

December 2003

# A Review of Selected Operations of the State Housing Finance and Development Authority



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Report to the General Assembly

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**A Review of Selected  
Operations of the  
State Housing Finance  
and Development Authority**

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# Contents

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## Synopsis

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## Chapter 1 Introduction

Background and History ..... 1  
Audit Objectives ..... 2  
Scope and Methodology ..... 2

---

## Chapter 2 Housing Trust Fund (HTF) Program

Program Oversight ..... 5  
HTF Special Projects ..... 8  
HTF Advisory Committee ..... 12

---

## Chapter 3 Non-Profit Corporation Affiliated With the Authority

State Housing Corporation ..... 13  
Conflicts of Interest ..... 13  
Public Subsidy of the Non-Profit Corporation ..... 14  
Purpose of the Corporation ..... 15

---

## Chapter 4 Participation Issues

Marketing ..... 17  
Minority Participation ..... 18  
Income Levels ..... 19

---

## Appendix

..... 21

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**Contents**

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# Synopsis

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Members of the General Assembly requested that we conduct an audit of the State Housing Finance and Development Authority. The requesters were concerned about program efficiency and why more aid for affordable housing was not reaching the needy community. We reviewed the housing trust fund program, a state-funded program created to provide affordable housing. We also examined operations of a private, non-profit corporation created in part to develop affordable housing. In addition, we reviewed the marketing of certain housing programs and the extent to which minorities and particular income levels have been served by the agency's homeownership program. Our findings are summarized as follows:

- ! The authority has not adequately monitored housing trust fund projects. Agency officials have not conducted property inspections to ensure that construction has been completed. Also, funds have not been disbursed and projects have not been completed as required.
- ! The agency has awarded some housing trust funds which did not meet funding criteria. Over a four-year period, authority officials have awarded over \$2.6 million for ten "special projects."
- ! Relationships between a private, non-profit corporation and the authority constitute conflicts of interest. In addition, the authority has used state resources to subsidize this corporation. The agency has made two loans totaling almost \$5 million to the corporation and agency employees have spent work time on corporation-related activities. Further, in its efforts to provide affordable housing, the corporation has given little consideration to competition with other private organizations.
- ! The rate of minority participation and the authority's homeownership program has greatly increased. In our 1991 audit of the agency's homeownership program, we concluded that the authority was not providing adequate guidance to lenders on the calculation of minority participation in the program. Further, the percentage of mortgage loans to minorities was substantially less than the percentage of the minority population in the state. Statistics on minority participation now conform to federal standards and the rate of minority participation, 33%, coincides with the percentage of minorities in the state.
- ! The authority has more effectively targeted low-income participants in its homeownership program. In 1991, the authority provided more mortgage loans to moderate- to low-income households than to low-income households. During this review, agency documents indicated that more loans were made to low-income households.

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**Synopsis**

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# Introduction

## Background and History

The South Carolina State Housing Finance and Development Authority was created in 1971. The authority is governed by a seven-member commission whose members are appointed by the Governor with the advice and consent of the Senate. The Governor and the Commissioner of the South Carolina Department of Health and Environmental Control (or their designees) serve as ex officio members of the commission, with full voting powers. The term of office for commissioners is four years.

The authority's mission is to promote and provide safe, decent, and affordable housing for the citizens of South Carolina. The agency administers several rental, homeownership and home repair programs. The authority also provides funds for group and transitional housing.

The agency receives no state general revenue funds. Rather, funds are generated through federal programs, interest, the collection of user fees, and from state documentary tax funds which are transferred to the authority (see Table 1.1). As of June 30, 2003, the agency employed 113 full-time and 5 temporary employees.

We have conducted two previous reviews of the authority. In 1991 we reviewed the agency's homeownership program. In 2001 we audited the low-income housing tax credit program — a program which directs private capital towards the creation of affordable rental housing.

**Table 1.1: FY 01-02 Revenues for the State Housing Finance and Development Authority**

SOURCE OF FUNDS	AGENCY PROGRAM	AMOUNT
Documentary Stamp Taxes	Housing Trust Fund Program <sup>1</sup>	\$6,659,485
Mortgage and Investment Interest	Single-Family Mortgage Loan Programs	41,037,334
U.S. Department of Housing and Urban Development (HUD)	Multi-Family Mortgage Loan Programs <sup>2</sup>	2,630,482
	Multi-Family Federal Assistance Programs <sup>3</sup>	87,664,738
	Program Fund Programs <sup>4</sup>	816,973
TOTAL		\$138,809,012

1 204 per \$500 of real estate sold in S.C. is used to fund the housing trust fund program.

2 Mortgages and bonds for 11 HUD projects.

3 Includes programs such as HUD Section 8 — a rental assistance program.

4 Administrative fees for particular HUD programs.

Source: State Housing Finance and Development Authority

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## Audit Objectives

Members of the General Assembly requested the Legislative Audit Council to conduct an audit of selected operations of the South Carolina State Housing Finance and Development Authority. The audit focused on the authority's establishment of a non-profit corporation, administration of the housing trust fund program, participation in the homeownership program, and efforts to market programs. Our specific audit objectives follow.

- Determine whether agency controls have adequately ensured that participants in the housing trust fund program comply with the law.
- Review the role of the housing trust fund advisory committee to determine if the committee has operated according to state law.
- Examine the need for the State Housing Corporation, a non-profit corporation, established by the authority.
- Determine if marketing of the authority's HOME investment partnership program, housing trust fund and homeownership programs has adequately ensured that information is communicated and disseminated to citizens in the most needy areas of the state.
- Determine the extent of minority participation in the homeownership program.
- Determine the income levels of families served by the homeownership program.

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## Scope and Methodology

The general period of our review was from January 2001 through December 2002. This audit focused on administration and/or marketing of three authority programs.

**THE HOUSING TRUST FUND PROGRAM C** A state program funded through documentary stamp taxes which is designed to provide financial assistance to increase or upgrade the supply of safe, decent, and affordable housing for very low or lower income households.

**THE HOMEOWNERSHIP PROGRAM C** A program funded through the sale of tax-exempt mortgage revenue bonds which is designed to provide expanded homeownership opportunities for low-income households and moderate- to low-income households.

**THE HOME INVESTMENT PARTNERSHIP PROGRAM C** A U.S. Housing and Urban Development (HUD) reimbursement program designed to promote partnerships among the federal government, state and local governments, and those in the non-profit and for-profit sectors who build, own, manage, finance and support affordable housing initiatives.

We interviewed authority staff, housing officials in other states, and HUD officials. We reviewed agency records including:

- Housing trust fund files.
- Agency manuals.
- Correspondence.
- Board minutes.
- Marketing information.

State laws and agency manuals were used to evaluate the administration of the housing trust fund program. We conducted two separate samples of housing trust fund awards as described in the audit report.

We used limited computer-generated data in conducting this review. When this information was viewed in context with other available evidence, we believe that opinions, conclusions, and recommendations in this report are valid.

This audit was conducted in accordance with generally accepted government auditing standards with the exception of the general standard concerning quality control. Due to LAC budget reductions, funding was not available for a timely external quality control review. In our opinion, this omission had no effect on the results of the audit.

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**Chapter 1**  
**Introduction**

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# Housing Trust Fund (HTF) Program

## Program Oversight

Authority officials have not adequately monitored housing trust fund projects. Agency oversight is crucial to ensure that housing needs are met and that the state's interests are protected.

We conducted a sample of awards made from January 2001 through December 2002 which revealed problems in areas such as inspections and timely project completions. A history of the housing trust fund program and our findings are provided below.

## Background

Established by South Carolina Act 410 of 1992, the housing trust fund program was designed to provide financial assistance for the creation and preservation of safe, decent, and affordable housing for low-income households (those earning less than 80% of the median income in the area of residence) or very low-income households (those earning less than 50% of the median income in the area of residence). The program is funded through documentary stamp proceeds. For every \$500 in real estate sold in South Carolina, 20¢ is allocated to the program.

The South Carolina Department of Revenue calculates the amount due to the housing trust fund program and transfers the funds to the State Treasurer's Office, which serves as program trustee. In FY 00-01 and FY 01-02, over \$14 million was allocated to the HTF program (see Table 2.1).

**Table 2.1: Housing Trust Fund Activity for FY 00-01 and FY 01-02**

FISCAL YEAR	CARRY FORWARD	ALLOCATIONS	EXPENDITURES	BALANCE
00-01	\$14,343,870	\$7,677,383	\$10,209,079	\$11,812,174
01-02	\$11,812,174	7,119,138	6,836,288	\$12,095,024*
TOTAL		\$14,796,521	\$17,045,367	

\*The 2003 General Assembly elected to transfer \$5,583,000 of HTF funds to the General Fund.

Source: State Housing Finance and Development Authority.

Non-profit organizations, or sponsors, assist qualified applicants in seeking housing trust fund awards. The authority's staff reviews all applications for qualification and completeness. In order to expedite emergency repair requests, approval is made by the program manager and agency director. Applications for other projects are submitted to the authority's board of commissioners for approval. If approved, the non-profit organization is responsible for the completion of the project and the authority staff oversees the project.

In June 1999, HTF staff recommended six activities (subprograms). The board of commissioners approved the implementation of these subprograms; one year later, another subprogram was recommended and approved.

Guidelines for each subprogram are included in manuals, applications, and funding agreements. The guidelines and maximum awards for the subprograms in FY 03-04 include:

- Emergency Repair — provides up to \$6,500 for repairs which, if not made, would pose a threat to an individual's health, safety, or welfare.
- Group Home — provides a dollar-for-dollar match up to \$75,000 for the acquisition or construction of homes for severely disabled individuals.
- Homeownership — provides financing of a second mortgage on single-family structures up to \$10,000.
- Land Acquisition for Homeownership — provides up to \$100,000 to purchase tracts of land for future development of single-family homes.
- Multi-Family Rental — provides a dollar-for-dollar match up to \$250,000 for acquisition, rehabilitation, or construction of residential buildings for rental units.
- Owner-Occupied Rehabilitation — provides up to \$10,000 to alleviate substandard conditions for very low-income, owner-occupied properties.
- Shelter or Transitional Housing — provides a dollar-for-dollar match up to \$150,000 for acquisition and rehabilitation, new construction, or conversion for the homeless and for abused women with children.

There are 34 states with housing trust funds. Four of the eight southeastern states do not have a housing trust fund program (Alabama, Mississippi, Tennessee, and Virginia) while the remaining four states (Florida, Georgia, North Carolina, and South Carolina) do. Similar to South Carolina, the programs in Florida and North Carolina are administered by the state housing finance agency. The Georgia Department of Community Affairs administers that state's program.

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## Monitoring

The land acquisition subprogram does not initially involve construction and generally has different guidelines from the other subprograms. We reviewed all seven land acquisition awards made during our review period. We focused on requirements for the minimum purchase of five lots in each acquisition and the maximum award amount of \$100,000. We found no material problem in either area.

For the six remaining subprograms, we conducted a random sample of 72 (10%) of the 718 housing trust fund awards that were made from January 2001 to December 2002. Authority staff did not always follow particular procedures outlined in the various manuals.

### **Inspections**

For three-fourths of our review period (January 2001 to June 2002), authority guidelines for single-family awards (emergency repair, homeownership, and owner-occupied rehabilitation) provided that on-site inspections be conducted "... to confirm work completion and to evaluate recipient performance...." From July 2002 to December 2002, with no change in the purpose of inspections, the policy was changed from requiring inspections to conducting inspections "as necessary." Nevertheless, the staff stated that site inspections were still required for this period.

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We found no evidence of a site inspection by authority officials in 52 (72%) of the 72 cases that we reviewed.

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We found no evidence of a site inspection by authority officials in 52 (72%) of the 72 cases that we reviewed. Without inspecting properties, the authority cannot ensure that work has been completed or evaluate the sponsor's work. Inspections are necessary to confirm that the intent of the housing trust fund program has been met.

### **Disbursement of Funds**

Agency guidelines specify when funds are to be disbursed to sponsors. The homeownership subprogram requires that amounts greater than \$10,000 are not to be disbursed in lump sums, but rather through a draw system. Although we found no problem with disbursements for the other subprograms, 15 disbursements for homeownership projects exceeded \$10,000 and were paid in lump sums. Awards subject to the draw process are to be disbursed based on work completed. There was no evidence of authority inspection to verify completion of work in any of the 15 cases. Making full payments before they are properly authorized puts the conclusion of homeownership projects at risk.

Other guidelines provide that funds are to be disbursed after a restrictive covenant is recorded on the property. A restrictive covenant limits the rights of the property owner to ensure that the property is used for the stated purpose. The restricted period for the HTF program is 20 years, which is forgiven at the rate of 5% each year.

Our review showed that funds were disbursed before a restrictive covenant was recorded in 15 (21%) of the 72 cases examined. When a restrictive covenant is not secured before funds are disbursed, the interests of the HTF program and the state may not be protected.

### **Completion of Projects**

Agency guidelines provide for the completion of emergency repairs in six months and for other subprograms in one or two years. We found that six emergency repairs and five projects in other subprograms were not completed in the time required.

When emergency repairs are not completed in six months, there is a question about whether the needed repair is an actual emergency. Further, when emergency and other repairs are not completed in the required period, citizens are not provided decent and sanitary housing in a timely manner.

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### **Measures Taken by HTF Staff**

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Between November 2002 and May 2003, the housing trust fund staff implemented procedural revisions that may address some of the problems that we found. For example, changes were made in the areas of inspections and time frames for projects. We were unable to review the impact of these recent changes on program administration.

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## **Recommendations**

1. The State Housing Finance and Development Authority should ensure that properties receiving housing trust fund awards are inspected. These inspections should be used to confirm that work has been completed and to evaluate recipient performance.
2. The State Housing Finance and Development Authority should disburse housing trust funds to sponsors in accordance with agency guidelines.
3. The State Housing Finance and Development Authority should ensure that housing trust fund projects are completed in the time required.

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## **HTF Special Projects**

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Authority officials have allowed the use of housing trust funds for projects which did not meet criteria for funding. According to staff, a “special projects” category was initiated when a housing trust fund participant inquired of an agency official about a project which was outside of the seven subprograms which were approved by the authority’s board of commissioners (see p. 6). This official stated that applications for special projects are submitted by an organization to authority staff who then submit information to the agency’s governing board for approval. Between August

1999 and November 2002, the authority awarded ten special projects totaling approximately \$2.7 million (see Table 2.2).

**Table 2.2: FY 98-99 Through FY 02-03 Housing Trust Fund Special Project Awards**

NATURE OF SPECIAL PROJECT	AWARD APPROVED	AWARD AMOUNT
Temporary Housing for Children	August 1999	\$500,000
Transportable Housing for the Elderly*	September 1999	100,000
Transitional Housing for Minors	December 2000	100,000
Renovated Housing for Children	February 2001	500,000
Transportable Housing for the Elderly*	March 2001	165,000
Completion of Historic Properties Project	June 2001	360,000
Dormitory for Disabled Students	September 2001	282,400
Refurbished Manufactured Housing	October 2001	90,000
Classrooms/Dormitory for Disabled Students	January 2002	500,000
Refurbished Manufactured Housing	November 2002	90,000
<b>TOTAL</b>		<b>\$2,687,400</b>

\* Fabricated housing that can be moved from one location to another within a relatively short period of time and can be reused.

Source: State Housing Finance and Development Authority

Authority officials have allowed the use of housing trust funds for projects which did not meet criteria for funding.

The authority has used these funds for worthy projects. For example, funds have been used for classrooms and dormitories for disabled students and housing for substance abusers. However, these services are not within the agency's mission and do not comply with agency guidelines. The funds used for special projects could be used for more immediate housing needs that meet program criteria.

We reviewed all ten of the special project awards and found that none of the awards met criteria to receive housing trust funds. In addition, we found that agency officials have not provided adequate oversight of special projects. Further, officials have not ensured that the availability of funds for special projects is communicated to all organizations that are eligible to apply for housing trust funds. Our findings are detailed below.

## Criteria for Funding

Although the authority has generally funded special projects which are targeted towards the elderly population and children, the specific projects do not meet eligibility criteria for the housing trust fund program. For the period that we reviewed, the maximum award allowance for six of the seven housing trust fund subprograms ranged from \$4,400 to \$6,500 for emergency repairs to \$100,000 to \$150,000 for shelter or transitional housing. In

addition, for the other subprogram, multi-family rental housing, the maximum allowance amount ranged from \$250,000 to \$300,000. Furthermore, housing trust funds cannot be used for manufactured or mobile homes except in the case of emergency repairs.

The awards given to special projects have not met this criteria. For example:

- At least six (60%) of the ten special projects have exceeded the maximum allowable award amount.
- In three cases, the awards were at least \$200,000 above the maximum amount allowed by guidelines.
- Two special projects have involved repair to manufactured homes.
- Funds have been used for the construction of classrooms and administrative offices rather than as a means to provide affordable housing.

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## Project Oversight

Agency guidelines for special projects are inadequate to ensure appropriate accountability. The agency's funding agreement provides very little detail on the administration of these awards. First, this agreement does not specify when funds are to be disbursed to participants. Second, the agreement specifies a completion date of either one year or two years from the date of the agreement, but we found no evidence of completion in any of the files by the date agreed upon. In addition, the funding agreement notes that the authority has the right to conduct inspections of the property and to handle funds in compliance with the agency's manual. However, agency staff has not developed a policy or a manual for special projects.

Our review of the special project awards indicated problems with the disbursement of funds, inspections, and other areas. For example:

- A project was *abandoned* after the authority paid the sponsor \$450,000 (90%) of a \$500,000 award. Upon inspection of the project 17 months after the funding agreement was signed, it was determined that only 51% of the work had been completed. According to an authority official, the agency did not provide adequate oversight in planning this project and project costs were underestimated.
- The authority made a full payment of \$90,000 for a special project three weeks after the funding agreement was signed. An inspection of the property 15 months later indicated that 4 of the 11 housing units were still incomplete.

- In January 2003 (21 months after an award of \$150,000 had been paid), the authority approved an additional \$15,000 for the project. The additional funds were to be used to construct three housing units that were *already proposed* in the original award. We found no evidence that this property was inspected or completed.
- As of April 2003, five of the ten special projects which should have been completed had not been. Extensions for completion had been granted in three of these cases.

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## Availability of Information

Agency officials have not ensured that information on special project funding is disseminated to organizations that are eligible to apply for housing trust funds. For the seven subprograms, the authority has provided readily accessible information regarding the application for participation. Manuals and applications for funding are available through agency brochures and the agency's website. In addition, authority officials meet with various community groups to inform them about the subprograms.

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## Conclusion

Guidelines, including criteria for funding and oversight procedures, help to ensure that program intent is being met and that affordable housing is provided to lower income and very low-income households in an equitable manner. Because information on special project funding has not routinely been communicated, fewer persons may benefit from special projects and the selection process may not be fair. Only organizations that are aware of available funds have an opportunity to apply for and to receive funds for projects.

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## Recommendation

4. The State Housing Finance and Development Authority should discontinue providing housing trust funds for special projects.

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## HTF Advisory Committee

One of our audit objectives was to review the role of the housing trust fund advisory committee to determine if the committee has operated according to state law. We concluded that the advisory committee has been active in program operations but has not fulfilled a responsibility to inform the board about critical housing needs.

The advisory committee was established in 1992 when the housing trust fund program was created. The committee consists of nine members including two persons from low-income households and other persons from various housing organizations. Three of the members are selected by the authority's governing board and the remaining members are selected by the appropriate housing organizations. Section 31-13-430(C) of the South Carolina Code of Laws specifies the duties of the committee. Specifically, the advisory committee is to advise the authority's governing board about "particularly critical housing needs." In addition, the committee is to recommend areas where requests for proposals for developments should be published and to recommend the types of developments that should be solicited. Our review indicated that the advisory committee has not informed the board on critical housing needs.

We did find evidence that the advisory committee has discussed critical housing needs to some extent. In April 2002, the chairman of the committee made a presentation to the board which noted the need for the housing trust fund program to serve the "poorest of the poor," the original intent of the program. The committee has also provided assistance in other areas. From April 2003 to July 2003, the advisory committee worked with authority staff to develop and implement policies and procedures regarding general operation of the program. These revisions were approved by the governing board in July 2003.

During our review in August 2003, the advisory committee decided to compile information for the board regarding critical housing needs. The committee planned to prepare this information for discussion at the November 2003 meeting of the agency's board of commissioners.

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## Recommendation

5. As required by S.C. Code §31-13-430(C), the housing trust fund advisory committee should:
  - Inform the agency's board of commissioners about critical housing needs;
  - Recommend areas of the state where requests for proposals for housing developments should be solicited; and
  - Recommend the types of developments that should be solicited.

# Non-Profit Corporation Affiliated With the Authority

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## State Housing Corporation

Private, non-profit corporations and foundations which are chartered to benefit public agencies are common in South Carolina and in the nation. The mission of these private entities is generally to attract funds in support of the agencies with which they are affiliated. The entities are to be separate and distinct and are to maintain an “arm’s length” relationship with the agencies.

In June 2002, the State Housing Finance and Development Authority created the State Housing Corporation (a non-profit corporation) exclusively for the benefit of the authority. We reviewed the operations of the corporation from June 2002 to August 2003. We could find no reason for the continued existence of the non-profit corporation. Relationships between the authority and the corporation constitute conflicts of interest. Also, the agency and the non-profit corporation have not maintained their independence by operating at “arm’s length.” State resources have been used to subsidize corporation activities. In addition, the corporation has not yet met its intended purpose to avoid competition with other private organizations.

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## Conflicts of Interest

The authority’s governing board and staff have played a major role in the operations of the State Housing Corporation. By serving in dual capacities, they exercise influence over the activities and decisions of both organizations. We found several situations which constitute conflicts of interest between the authority and the non-profit corporation.

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We could find no reason for the continued existence of the non-profit corporation.

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- The agency’s director served as the corporation’s president from December 2002 through July 2003. Even though the director resigned as president in July, corporation minutes note that he will continue to work with the corporation. When he served as agency director and corporation president, he was chief executive of both organizations and was responsible for overall operation of both organizations.
- A purpose of the State Housing Corporation is to own, lease, operate, manage, and contract for the construction of office facilities for the agency. Authority staff have negotiated with developers for the purchase of a building which is to be owned by the corporation and leased to the authority. In May 2003, the South Carolina Budget and Control Board placed a moratorium on real estate purchases pending a study of state real estate holdings. As of September 2003, an office building had not been purchased.
- Four of the seven directors of the non-profit corporation are associated with the agency. This includes three directors who also serve as agency commissioners and another director who is an upper-level manager at

the agency. All of these individuals are voting members on the corporation's board.

- The agency's governing board has considered corporation decisions. In November 2002, the board discussed the corporation's purchase of an office building for agency occupancy. The board chairman at that time stated that the board needed to approve the corporation's ownership of the building.

The relationship between the agency and the corporation may present additional conflicts of interest. For example, in making housing decisions, officials affiliated with both organizations may favor projects undertaken by the non-profit corporation over more worthy projects.

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## Public Subsidy of the Non-Profit Corporation

Our review revealed questionable financial transactions between the non-profit corporation and the authority. Also, agency employees have worked on corporation-related activities without reimbursement.

### **Loans to the Non-Profit Corporation**

The State Housing Finance and Development Authority has made two loans totaling almost \$5 million to the non-profit corporation. According to an agency official, these funds were taken from agency programs for multi-family housing and from administrative fees for various programs. An April 26, 1983, opinion of the South Carolina Attorney General stated, "... [there is] no Constitutional or statutory power for a State agency to give public funds to a private foundation or any other corporation or individual except in payment for goods and services."

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The State Housing Finance and Development Authority has made two loans totaling almost \$5 million to the non-profit corporation.

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THE FIRST LOAN OF \$200,000 was made in November 2002. The loan funds were to be used for expenses related to the purchase of an office building by the corporation which the authority was to occupy (see p. 13) and for insurance for corporation officers. We reviewed loan documents and found that this loan does not have a beginning or an ending date for repayment. Instead, the loan is payable upon demand from the authority. Also, there appears to be no interest on the loan except if late charges are assessed. As of May 2003, expenses from the loan funds included \$50,000 for the building purchase and \$8,981 for legal fees related to the purchase. These and other miscellaneous expenses resulted in an ending balance of \$134,561.

THE SECOND LOAN OF \$4.75 MILLION from the authority to the corporation was made one month later in December 2002. The funds from this loan were to be used to develop housing. After funds are expended, the loan is

to be paid back in 24 months at an interest rate of 1% per year. As of May 2003, the corporation had not purchased housing developments and no loan funds had been expended.

### **Staff Support of the Non-Profit Corporation**

Authority employees have spent state time performing work for the non-profit corporation. At a minimum, the authority's executive director, its finance staff, and legal counsel have provided technical support to the corporation. These individuals did not keep records of the time that they spent on work for the corporation. They stated that they either volunteered their time or that the work required minimal time.

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Agency employees have worked on corporation-related activities without reimbursement.

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The by-laws for the non-profit corporation provide that the entity is authorized to pay reasonable compensation for services rendered. Although corporation minutes indicated that there was consideration to contract with the agency's financial staff for technical support, the minutes further state that such an arrangement was not required at that time. We could find no provision in state law which allows state employees to perform services for private entities, such as the State Housing Corporation, at state expense.

The Virginia Foundation for Housing Preservation, a non-profit corporation affiliated with the Virginia Housing Development Authority, was created in January 2000. According to an official, authority staff spend 15 hours a week working on corporation activities. The corporation compensates the agency at an amount of approximately \$75,000 a year.

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### **Purpose of the Corporation**

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According to its articles of incorporation, one of the primary purposes of the non-profit corporation is to provide affordable housing for the population served by the agency. Further, according to a "Statement of Intention" adopted by the corporation's board of directors:

Rather than entering into competition with existing governmental and not-for-profit entities, the Corporation shall, to the greatest extent possible, endeavor to provide affordable housing opportunities for low and very-low income households in areas and under circumstances that such opportunities are or cannot presently be provided by existing organizations.

However, our review indicated that there has been little consideration given to whether other organizations can provide housing in areas considered for development by corporation officials.

In March 2003, the corporation was considering 19 projects for development. Some of these projects were located in areas of the state where other non-

profit and for-profit organizations are located or have developed projects for affordable housing. According to an authority official who is also affiliated with the corporation, whether other organizations can provide housing services was not considered in analyzing any of the developments for potential investment. The major factor was whether the projects were sound business investments. This official also stated that property owners may prefer dealing with the non-profit corporation affiliated with the authority rather than another non-profit organization.

Some officials of non-profit organizations who work with the housing industry in South Carolina have voiced concerns about the State Housing Corporation competing with their organizations. These persons have met to voice their concerns with authority officials on several occasions.

Based on agency documents, the intent of the corporation is not to compete with other organizations but to supplement efforts to create affordable housing. The authority provides funds for the creation of affordable housing. This, in conjunction with four of the seven corporation board directors being affiliated with the authority (see p. 13), may give the State Housing Corporation an unfair advantage over other private organizations that develop affordable housing.

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## Recommendations

6. The State Housing Corporation, the private corporation affiliated with the State Housing Finance and Development Authority, should be disbanded.

*If the State Housing Corporation continues to operate:*

7. The State Housing Finance and Development Authority should avoid potential conflicts of interest with the State Housing Corporation.
8. The State Housing Finance and Development Authority should maintain an “arm’s length” relationship with the State Housing Corporation, a private corporation. The authority should comply with state law by *not* subsidizing the corporation.
9. The State Housing Finance and Development Authority should obtain full reimbursement from the State Housing Corporation for services provided to the corporation.
10. The State Housing Corporation should not compete with private organizations in developing affordable housing projects.

# Participation Issues

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## Marketing

The authority could improve its marketing efforts of the three programs we reviewed — the housing trust fund program, the homeownership program, and the HOME investment partnership program (see p. 2). First, the agency should identify the target market for each program and ensure that information on housing programs is communicated to persons in those areas. In addition, we found that the authority’s marketing efforts are fragmented among staff of the various housing programs and need to be consolidated.

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## Housing Needs

The authority does not have comprehensive data on the state’s housing needs. During our review of the agency’s low-income housing tax credit program in 2001, the authority was contracting for a study to determine the state’s needs. The initial contract period for this study was August 2001 through August 2002 with an extended period for updates through August 2006.

The first phase of the study was completed in August 2002 at an approximate cost of \$171,000. This portion of the study did not provide necessary data to identify areas of the state with the greatest housing needs. The second phase of the study, estimated to cost \$54,000, is currently ongoing and is scheduled to be completed in October 2003. According to an authority official, the primary purpose of this phase is to update census data. Without complete and accurate data on housing needs, the authority cannot determine the appropriate targets for its programs.

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## Structure

The authority has not consolidated its marketing efforts. Information on the programs that we reviewed is available on the agency’s website and through brochures. In addition, the authority issues media releases on some programs and staff meet with community groups upon request. However, staff from the various programs are also responsible for marketing those programs. One official stated that with program administrative responsibilities, staff does not have sufficient time to market the programs. Another official stated that marketing is “ad hoc.” According to this official, there is no structure to the agency’s approach.

In early 2003, the authority created a business development group whose primary mission is to market the homeownership program. A strategy in the agency’s proposed strategic plan is to allow the business development staff to learn about the various housing programs and consolidate the marketing for all housing programs. Consolidation of the agency’s marketing function

would help to ensure that information on housing programs is consistent and is communicated throughout the state.

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## Recommendations

11. The State Housing Finance and Development Authority should determine the state's housing needs. This data should be used to disseminate information on housing programs to citizens the programs are designed to serve.
12. The State Housing Finance and Development Authority should consolidate its marketing functions.

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## Minority Participation

In our 1991 audit of the State Housing Finance and Development Authority, we reviewed the extent that minorities were served by the homeownership program. Based on data which was collected from lenders and submitted to the authority, minorities had received 481 (17%) of 2,784 loans. We concluded that the reliability of this data was questionable since the authority had not provided adequate guidance to lenders on how this information was to be collected. We also noted that minorities received only 15% of mortgage loan funds when they made up approximately 32% of the state's population.

The authority still relies on information collected by lenders. However, the collection of this data which is required by the federal Home Mortgage Disclosure Act (HMDA) now conforms to standards established by the U.S. Office of Management and Budget. The HMDA requires lenders, not investors like the authority, to collect data including the race and ethnicity of borrowers to determine whether institutions are meeting housing needs as well as to identify possible discriminatory acts.

From 2000 to 2002, records indicate that minorities received approximately 1,161 (33.3%) of the 3,481 loans, accounting for 33.4% (\$83 million of \$254 million) of the mortgage loan funds. U.S. Census data in 2000 showed that minorities made up approximately 32.8% of the state's population.

## Income Levels

The State Housing Finance and Development Authority has successfully targeted its homeownership loans to low-income recipients. The authority provides home loans to two beneficiary classes.

- THE LOW-INCOME BENEFICIARY CLASS — households with incomes less than 75% of the statewide median income.
- THE MODERATE- TO LOW-INCOME BENEFICIARY CLASS C households with incomes between 75% to 150% of the statewide median income.

In 1991 we found that the authority was providing more mortgage loans to moderate to low income households than to low income households. In this review, we obtained data by beneficiary class for bond series issued from 1999 to 2001. Agency records now indicate that more loans were made to low-income than to moderate- to low-income households from these series (see Table 4.1).

**Table 4.1: Number of Recipients in Beneficiary Classes for Bonds Issued in 1999, 2000, and 2001**

BOND SERIES*	MODERATE- TO LOW-INCOME RECIPIENTS	LOW-INCOME RECIPIENTS	PERCENTAGE OF LOW-INCOME
1999-A	123	429	77.7%
1999-B	179	837	82.4%
2000-A	272	589	68.4%
2001-A	245	437	64.1%
TOTAL	819	2,292	73.7%

\* Funds from these series were generally used from the year they were issued through September 2003.

Source: State Housing Finance and Development Authority

The state's median income changes from year to year and, as a result, the income limits vary. South Carolina's median income in 2001 was \$46,600. In 2001, families in the low-income class earned less than \$34,950; those in the moderate- to low-income class earned from \$34,950 to \$69,900.

We also obtained income data on families who received mortgage loans from calendar years 1999 to 2001. Approximately 52% of the households that received mortgage loans over this period earned less than \$30,000 (see Table 4.2).

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**Table 4.2: Number of Loans Recipients by Income Range, 1999 to 2001**

INCOME RANGE	NUMBER OF LOANS	LOAN AMOUNT	PERCENTAGE
0 B \$9,999	2	\$45,540	.02%
\$10,000 B \$19,999	410	20,556,348	7.90%
\$20,000 B \$29,999	1,729	115,399,469	44.50%
\$30,000 B \$39,999	1,310	100,357,308	38.70%
\$40,000 B \$49,999	219	19,330,132	7.40%
\$50,000 and Above	38	3,844,861	1.48%
TOTAL	3,708	\$259,533,658	100.00%

Source: State Housing Finance and Development Authority

# Agency Comments

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**Appendix  
Agency Comments**

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# South Carolina State Housing Finance and Development Authority

919 Bluff Road, Columbia, South Carolina 29201

Telephone: (803) 734-2000 TTY: (803) 734-2369

www.sha.state.sc.us

Charles I. Small  
Chairman

Donald R. Hinson  
Executive Director

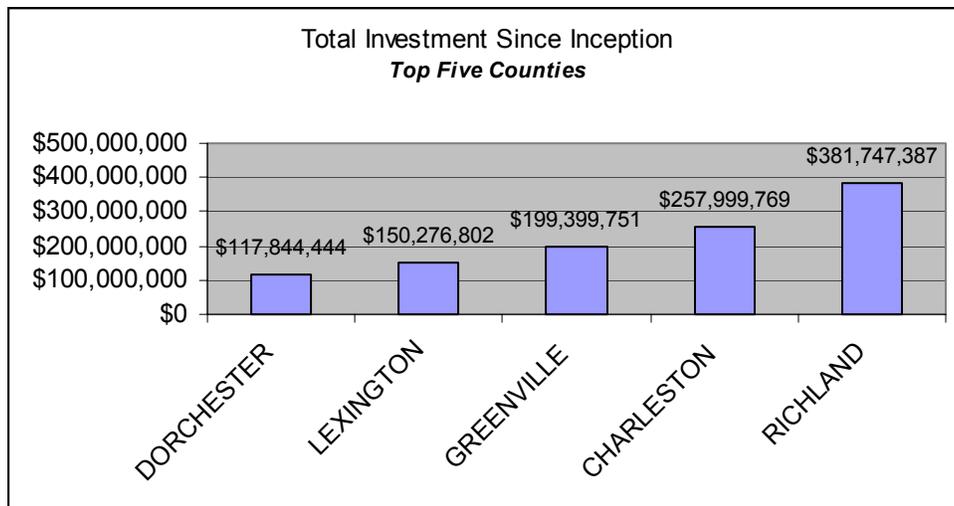
December 1, 2003

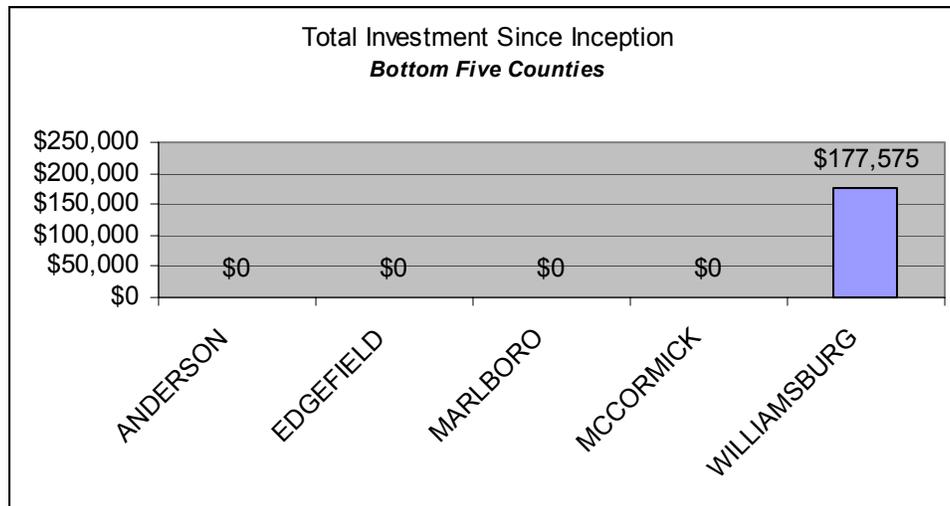
Mr. George L. Schroeder  
Director, Legislative Audit Council  
1331 Elmwood Avenue, Suite 315  
Columbia, SC 29201

Dear Mr. Schroeder:

Enclosed you will find our full comments to your report entitled, *A Review of Selected Operations of the State Housing Finance and Development Authority*. First, we would like to thank you and especially your staff for the courteous and professional manner in which the audit was conducted.

We were informed in January 2003 that an audit of the Authority had been requested. Five Richland County representatives made the audit request in September 2001. The representatives wanted the audit “to determine program efficiency and to determine why more aid for affordable housing is not reaching the needy community.” As reflected in the graph below, our records indicate that Richland County has benefited more than any other county in the state from the programs administered by the Authority. At times it appears as if a given area isn’t receiving enough of the agency’s dollars but the reason is there are not enough state and federal dollars to make a major, noticeable impact on total state affordable housing needs. We continually strive to improve the efficiency of our programs as well as to find new and innovative ways to provide housing to the needy citizens in all portions of the state.





After LAC staff conducted their survey work, they informed us in March 2003 that the audit objectives would be to:

- Examine the need for the South Carolina State Housing Corporation, a non-profit corporation established by the Authority.
- Determine if marketing of the Authority's HOME, Housing Trust Fund and Homeownership programs has adequately ensured that information is communicated and disseminated to citizens in the most needy areas of the state.
- Determine the extent of minority participation in the Homeownership Program.
- Determine the income levels of families served by the Homeownership Program.
- Determine whether agency controls have adequately ensured that participants in the Housing Trust Fund comply with the law.
- Review the role of the Housing Trust Fund Advisory Committee to determine if the committee has operated according to state law.

For the most part, we agree with the findings and recommendations found in the report. In particular, current administration realized that changes were needed in the Housing Trust Fund and many were already in progress when the audit began. However, we feel that the report did not objectively present information regarding the nonprofit, State Housing Corporation. In our response to the draft report we were to provide information and documentation (including the existence of laws to support our position) of items that we determined to be "differences in fact" and "differences in conclusion." We did provide such items but none of these items were reflected in the final report. We also feel that the report did not specifically address the point of whether or not the Corporation was needed. The Corporation was created to:

- Create affordable housing in those areas of South Carolina where existing agencies and organizations cannot do so.

Mr. George L. Schroeder  
December 1, 2003  
Page Three

- Enter into partnerships with private-sector developers, local government, other nonprofit entities and local housing authorities to develop and operate affordable housing.
- Form single-purpose subsidiary entities to shield the Authority and the Corporation from liability.
- Either alone or in partnership with another nonprofit organization, use 501(c)(3) bonds to finance construction, renovation and preservation of affordable housing stock in the State.

The agency is not legally able to undertake any of the above objectives on its own or in partnership with any of its clients (cities, counties, private sector or nonprofit corporations).

The Authority Board and staff had learned that many other state housing agencies have used state level nonprofits as an added method of financing, saving and improving affordable housing. The agency thought the State Housing Corporation would be positive for affordable housing, including the agency's developer clients. However, some of the agency's clients (a number of, but not all nonprofit corporations) felt the state level corporation was unnecessary and not in their best interest. Therefore, they conveyed incorrect and negative information about the State Housing Corporation. The Authority believed the State Housing Corporation could and would be a useful resource for all of the agency's clients and others dedicated to affordable housing.

Board members of both the State Housing Authority and the State Housing Corporation do not feel that State Housing Corporation was improper, illegal or ill intended. However, to end speculation about potential problems and to eliminate future distraction, the Corporation has voted to dissolve the Corporation.

Sincerely,



Donald R. Hinson  
Executive Director

DRH/mrw

Enclosure



### **Housing Trust Fund (HTF) Program**

For the Housing Trust Fund Program, it was the LAC's objective to "determine whether agency controls have adequately ensured that participants in the housing trust fund program comply with the law." We did not expect that there would be any instances of non-compliance with the law and none were specifically noted in the report. However, the Authority had realized that some improvements were needed involving the operation of the Housing Trust Fund before we were informed that a review was going to be performed by the Legislative Audit Council. Those improvements were in the process of being addressed and implemented through out the course of the review. For the most part, the report confirmed what we had already come to realize needed to be changed. The findings mostly deal with inconsistent adherence to policies and procedures. However, in a few cases, the findings did not consider instances when a policy that was in place for most types of projects had a routine, practical exemption that was inadvertently omitted from the written guidelines.

In the section entitled "Disbursement of Funds," we feel that two of the findings need some further explanation and correction. First, the report indicates that for 15 homeownership projects there was no evidence of inspection in the files and also that none of the 15 project awards should have been disbursed in a lump sum because the amount of the award exceeded \$10,000. Addressing the inspections, we found that evidence was in the files for inspections on 5 of the projects. Furthermore, 4 of the projects had not yet been closed and thus a final inspection was not yet in order. We concur that for 6 of the projects there is no evidence of inspection. As to propriety of lump sum payments, 5 out of the 15 projects were for acquisition of homes that did not require any rehabilitation or construction. In those instances, the funds have to be disbursed in a lump sum for the closing to occur on the purchase. This will not change. The other 10 projects did involve rehabilitation or construction and we have ceased lump-sum payments over \$10,000 in those cases as explained below.

#### **Program Oversight --Recommendation 1:**

The State Housing Finance and Development Authority should ensure that properties receiving housing trust fund awards are inspected. These inspections should be used to confirm that work has been completed and to evaluate recipient performance.

#### **Response:**

Housing Trust Fund staff has already implemented this recommendation. During most of the time covered by the review, there was only one inspector on staff and he was trying to do inspections for three different housing programs. We now have four inspectors on staff. Projects are not approved until there has been an initial inspection and funds are not disbursed until work completed has been inspected.

#### **Program Oversight--Recommendation 2:**

The State Housing Finance and Development Authority should disburse housing trust funds to sponsors in accordance with agency guidelines.



South Carolina State Housing  
Finance and Development Authority  
Comments to December 2003 LAC Report

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Response:

As stated above, the Authority is currently disbursing funds based on work completed and not until the work has been inspected and found satisfactory. The only exception to this is when there is a home acquisition and the total amount of the award is needed at closing for the sale to be finalized.

**Program Oversight--Recommendation 3:**

The State Housing Finance and Development Authority should ensure that housing trust fund projects are completed in the time required.

Response:

The Authority does not have ultimate control over when projects are completed. Completion of work is the responsibility of the sponsors. Unless there are major problems, the Authority usually tries to work with the sponsor to see that the work is completed rather than require that the funds be returned. In most cases, if the funds are returned to us, completion of the project is either not accomplished or completion would take longer than if the original sponsor completed it. Sponsors are required to submit quarterly status reports on all open projects so that we are aware of changes to expected completion dates and what type of problems a particular project may be facing.

**HTF Special Projects--Recommendation 4:**

The State Housing Finance and Development Authority should discontinue providing housing trust funds for special projects.

Response:

In the past, the Authority's Board reserved the "Special Project" category to allow those sponsors with innovative housing programs that were not specifically allowed in the Authority-approved subprograms to still be able to present them to the Board for consideration. The "Special Projects" were not intended to give special consideration to any one group over another. We do agree that there should have been more consistent policies and procedures applied in the documentation required as well as in the inspection, follow-up and payment procedures for "Special Projects." The Authority recently discontinued the consideration of "Special Projects." Sponsors will work with staff when a project differs from the normal to see if it will fit within an existing subprogram. If not, and the proposal is consistent with the Housing Trust Fund law, staff will draft the needed guideline changes that would have to be approved by the Board in order for the proposal to be allowed. In this way, if the Board approves the guideline changes, all sponsors will be eligible to apply for projects with similar characteristics.

**HTF Advisory Committee--Recommendation 5:**

This recommendation is addressed under separate cover by the HTF Advisory Committee.



South Carolina State Housing  
Finance and Development Authority  
Comments to December 2003 LAC Report

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**Non-Profit Corporation Affiliated With the Authority**

Before we respond to the recommendations about the nonprofit corporation, we feel it is necessary to comment on items with which we either respectfully disagree or feel further information is needed to clarify the situation. First and foremost, when the Authority's Board of Commissioners decided to create the State Housing Corporation, it was well intended and there was no anticipation that it would be viewed negatively by some of the nonprofit housing sponsors in the State. The State Housing Corporation was formed with the intention of helping the Authority accomplish its mission; it would have the ability to pursue roles that the Authority as a governmental agency could not. It was intended to work with local governments and existing for-profit and nonprofit housing sponsors to further produce and preserve needed affordable housing within the State. The Corporation was not intended to replace or supplant existing housing sponsors or to compete for funding in any of the Authority's programs.

The Authority's action in creating the State Housing Corporation was properly taken and fully authorized by law. This has been upheld in the past by the Attorney General's Office. In February 1977, the Attorney General said, "[I]t is the opinion of this Office that the broad powers of the Authority set forth in Section 36-126(10) [current Section 31-3-450(10), applied to the Authority by Section 31-13-50] clearly include the power to establish a not-for-profit corporation whose existence will further the purpose set forth in Section 36-103 [current Section 31-3-30]." The Authority also does not believe that a conflict of interest has existed either in the legal sense or in any other manner.

We believe that the April 26, 1983 opinion of the South Carolina Attorney General quoted in the report is incorrect with respect to the State Housing Finance and Development Authority. The Authority is legally authorized to loan funds to the Corporation and other housing sponsors. Sections 31-13-180(1), (3) and (5) of the South Carolina Code of Laws authorize the Authority to make loans and grants to non-governmental entities, including for-profit and nonprofit housing sponsors, to accomplish the legislative purpose of the State Housing Authority Act (i.e., to provide decent, safe and affordable housing to the beneficiary classes).

The report also states "...we could find no provision in state law which allows state employees to perform services for private entities, such as State Housing Corporation, at state expense." Sections 31-13-80 and 31-13-180(7) specifically authorize the Authority to provide technical assistance to housing sponsors such as the State Housing Corporation. Neither statute requires the Authority to bill the sponsor for the assistance provided. Beginning in 1972, Authority staff was instrumental in the formation of not-for-profit corporations organized throughout the state to access the U.S. Department of Agriculture Farmers' Home Administration 515 rural housing program. The provision of technical assistance has been and continues to be at the heart of the Authority's operations.



South Carolina State Housing  
Finance and Development Authority  
Comments to December 2003 LAC Report

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In summary, the following main factors concerning the State Housing Corporation should not be overlooked:

- Legal authority existed for the creation of the State Housing Corporation.
- It was meant to be positive for the affordable housing providers in the state. It was intended to aid in adding to or improving the stock of safe, affordable housing for the needy citizens of South Carolina either through developer clients or, at times, on its own.
- The Corporation did not compete with nor impede any affordable housing provider in the state.
- The Authority is authorized by law to provide technical assistance to all affordable housing sponsors and has done so throughout its history.
- There were no conflicts of interest, legal or otherwise.
- The purpose of the Corporation was limited to aiding the Authority in accomplishing its mission so that it could not, on its own, decide to pursue other purposes.
- The Authority is authorized by law to make loans to affordable housing sponsors including local governments, and for profit and nonprofit entities.
- The Corporation was expected by the Authority to become financially self-sufficient.

**Recommendation 6:**

The State Housing Corporation, the private corporation affiliated with the State Housing Finance and Development Authority, should be disbanded.

**Response:**

The State Housing Corporation Board of Directors has voted to dissolve the Corporation. The action has been taken not because any wrongdoing has occurred but because it has become a distraction to the Authority in accomplishing its mission when it was meant to be a tool for the Authority and others to use to further the mission of promoting and providing additional safe, decent and affordable housing to the citizens of our state.

**Recommendations 7 – 10:**

These recommendations are irrelevant based on our response to recommendation 6.

### **Participation Issues**

**Recommendation 11:**

The State Housing Finance and Development Authority should determine the state's housing needs. This data should be used to disseminate information on housing programs to citizens the programs are designed to serve.

**Response:**



South Carolina State Housing  
Finance and Development Authority  
Comments to December 2003 LAC Report

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As mentioned in the report, the Authority has recently completed a needs assessment study. This study did identify housing needs statewide. A statistician was hired before the audit process began to apply the data from the study. Currently, the statistician is in the process of preparing data to show needs county by county and by census tracts for the urban areas. This targeted information will be shared with other affordable housing providers through out the state.

The Authority continues to try to design our programs so that there are incentives for local governments, owners, developers, nonprofits, etc. to use our programs in the underserved areas of the state. As we move to identify the areas of greatest need and better target our resources, there will be a shifting in dollars between areas in which certain programs have been used very little and other programs were used routinely.

**Recommendation 12:**

The State Housing Finance and Development Authority should consolidate its marketing functions.

**Response:**

This recommendation is one that the Authority had previously identified in its strategic planning process and is one that we will be working towards. However, since it was not one of our top three strategic issues, it is going to be achieved over time and not in the immediate future.

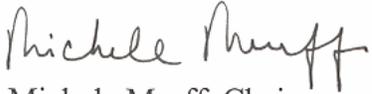
## **State Housing Trust Fund Advisory Committee**

Due to the short timeframe the State Housing Trust Fund Advisory Committee was given to respond to the recommendation outlined in this report, the chair submits the following on behalf of the full committee. This response may not reflect the views of the entire committee. The Advisory Committee appreciates the opportunity to respond to this recommendation.

The Advisory Committee was inactive for a period of time and was re-assembled approximately two years ago. Since that time, the Committee has met at least four times annually, as required by the legislation. The Committee's primary role these past two years has been to provide feedback to the Board and staff on proposed Trust Fund program changes. This feedback has been communicated in meetings in which both staff and housing providers have been in attendance, in formal presentations and in written format to the Board and staff. Committee members base their feedback on input from a broad array of housing providers and also on their own experience in the housing field. This feedback to the Board and staff has conveyed the Committee's positions on the State's affordable housing needs. For example, there are programs representing certain types of developments that the Committee views as higher priority, given the original intent of the Trust Fund. For these programs, the Committee has suggested increases in the amount of funding qualified organizations may be awarded. However, the most pressing issue for the Committee these past two years has been the loss of over \$6 million from the Housing Trust Fund to balance the state budget. The Committee acknowledges our state's difficult budget dilemma, yet we are obligated to focus on the increasing need for quality affordable housing for low and moderate income individuals and families in South Carolina. Although there is a clear demand for affordable housing, especially in rural areas and for special needs populations, there exists an increasingly large balance in the Housing Trust Fund. Given the significance of potentially losing additional affordable housing resources, it was obvious to the Committee that the first priority should be to provide input to the Board and staff on proposed program changes to increase the expenditure of Trust Fund dollars on affordable housing. The Committee submitted a letter to the Board and staff in preparation for the November 2003 board meeting. This letter provided guidance to improve outreach and technical assistance efforts that will result in a more effective and timely utilization of the State Housing Trust Fund. This letter also included a summary of the feedback received from housing providers in a focus group convened by the Committee in October 2003. The participating providers offered suggestions to strengthen the Trust Fund programs, increase the expenditure of funds, and improve the current efforts addressing the state's affordable housing needs.

The Trust Fund staff is now in the process of finalizing the program changes that will likely increase the expenditure of the Trust Fund for the production of additional affordable housing. The Committee will continue to monitor the fund balance by program and by county and provide feedback to further improve the Trust Fund programs. Working with staff, the Committee now plans to focus its work further on identifying and prioritizing the state's critical housing needs, the areas of the state that should be targeted for future projects, and the types of developments that should be solicited.

On behalf of the State Housing Trust Fund Advisory Committee,

A handwritten signature in cursive script that reads "Michele Murff". The signature is written in black ink and is positioned above the printed name.

Michele Murff, Chair