceiling

a. The grantee shall track (1) the credit equivalent of all grant election amounts to ensure that the 2009 State Housing Credit Ceiling is appropriately reduced as required by section 42(i)(9)(A) of the Code and (2) total grant election amounts to ensure that these amounts do not exceed the amount authorized by section 1602(b).

b. The grantee shall track the total of credits allocated under Section 42(h)(1) of the Code.

c. The grantee shall ensure that the credit equivalent of all elected grant amounts through 2010, plus the credits allocated under Section 42(h)(1) of the Code during 2009, do not exceed the State housing credit ceiling for 2009.

8. Reporting

a. The grantee shall provide periodic reports as required by Treasury. A financial status report and a project performance report are required on a quarterly basis, due 10 working days after the end of the quarter. Quarters end on March 31, June 30, September 30, and December 31.

b. The performance report has the following elements on each project receiving a subaward during the quarter:

- Name of recipient entity
- Name of project
- Brief description of project
- Location of project: city/county, State, zip code
- Number of construction jobs created
- Number of construction jobs retained
- Number of non-construction jobs created
- Number of non-construction jobs retained
- Number of total housing units newly constructed
- Number of total housing units rehabilitated

- Number of low-income housing units newly constructed
- Number of low-income housing units rehabilitated

c. The grantee shall submit any other reports that Treasury deems necessary to comply with Section 1602 of the Act and American Recovery and Reinvestment Act guidance.

9. Recapture

a. The grantee shall include in any subaward a requirement providing for recapture to assure that the building remains a qualified low-income building during the 15-year compliance period.

b. The grantee shall notify subawardees that any amount subject to recapture becomes a debt owed to the United States payable to the General Fund of the Treasury and enforceable by all available means against any assets of the recipient entity.

10. Financial Management

a. The grantee must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the designated State housing credit agency must be sufficient to permit preparation of required reports and permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Effective control and accountability must be maintained for all grant funds.

b. The grantee shall open a new account (Grant Account) with a financial institution for the purpose of receiving grant election amounts, for making distributions of grant election amounts to other agencies within the State, and for making subawards.

c. The grantee must maintain program, financial, and accounting records sufficient to demonstrate that grant funds were used in accordance with the Section 1602 program and these terms and conditions. The Treasury as the awarding office, the cognizant Treasury inspector general, and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to facilities and to any pertinent books, documents, papers, or other records (electronic and otherwise) of grantees, which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

d. The grantee shall minimize the time between the receipt of grant funds and the disbursement of those funds to subawardees. Federal funds cannot be drawn by the grantee from the U.S. Treasury in advance of need. The grantee shall not place in escrow or advance lump sums to project owners. Once funds are drawn from the grantee's U.S. Treasury account, they must be expended as a subaward by the grantee within three days, or if grant funds are transferred by the grantee to another agency, as a subaward by that agency within three days following the date of transfer by the grantee.

e. The grantee shall promptly return to its Grant Account any subawards returned to the designated State housing credit agency from subawardees and shall expend returned amounts as subawards before additional grant amounts are drawn from the Treasury.

11. Disallowance, Suspension, and Termination

a. If the grantee materially fails to comply with any term of the award, whether stated in a Federal statute or regulation, the terms and conditions herein, in a State plan or application, a notice of award, or elsewhere, Treasury may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily halt cash payments pending correction of the deficiency by the grantee
- Disallow all or part of the cost of the activity or action not in compliance
- Wholly or partly suspend or terminate the current award
- Withhold further awards for the program
- Take other remedies that may be legally available

In taking an enforcement action, Treasury will provide the grantee the opportunity for a hearing, appeal, or other administrative proceeding to which the grantee is entitled under any statute or regulation applicable to the action involved.

b. The grantee must immediately report any indication of fraud, waste, abuse, or potentially criminal activity pertaining to grant funds to Treasury and the cognizant Treasury inspector general.

12. Return of Unused Grant Funds

a. The grantee shall return to the Treasury by January 1, 2011 any grant election amounts not used to make subawards by December 31, 2010. This requirement does not prevent the State housing credit agency from continuing to disburse funds to subawardees after December 31, 2010 provided:

- (1) A subaward has been made to the subawardee on or before December 31, 2010;
- (2) The subawardee has, by the close of 2010, paid or incurred at least 30 percent of the subawardee's total adjusted basis in land and depreciable property that is reasonably expected to be part of the low-income housing project; and
- (3) Any funds not disbursed to the subawardee by December 31, 2011 must be returned to the Treasury by January 1, 2012.

Signature

Under penalties of perjury, I declare that I have examined the terms and conditions in this application and that the designated State housing credit agency agrees to and will ensure that these terms and conditions will be followed. I declare that I am an authorized official of the designated State housing credit agency and am authorized to bind the State housing credit agency to these Terms and Conditions.

Name		Title	
Phone		Email	
Signature		Date signed	



STATE OF MICHIGAN

RICK SNYDER
GOVERNOR

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
LANSING

EARL J. POLESKI
EXECUTIVE DIRECTOR

September 10, 2018

Teresa Cameron
Director, Financial Assistance Audits
Treasury- Office of Inspector General
875 15th Street, NW
Washington, D.C. 20005

RE: OIG Draft Audit Report-Section 1602 Program
Michigan State Housing Development Authority

Dear Ms. Cameron,

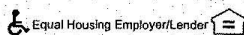
We are writing in response to the discussion draft audit findings cited in the Treasury OIG's draft audit of the Michigan State Housing Development Authority's (MSHDA) Section 1602 program. Although the audit found that MSHDA substantially met the eligibility and compliance requirements set forth in the Section 1602 program, there were two findings cited in the draft audit that we would like to address.

The first finding identified in the audit cited that MSHDA earned interest of \$355 in excess of the \$200 allowed by the 1602 Program requirements. The interest earned was a result of disbursing funds beyond the required 3-day disbursement period and resulted in \$548 of interest earned in 2011. However, as of May 2018, the excess amount owed to Treasury had grown to the \$355 identified in the audit. Given the small amount at issue, MSHDA acquiesces in this first finding.

The second finding identified in the audit involved an initial asset management fee that was charged to each of the subawardees who received an allocation of 1602 funds. The report cited that MSHDA failed to maintain program, financial, and accounting records sufficient to demonstrate that initial asset management fees of \$5,689,077 were used in accordance with 1602 Program requirements. MSHDA strongly disagrees with this finding for many reasons and wishes to address this finding in further detail below.

As outlined in MSHDA's 1602 Program application materials and as stated in the audit, MSHDA charged each subawardee an initial asset management fee equal to 2% of the total amount of 1602 funding the subawardee ultimately received. As the 1602 Program required enhanced asset management beyond what would typically be required for the Low Income Housing Tax Credit (LIHTC) program, and included recapture provisions against the allocating agency, MSHDA determined that the best way to facilitate the allocation of these resources was to utilize MSHDA's direct lending program process, which had been in existence for over 40 years. Using our

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long-standing review criteria and process, MSHDA included a 2% initial asset management fee. This fee is intended to cover the cost of evaluating each Section 1602 project to ensure that each project was set up to have long standing financial stability to meet the requirements of the Section 1602 program. This fee, which the audit clearly acknowledges is an allowable charge, was assessed to cover the cost of many of the oversight functions that are required early in the process to ensure a project will be financially sound and the funding appropriately used. These functions included, but were not limited to, underwriting, design review, market study review, environmental review, construction oversight, and reviews of funding draws during the construction process of each project that received Section 1602 funds. Further, similar federal programs made available by HUD, which MSHDA also administers, also highlight the importance of these types of reviews and processes toward successful asset management. Since the audit and subsequent conversations with the team that conducted the audit are clear that the initial asset management fee was an allowable project cost, the primary issue the audit found appears to be with MSHDA's recordkeeping to support the costs.

The draft audit states that MSHDA did not maintain sufficient records to demonstrate initial asset management fee costs. However, at the time of the allocation of the Section 1602 funds, no guidance had been given to the allocating agency regarding what type of records were required to be maintained in order to meet the Section 1602 program requirements, nor has guidance been issued since. The requirement simply indicates that records must be sufficient, the meaning of which the agency is left to interpret. Since no guidance was given, MSHDA determined the amount of the initial asset management fee it would charge based on historical records of the average staff cost to evaluate a project through its direct lending program. As mentioned above, at the time of the 1602 Program, MSHDA's direct lending program had been in effect for over 40 years. In MSHDA's opinion, this provided sufficient data to determine the agency's costs to perform the functions needed for initial asset management.

Many years ago, MSHDA generated a schedule to determine the agency's cost of evaluating and providing oversight to the projects in which it provides a direct loan, which is updated periodically. We provided the then-current schedule to the audit team. This schedule includes all of the individuals involved in the direct lending process, the average number of hours each individual spends on a project, and each position's wage. The number of hours is multiplied by staff wages to arrive at a total cost per project. Using this method, MSHDA determined that the cost to the agency uniformly averages 2% of the funding provided and applied this same standard to the 1602 Program for initial asset management services. It is worth noting that MSHDA had previously updated this schedule at a point in time prior to the 1602 Program being approved. This means that the staff costs the agency used was obsolete, and likely underestimated the actual average staffing cost to evaluate each loan since costs actually would have been higher by the time the 1602 funds were received. The method that MSHDA used in determining the 2% initial asset management fee was methodically calculated using historic costs and is common industry practice among

lender commitment fees in a typical affordable housing transaction. An evaluation of costs to administer this and other affordable housing programs would likely show very low fees charged on a per-project basis for the benefits and services provided.

The rationale for charging program fees based on a percentage of the funding being provided to a project is not unique and, in fact, is often a common approach taken by housing finance agencies in administering its programs. A prime example of this is in the administration of the LIHTC program, for which the 1602 Program was essentially created to be a substitute due to market conditions in place at the time. Many of the housing finance agencies nationally, including MSHDA, have adopted a best practice of charging a fee equal to 6% of the LIHTC amount awarded to each project to cover the cost of reviewing that project and the administration of the program. The methodology for fee calculation and recordkeeping used for the both the 1602 Program and LIHTC are quite similar. Given the long track record and successful history of the LIHTC program, we believe it was reasonable for MSHDA to have approached the 1602 Program in the same way in certain aspects, including fees and recordkeeping, since the 1602 Program was supposed to follow many of the LIHTC rules.

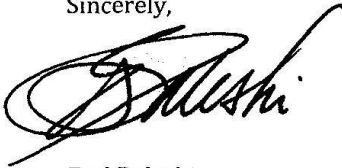
MSHDA has provided many documents to the OIG over a several-year timeframe to demonstrate the methodology behind determining the 2% initial asset management fee and to show how it was paid and would be happy to provide this information to Treasury as well. This information includes a spreadsheet with the calculation of staff costs, underwriting documents that show the 2% initial asset management fee calculation, copies of draws that show the payment of the initial asset management fee, and information on each staff person involved in underwriting a project. Additionally, on multiple occasions, the agency has inquired as to what type of documentation the OIG would like to see to ensure this recordkeeping requirement was satisfied. To date, a clear, reasonable standard that aligns with how housing finance agencies collect fees has not been identified; we only know that OIG finds our standard and long-standing practice to be unacceptable.

Additionally, the methodology outlined above for calculating staff costs for the initial asset management fee was also the same approach MSHDA used for the calculation of the ongoing annual asset management fee charged to properties to cover staff cost of completing that required function. The OIG has found the methodology used in determining the amounts and the recordkeeping for the ongoing asset management fee to be acceptable. It is our belief that, since the methodologies to calculate these costs and the way in which the records are kept for each are similar, the audit issues identified related to the initial asset management fee should be deemed acceptable in the same way the ongoing annual asset management fee has been found. Stating that MSHDA is unable to support any amount of the initial asset management fees collected is inaccurate as the audit acknowledges that the services provided and charging fees for those services was acceptable. The extensive amount of information provided to the OIG would certainly support the fees charged.

The initial asset management fee did not provide a financial windfall to MSHDA. The fee covered its costs of producing 68 affordable housing projects throughout the state of Michigan that otherwise would not have been completed, providing much needed housing at a critical moment to the citizens of Michigan. Overall, the OIG found that MSHDA substantially complied with the requirements of the Section 1602 program and we are committed to ensuring that these projects continue to provide affordable housing for the citizens of Michigan during the 15-year compliance period. MSHDA believes that we have provided substantial information to support the cost of performing oversight functions paid by the initial asset management fee and that the information provided clearly demonstrates that these fees did not exceed the cost performing these functions.

We appreciate the ability to comment on the draft audit and if you need any further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Poleski", with a stylized flourish at the end.

Earl Poleski
Executive Director



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

Donna Joseph
Department of the Treasury
Office of Inspector General
Washington, DC 20005

Dear Ms. Joseph:

Thank you for the opportunity to review and comment on the Office of the Inspector General's draft report titled "Audit of Michigan State Housing Development Authority's (MSHDA) Payment Under 1602 Program."

The report finds that MSHDA earned interest of \$355 in excess of the \$200 allowed by 1602 Program requirements and recommends that OFAS seek reimbursement of that amount. We concur with this recommendation and will take action to recoup these funds. The report also finds that MSHDA could not substantiate that the initial asset management fee it charged to project developers was equal to or less than its actual costs as is required by the 1602 Program. The report recommends that OFAS take appropriate action regarding these fees including seeking reimbursement for any excess 1602 Program payments. OFAS generally concurs with this recommendation and will work with MSDHA to further examine its accounting for fees. In the event OFAS concludes that the fees violated program rules, OFAS will determine what remedies are legally available and take action as appropriate.

We appreciate your work on the report and value your feedback.

Sincerely,

David A. Lebryk
Fiscal Assistant Secretary

Theresa Cameron, Audit Director
Paul Harris, Supervisory Program Analyst
Nick Slonka, Audit Manager
Myung Han, Supervisory Program Analyst (Statistician)
Gerald Kelly, Auditor-In-Charge
Referencer, Jenny Hu

Department of the Treasury

Deputy Secretary
Fiscal Assistant Secretary
Deputy Assistant Secretary, Fiscal Operations and Policy
Office of Strategic Planning and Performance Improvement
Director, Office of Grants and Asset Management
Director, Office of Housing and Energy
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Office of Management and Budget

OIG Budget Examiner

Michigan State Housing Development Authority

Executive Director

United States Senate

Committee on Banking, Housing, and Urban Affairs
Committee on Senate Finance
Committee on Homeland Security and Governmental Affairs

United States House of Representatives

Committee on Oversight and Reform
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