



OFFICE OF THE STATE AUDITOR

Hector H. Balderas

Office of the State Auditor Statement in Response to Williams' Document

(Santa Fe, NM)—In 2008, the New Mexico Legislature appropriated funding to the Office of the State Auditor (OSA) to conduct financial audits of New Mexico's regional housing authorities. Many regional housing authorities were behind in their audits, and the OSA conducted fifteen fiscal years of audits for five regional housing authorities in order to bring all housing authorities into compliance with the Audit Act. The audit team consisted of licensed CPAs and the audits were conducted in accordance with generally accepted accounting principles and government auditing standards. The financial audits were publicly released in January 2009. In conjunction with the financial audits, the OSA also conducted a special audit of Region III, which was confidentially referred to the Attorney General's Office (AGO) in January 2009 to assist with the AGO's criminal investigation.

The results of the audits revealed severe mismanagement of public funds and abuse of the public trust. Examples include:

- Unauthorized advances and transfers of funds, and violations of the terms of the bond indenture. The audits showed that Region III obtained duplicate financing on houses for low-income individuals, and that Region III either advanced funds to Regions I, IV, and VII or inappropriately paid expenditures on their behalf;
- In Regions II and IV, HUD restrictive funds were illegally used for operating funds; and
- Considerable violations by Region III and Housing Enterprises, Inc. board members and employees of the reimbursement limitations set forth in the Per Diem and Mileage Act, including a trip to Las Vegas.

The audits shed light on past transgressions that occurred regarding the management of New Mexico's regional housing authorities. Additionally, the audits provide essential financial information to oversight agencies so they can make informed decisions on how to reform the regional housing authorities in order to fulfill the authorities' original mission.

The OSA faced serious challenges in completing the audits. Documentation for all regional housing authorities was grossly inadequate. In many cases, auditors could not determine whether documents were misplaced, lost, never maintained, or destroyed. Despite the lack of documentation, the OSA made considerable efforts to obtain documentation that would assist in creating financial statements and reconstructing trial

balances. Although the Legislature appropriated \$200,000 to complete the audits, the OSA estimates its cost to complete the audits has exceeded \$400,000.

The OSA commends Frances Williams' ongoing commitment to informing the public about the regional housing authority management abuses; however, Ms. Williams' document contains many inaccuracies related to the efforts made by the OSA, the financial information disclosed in the audits, and the veracity and integrity of the audits. For example, with regard to Ms. Williams' concern that the audits were not conducted or signed by an independent auditor, the OSA is an independent auditor both in fact and appearance. When conducting financial audits, the OSA is viewed by the New Mexico Public Accountancy Board as functioning as a private CPA firm. Standard practice in the industry is to use the term "independent auditor" when identifying an CPA firm that conducts a financial audit and is not affiliated with the agency. Furthermore, the CPA firm, not the individual auditors, signs the audit report. The OSA, which includes the auditors who conducted the audit, takes full responsibility for all the audit reports.

Ms. Williams' also expresses concern that certain documentation related to Region VII was not reviewed and that the OSA did not make serious efforts to obtain documentation related to the financial activities of the regional housing authorities. However, the OSA, in fact, requested and reviewed records of Region VII and attempted to obtain access to Region VII records. The OSA examined documents for Region VII in the custody of the law firm representing the State Investment Council and State Investment Office in the case of *State of New Mexico ex rel. v. Gallegos*. Letter attached. The OSA also examined documents for Region VII provided to the firm by Ms. Williams. The audit report for Region VII also explicitly reflects bank records obtained by the OSA from Citizens Bank of Las Cruces, and the OSA requested and obtained access to those records. Letter attached. The OSA also requested and examined certain documents in the possession of the State Investment Council. Letter attached. Finally, Ms. Williams' asserts that certain records were provided to the AGO and that the OSA ignored those records. However, the OSA requested but was denied access to certain records in the possession of the AGO due to the AGO's ongoing criminal investigation. Letter attached.

Ms. Williams also voices inaccurate concerns about the veracity of the financial information detailed in the reports as well as the conclusions that can be drawn from that information. For example, Ms. Williams argues that the audit of Region VII incorrectly shows Region VII received revenue from "investing activities" and that the report erroneously states Region VII was "fiscally independent." However, "investing activities" is a required category in a standard cash flow statement. Therefore, the amount of revenue reflected in Region VII's financial statement under "investing activities" is indeed the cash received from Region III. Additionally, Region VII's audit report clearly states that Region VII "did not have operating revenue" and that Region III "either advanced funds to Region VII or paid expenditures on behalf of Region VII to cover Region VII's operating expenses." Accordingly, the audit report correctly shows Region VII's dependency on Region III.

Ms. Williams also states that the audit of Region III failed to determine whether \$218,194 of per diem expenses paid by Region III came from bond money or a legislative appropriation. However, Region III's report shows that the vast majority of Region III's expenditures could only have been covered by expenditure of bond money. For example, in 2005, Region III had \$643,205 in operating revenue but expended \$2,552,140 for operating purposes, including per diem and travel. Also, Region III's audit included a finding for Region III's noncompliance with the bond indenture.

The OSA respects Ms. Williams' viewpoints regarding the OSA's audits and welcomes the opportunity to work with her to address her concerns. We believe the audits make a significant contribution to understanding the true financial condition of New Mexico's regional housing authorities.



OFFICE OF THE STATE AUDITOR

Hector H. Balderas

November 13, 2008

Luis Robles
Robles, Rael & Anaya, P.C.
500 Marquette Ave., NW, Suite 700
Albuquerque, New Mexico 87102

Dear Mr. Robles:

The Office of the State Auditor (OSA) requests that your office make available for OSA's review all documentation in your possession related to the Region VII Housing Authority or the nonprofit corporation created by Region VII Housing Authority, Region VII Housing Authority, New Mexico, Inc. that your firm received pursuant to subpoena in connection with your representation of the State Investment Council and State Investment Office in the case of State of New Mexico ex rel. v. Gallegos.

The OSA makes this request pursuant to its statutory authority under the Audit Act, Sections 12-6-1 through 12-6-14 NMSA 1978.

This letter authorizes Patrick Stewart, Shawna Owens, Chan Kim or any other representative from the OSA to conduct reviews and make copies of the documentation requested in this letter.

The OSA greatly appreciates your cooperation in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Hector H. Balderas", is written over a faint, larger version of the same signature.

Hector H. Balderas
New Mexico State Auditor

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OFFICE OF THE STATE AUDITOR

Hector H. Balderas

October 29, 2008

Citizens Bank of Las Cruces
PO Box 2108
Las Cruces, NM 88001-1235

To Whom It May Concern:

The Office of the State Auditor is currently conducting a financial audit for calendar fiscal years 2006 and 2007 for Region VII Housing Authority, New Mexico, Inc.

Please use this as a formal request for copies of the bank statements from August 2006 through December 2007.

Thanks in advance for your help.

Respectfully,

Chan Kim
Chan Kim, CPA
Audit Manager

Citizens Bank
(505) 647-4181
fax 647-4100
Diane Acosta (505) 647-4117

Approved By: *Denny V. Carr*, Deputy Director, MRCOG
(Customer's Authorized Signature)
Region VII Housing Authority

P.S. If you have any questions, please call (505) 235-9120.

Jocelyn Martinez

From: Citizens Bank of Las Cruces ["1575647418150"@faxmaker.com]
Sent: Wednesday, October 29, 2008 1:27 PM
To: Jocelyn Martinez
Subject: Success: (Fax sent to 15756474181,50) [::resend=s11b616c]
Attachments: tg3b616c.fax

SENT FAX REPORT

Subject: Success: (Fax sent to 15756474181,50)
Sender: Jocelyn Martinez
Sender email: JMartinez@mrcog-nm.gov
Status: Sent
Date/Time: 10/29/2008 1:26:42 PM
Speed: 14400 bps
Connection time: 01:04
Pages: 2
Total pages: 2
Resolution: Fine
Remote ID:
Line number: 0
Retries: 0
Description: Fax sent successfully : Success



OFFICE OF THE STATE AUDITOR

Hector H. Balderas

October 31, 2008

FAXED AND MAILED

Account Number - # 3315501
Citizens Bank of Las Cruces
PO Box 2108
Las Cruces, NM 88001-1235

To Whom It May Concern:

The Office of the State Auditor is currently conducting a financial audit for calendar fiscal years 2006 and 2007 for Region VII Housing Authority, New Mexico. We are currently completing financial audits of all Regional Housing Authorities around the state.

We are requesting copies of the bank statements from January 2006 through October 2006, also August 2007.

The Region VII Housing Authority has ceased operations. There are no signers on the account opened at Citizen's Bank of Las Cruces available at this time to make this request on behalf of the entity.

Mid-Region Council of Governments (MRCOG) has assumed management of the entity. It is with their approval we are requesting the copies of the bank statements which are not included in the Region VII records. Also MRCOG has agreed to pay the \$50 to receive this documentation on disk.

If you have any questions please feel free to contact me directly.

Respectfully,

Handwritten signature of Chan Kim
Chan Kim
Audit Manager

Attn:
Diane Arribas
(575)
523-8625

Handwritten signature of Dewey V. Cavé

Approved By: Dewey V. Cavé, Deputy Director
Mid-Region Council of Governments

PS If you have any questions, please call me @ 505-235-9120.

Jocelyn Martinez

From: Arribas Diane ["1575523862550"@faxmaker.com]
Sent: Friday, October 31, 2008 12:07 PM
To: Jocelyn Martinez
Subject: Success: (Fax sent to 15755238625,50) [::resend=s1d28e28]
Attachments: tg328e28.fax

SENT FAX REPORT

Subject: Success: (Fax sent to 15755238625,50)
Sender: Jocelyn Martinez
Sender email: JMartinez@mrcog-nm.gov
Status: Sent
Date/Time: 10/31/2008 12:07:19 PM
Speed: 14400 bps
Connection time: 01:40
Pages: 2
Total pages: 2
Resolution: Fine
Remote ID:
Line number: 0
Retries: 0
Description: Fax sent successfully : Success



OFFICE OF THE STATE AUDITOR

Hector H. Balderas

April 21, 2008

Gary B. Bland
State Investment Officer
State Investment Council
2055 S. Pacheco, Suite 100
Santa Fe, New Mexico 87505

Re: Region III Housing Authority

Dear Mr. Bland:

The Office of the State Auditor (OSA) requests that your office make available to the OSA all documentation in your possession related to the State Investment Council's investment in the Series 2003 and 2004 Single Family Residence Acquisition and Rehabilitation Revenue Bonds issued by Region III Housing Authority New Mexico, Inc. We also request your office's approval to review related documents that may be in the possession of third parties, including, but not limited to, Moss-Adams LLP, but not including Wiggins, Williams and Wiggins, P.C. Finally, the OSA requests your office's permission to interview individuals having any information in connection with the Performance and Management Review conducted by the State Investment Council.

The OSA makes this request pursuant to its statutory authority under the Audit Act, §§12-6-1 through 12-6-14, NMSA 1978.

This letter authorizes Stephen M. Hanns, CFE, or any other representative from the OSA to conduct reviews, make copies of relevant documentation, conduct interviews or undertake other actions related to this examination.

The OSA appreciates your cooperation in this matter.

Respectfully,

Hector H. Balderas
New Mexico State Auditor



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Attorney General of New Mexico

GARY K. KING
Attorney General

ALBERT J. LAMA
Chief Deputy Attorney General

October 31, 2008

U. Chan Kim, CPA
Audit Manager
Office of the State Auditor
2113 Warner Circle
Santa Fe, New Mexico 87505-5499

Re: Request forwarded to SA Michael Valdez, NMAGO

Dear Mr. Kim:

This letter is in reference to your written request, dated October 28, 2008, regarding documents needed for the financial audit(s) your office is currently conducting of New Mexico Regional Housing Authorities.

In order to protect the integrity of criminal investigations, the New Mexico Attorney General's Office cannot provide any information related to or obtained in the course of a criminal investigation, including investigative reports or documents obtained under grand jury subpoena, grand jury testimony or investigative interviews and/or any other court order.

We have provided to Region III and its representative, Dewey Cave, documents consistent with this policy and your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl A. Holmes".

Earl A. Holmes
Director of Investigations
New Mexico Attorney General's Office
505-222-9022
eholmes@nmag.gov

ABC