LEGISLATIVE AUDIT COUNCIL

FOLLOW-UP

A Review of the State Housing Finance and Development Authority's Low-Income Housing Tax Credit Program

(September 2001)

AUDIT BACKGROUND

The State Housing Finance and Development Authority's mission is to promote and provide safe, decent, and affordable housing for citizens of S.C. The authority's low-income housing tax credit (LIHTC) program directs private capital towards the creation of affordable rental housing. Rather than a direct federal subsidy, the LIHTC program provides a tax credit to offset an investor's federal income tax liability. For example, a developer receiving $200,000 in tax credits may deduct $200,000 from his overall federal tax liability each year for up to ten years.

The authority does not receive appropriations to administer the LIHTC program. Rather, program costs are offset by developer fees collected by the agency.

Our audit focused on the authority's efforts to monitor compliance with requirements and its review and scoring of tax credit applications. In addition, we determined whether the authority maximized the use of credits.

June 2003

IMPROVED MANAGEMENT OF THE LIHTC PROGRAM

The State Housing Authority has implemented the eight recommendations in our 2001 audit report. Agency officials conduct inspections to ensure that developers use certain materials during construction. Also, the agency has taken steps to ensure that developers report on the status of their tax credit projects and maximize the use of credits.

2001 AUDIT FINDINGS

In the 2001 audit, we found that the State Housing Authority did not provide adequate oversight of the LIHTC program. In evaluating proposals, authority staff awarded developers 120 (18%) of the 651 available points based on construction materials that would be used or amenities that would be installed. However, staff did not directly verify developer compliance with these requirements. Also, staff did not properly monitor the status of projects when developers did not submit required reports or submitted reports which showed little to no progress on projects.

In addition, our review indicated that developers had not met tax credit program requirements such as those to expend 10% of the estimated development costs within six months (carryover). This resulted in the state losing $475,000 in tax credits. Further, there was a steady increase in returned credits, ranging from no returned credits in 1999 to four returns amounting to $1.4 million in 2000. We concluded that the lost and returned credits may be due to the lack of penalties against developers who did not meet program requirements, but who were allowed to continue to participate in the program.

Our findings regarding other aspects of program administration follow.

- Tax credit projects tended to be in areas of the state with higher median incomes. We recommended that the agency seek funding to reduce rental rates to promote projects in poorer areas of the state.
- Even though market studies were used to assess the economic viability of a tax credit project, SHA had not clearly defined what constituted an unacceptable relationship between a developer and the market analyst who prepared the study.
- SHA did not retain denied tax credit applications which would allow an audit of records and help to ensure compliance with selection criteria.

PROGRAM OVERSIGHT

As we recommended, authority staff now conduct on-site inspections to verify that developers use the amenities and materials they agreed to use and for which they were awarded points. In addition, authority officials have implemented a policy which imposes a $1,000 fine against developers who do not submit progress reports to the agency when they are due. Our review of 16 (57%) of the 28 tax credit projects awarded in 2001 indicated that all of the developers had submitted progress reports as required.

Further, to avoid cancellation of a project and return of credits, the authority has established timelines that developers are required to submit other information to the agency. Developers have submitted these materials to the authority.

Program Administration

SHA has implemented all five of our recommendations regarding program administration. The agency has taken the following steps:

We recommended that the authority implement penalties against developers who fail to meet certain requirements.

> The authority has implemented a policy which disqualifies a developer from participating in the tax credit program for two years when he fails to expend 10% of estimated costs within six months, or to complete a project.

In regard to project locations, we recommended that SHA evaluate alternatives and seek funds to locate projects in poorer areas.

> In its 2003 plan for tax credits, SHA has set aside $1.8 million in HOME funds (another federal program) for development of tax credit projects in 19 "hard-to-develop" counties with median incomes less than $45,000.

We concluded that the authority should clearly define acceptable relationships between a developer and a market analyst.

> The agency included language in its 2002 and 2003 guidelines which stated that the market analyst who prepares the economic viability study for a tax credit project must be totally unaffiliated with the developer and/or owner of a proposed development.

We recommended that the agency retain denied tax credit applications to allow an examination of its selection criteria.

> These documents are now stored at agency offices.

Summary

Improvements in program oversight and administration are likely to enhance developer compliance with low-income housing tax credit guidelines. As a result, there are likely to be fewer delays in the construction of affordable rental housing in the state.

Methodology

We reviewed information from the State Housing Authority and interviewed officials regarding the implementation of our recommendations. Also, we conducted samples of 2001 tax credit projects to determine the extent of compliance with policies developed by the agency.

For More Information

Our full report, its summary, and this document are published on the Internet at

www.state.sc.us/sclac

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