



# Audit Report



OIG-14-042

RECOVERY ACT: Audit of Delaware State Housing Authority's  
Payment Under 1602 Program

July 9, 2014

Office of  
Inspector General

Department of the Treasury



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## Abbreviations

|      |  |
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| DSHA | Delaware State Housing Authority         |
| IRC  | Internal Revenue Code                    |
| OFAS | Office of the Fiscal Assistant Secretary |
| OIG  | Office of Inspector General              |
| QAP  | Qualified Allocation Plan                |

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*The Department of the Treasury  
Office of Inspector General*

July 9, 2014

David 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),<sup>1</sup> authorized by Section 1602 of the American Recovery and Reinvestment Act of 2009 (Recovery Act),<sup>2</sup> we are conducting audits of awards made to selected state housing credit agencies. The objective of these audits is to assess whether the agencies awarded funds under Treasury's 1602 Program complied with the program's requirements contained in the "Grantee Terms and Conditions" (hereinafter terms and conditions). In this report, we provided our assessment of Delaware State Housing Authority's (DSHA) compliance with the 1602 Program requirements. Appendix 1 provides a more detailed description of our audit objectives, scope, and methodology.

## Results in Brief

We found that DSHA generally complied with Treasury's 1602 Program terms and conditions which capture the eligibility and compliance requirements set forth in both Section 42 of the Internal Revenue Code (IRC)<sup>3</sup> and Section 1602 of the Recovery Act. That is, DSHA substantially met the applicable requirements for receiving its 1602 Program award as well as requirements for subawarding those funds to low-income housing projects but was unable to fully comply with a specific Treasury 1602 Program

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<sup>1</sup> Treasury's Office of the Fiscal Assistant Secretary (OFAS) administers this program.

<sup>2</sup> Pub. L. No. 111-5, 123 Stat. 362-364 (Feb. 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.

<sup>3</sup> 26 U.S.C. §42 "Low-Income Housing Credit,"

[http://www.treasury.gov/initiatives/Documents/LIH\\_application-package.pdf](http://www.treasury.gov/initiatives/Documents/LIH_application-package.pdf)

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requirement that each state housing credit agency open a new account with a financial institution for the purpose of receiving and disbursing 1602 Program funds since this would have been inconsistent with Delaware law. However, we determined that DSHA met OFAS' overall financial management requirement by tracking 1602 Program funds in a separate general ledger account.

DSHA also established a process for monitoring the long-term viability of projects and their compliance with 1602 Program requirements and met Treasury reporting requirements also required by the terms and conditions. With that, we want to emphasize the need for continued diligence on the part of DSHA to ensure compliance with the terms and conditions over the remaining 15-year compliance period.

We provided our report to DSHA for the purpose of incorporating management's views. In a written response, DSHA acknowledged our consideration of Delaware law in preventing the agency from establishing a separate account for the receipt and disbursement of 1602 Program funds as required by the program. It also stated that it would actively seek a waiver from such requirement in the future as allowed by the 1602 Program. DSHA management also expressed its commitment to continue its compliance monitoring and asset management over the remaining 15-year compliance period to ensure that approved housing projects maintain their eligibility status. DSHA's response is provided in appendix 3.

After incorporating DSHA's response into this report, we provided it to Treasury management for comment. Treasury management also concurred with our audit results; its response is provided in appendix 4.

## Background

The low-income housing tax credit program codified in Section 42 of the IRC was authorized by the Tax Reform Act of 1986.<sup>4</sup> The tax credit is an incentive for individuals and corporations to invest in the construction or rehabilitation of low income housing. The tax credit provides the investor a dollar-for-dollar reduction in personal

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<sup>4</sup> Pub. L. No. 99-514, Stat. 2189 (Oct. 22, 1986)

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or corporate federal income tax liability for a 10-year period for projects meeting program requirements.

The Recovery Act was signed into law to provide relief to the ongoing economic crisis. Part of that relief, provided in Section 1602 of the Recovery Act, consisted of grants awarded to states<sup>5</sup> 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 Election Amount"<sup>6</sup> 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:

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<sup>5</sup> According to Treasury's "Grantee Terms and Conditions."... 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."

<sup>6</sup> "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 (a) the greater of \$2.30 multiplied by the State population or \$2,665,000 and (b) unused housing credit carryover allocated to the State in the 2009 National Pool.

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- (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 subawardee compliance with Section 42 of the IRC and the long-term viability of projects;<sup>7</sup> and
  - (3) recapture funds in the event of subawardees’ non-compliance payable to Treasury.

As part of its overall administration of Treasury’s 1602 Program, OFAS developed the 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 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 2 provides the detail contained in OFAS’ terms and conditions for award.

Since awards under the 1602 Program are not grants but an exchange of low-income housing credits falling under the requirements of Section 42 of the IRC, they are not required to be covered by the Single Audit Act<sup>8</sup> or the Office of Management and Budget (OMB) Circular No. A-133.<sup>9</sup>

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<sup>7</sup> Low-income housing projects must be financially feasible and remain viable throughout the 15-year compliance period required by Section 42 of the IRC.

<sup>8</sup> Pub. L. 98-502, amended by Pub. L. 104-145, *Single Audit Act Amendment of 1996*

<sup>9</sup> OMB Circular No. A-133, *Audits of States, Local Governments and Non-Profit Organizations* (June 2007)

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## Delaware State Housing Authority



Millsboro Village

DSHA is an independent authority in the Executive Department of the State of Delaware which provides financing for housing and other related services to low and moderate income residents of Delaware. DSHA is also

responsible for administering Delaware's low-income housing tax credit program and allocates credits based on the selection criteria set forth in its Qualified Allocation Plan (QAP). In 2009, DSHA exchanged a portion of its low-income housing credits for \$20,550,433 under the 1602 Program which helped fund six projects that were stalled due to fallout from the low-income housing tax credit equity market. As a result, a total of 401 housing units were created and set aside as low-income for qualifying residents throughout Delaware. Projects were placed in-service between September 2009 and July 2013.

Although not required by OMB Circular No. A-133, DSHA identified the 1602 Program as one of its major programs and included it on the "Schedule of Expenditures of Federal Awards" in its financial statements for 2010, 2011, and 2012. The auditor<sup>10</sup> reported no findings or issues related to DSHA's 1602 Program funds in any of the reported years.

## **Audit Results**

We found that DSHA generally complied with the terms and conditions of its 1602 Program award. That is, DSHA substantially met the requirements for receiving its 1602 Program award and

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<sup>10</sup> Barbacane, Thorton & Company LLP is an independent regional firm located in Wilmington, Delaware.

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subawarding those funds to low-income housing projects consistent with requirements contained in Section 42 of the IRC. However, we noted that DSHA was unable to fully comply with a 1602 Program specific requirement that each state housing credit agency open a new account with a financial institution for the purpose of receiving and disbursing 1602 Program funds.<sup>11</sup> Nonetheless, we determined that DSHA met OFAS' overall financial management requirement by tracking 1602 Program funds in a separate general ledger account.

We also noted that DSHA established a process for monitoring the long-term viability of the projects and their compliance with 1602 Program requirements, and met reporting requirements also required by OFAS' terms and conditions. Based on our review of DSHA's administration and oversight activities, we concluded that the projects funded with 1602 Program funds met the subaward requirements also contained in the 1602 Program terms and conditions.

#### Awarding

DSHA requested and was awarded \$20,550,433 of 1602 Program funds, the amount equal to DSHA's low-income housing election amount requested in its application packages. In turn, DSHA subawarded its 1602 Program funds to six eligible low-income housing projects in exchange for tax credits. As required by the 1602 Program terms and conditions, DSHA subawarded funds to 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.

As part of the 1602 Program terms and conditions, awardees must maintain effective control and accountability for 1602 Program funds. In this regard, state housing credit agencies were required to

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<sup>11</sup> Grantee Terms and Conditions, "10b. 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."

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open new accounts with financial institutions for receiving and disbursing funds. In November 2009, OFAS inquired of state agencies' whether or not separate bank accounts for the 1602 funds were established, and if not, OFAS would provide the necessary documents for requesting a "variance" (i.e., waiver). At the time, a DSHA official responded that a new account was opened. When we requested the bank statements for review, we discovered that DSHA had not established a separate bank account for its 1602 Program funds nor did it request a variance from OFAS. Upon further inquiry, we were told by a DSHA official that DSHA was not permitted by law to establish an individual bank account for 1602 Program funds as funds were required to flow from the State of Delaware's bank account.<sup>12</sup> Furthermore, the Office of the Governor required that all "stimulus funds" flow through this bank account and be tracked through Delaware's financial management systems. With this specific requirement, we verified that a separate account was established in the general ledger to track receipts and disbursements of 1602 Program funds.

Based on our review of DSHA's accounting records, we determined that DSHA met the intent of OFAS' overall financial management requirement by tracking 1602 Program fund receipts and disbursements separate from other funds as well as maintaining program, financial, and accounting records supporting the proper use of funds.

#### Subawarding

Through its tax credit allocation and 1602 Program tax credit exchange processes, DSHA identified six qualified projects which were allocated tax credits in 2007, 2008, and 2009, but were stalled due to the downturn in the low-income housing tax credit equity market. In selecting these projects, DSHA applied its QAP for each respective year. The QAPs established the selection criteria for low-income housing projects, and provided guidance for tax credit allocations and 1602 Program subawards. Based on our review, we noted that DSHA's QAP complied with the 1602 Program terms and conditions which reference Section 42 of the IRC where the statutory provision for QAPs is required. We also determined that DSHA properly allocated low-income housing

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<sup>12</sup> Title 29 Delaware Code §2711, "Administration of moneys received from federal grants."

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credits to Section 42 of the IRC qualified low-income housing projects and was compliant with the 1602 Program terms and conditions for subawarding funds to those projects.

Furthermore, we found that DSHA ensured that all six subawardees made “good faith efforts” in their attempts to obtain other investment commitments for tax credits in lieu of the 1602 Program subawards, and that subawarded amounts did not exceed the amounts necessary to ensure the projects’ financial feasibility and future viability.

### Compliance and Asset Management

Section 1602 of the Recovery Act required state housing credit agencies establish compliance and asset management functions to ensure that subawards comply with Section 42 of the IRC and that low-income housing projects remain viable during the 15-year compliance period. In the case of DSHA, compliance monitoring and asset management functions were already in place prior to the enactment of the 1602 Program because of its role as the administrator of the state’s low-income housing tax credit program.

Section 1602 of the Recovery Act 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 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.<sup>13</sup> 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.

DSHA structured its 1602 Program subawards as tax credit exchange funds, subject to recapture in the event a low-income

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<sup>13</sup> Treasury, “Section 1602 - Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009 Recapture Guidance”

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building does not remain qualified during the 15-year compliance period. At the time of our audit, 5 of the 6 projects had completed the first year of the 15-year compliance period and DSHA commenced its compliance monitoring of 4 of them by performing on-site inspections of project buildings and units and reviews of project tenant files for Section 42 of the IRC compliance. At least once every 3 years through the end of the 15-year compliance period, DSHA will conduct on-site inspections of all the buildings in each low-income housing development.

DSHA's policy is to perform its asset management function on each 1602 Program project throughout the 15-year compliance period. The asset management function includes reviews of each project's annual budgets and financial statements and comparative monthly financial reports to determine fiscal health and long-term viability. Also, DSHA requires properties to report monthly financial and resident data, including occupancy and turnover rates into MITAS,<sup>14</sup> a web-based compliance reporting database.

DSHA's continuous compliance monitoring and asset management during the remaining years within the 15-year compliance period should ensure 1602 projects maintain qualified low-income buildings.

### 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.

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<sup>14</sup> DSHA utilizes MITAS, a fully integrated system for data collection of property information, household data and financial reporting, developed by The MITAS Group.

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At the time of our review, we found that DSHA complied with OFAS' reporting requirements. That is, DSHA submitted quarterly project performance reports during each project's developmental stage and annual certification reports after the project was placed in service.

\* \* \* \* \*

We appreciate the courtesies and cooperation provided to our staff during this audit. If you wish to discuss this report, you may contact me at (202) 927-5400 or Donna Joseph, Deputy Assistant Inspector General for Financial Management and Information Technology Audits, at (202) 927-5784. Major contributors to this report are provided in appendix 5.

/s/

Marla A. Freedman  
Assistant Inspector General for Audit

In December 2013, we initiated our audit of the Delaware State Housing Authority (DSHA) as part of our audits of state housing credit agencies funded under Treasury's Grants to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credit Allocations for 2009 (1602 Program). The objective of these audits is to assess whether state housing credit agencies awarded funds under Treasury's 1602 Program complied with the program's requirements contained in the "Grantee Terms and Conditions" (hereinafter terms and conditions). The terms and conditions outline the program requirements for award eligibility, compliance monitoring and reporting. To meet our objective we assessed whether DSHA properly received and subawarded 1602 Program funds, implemented compliance and asset management processes, and met Treasury's reporting requirements.

We statistically selected DSHA from the universe of 55 states and territories receiving 1602 Program funds. In the case of DSHA, we reviewed the entire universe of six projects and related cash disbursements representing more than 50 percent of 1602 Program funds for the six subawards. In performing our work, we visited DSHA in Dover, Delaware; interviewed key personnel of DSHA; reviewed documents used to support Delaware's low-income housing credit allocation, six approved low-income housing projects, cash disbursements to projects, and project's existence; performed site visits to three properties located in Seaford, Millsboro and Laurel, Delaware; and assessed DSHA's compliance with Treasury's terms and conditions. We performed our fieldwork between December 2013 and April 2014.

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.

**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 is 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 |  |

Appendix 3  
Delaware State Housing Authority Response

(302) 739-4263  
(302) 739-1118 FAX  
(302) 739-7428 TDD



June 5, 2014

Ms. Marla A. Freedman  
740-510  
JBAB  
Build 410/Door123  
250 Murray Lane, SW  
Washington, DC 20222

Re: Delaware State Housing Authority  
OIG Report – US Department of the Treasury 1602 Program

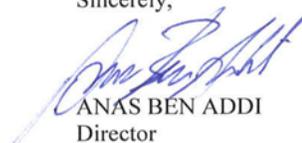
Dear Ms. Freedman:

The Delaware State Housing Authority (DSHA) has received and reviewed the draft audit report on the award made to DSHA under the US Department of the Treasury's (Treasury) 1602 Program. The report found that DSHA substantially complied with the program terms and conditions as defined by Treasury. The report made no recommendations for DSHA to implement. DSHA appreciates the recognition in the report that Delaware law prevented the agency from fully complying with the program requirement to establish a separate account for the receipt and disbursement of 1602 funds. In the future, DSHA will actively seek a waiver from such a requirement, as was allowed in the 1602 program. DSHA has no further comment on the report.

DSHA appreciates the efficient and professional manner in which the audit was conducted. The 1602 Program provided vital capital to finance six affordable housing developments much needed in Delaware. DSHA will continue its compliance monitoring and asset management over the remaining 15-year compliance period to ensure that the developments maintain their eligibility status.

If you have any questions or require additional information, please contact Susan Eliason, Director of Housing Development, at (302) 739-4263 or by email at [susane@destatehousing.com](mailto:susane@destatehousing.com).

Sincerely,



ANAS BEN ADDI  
Director

cc: Lisa Carter, Audit Director, Grants Management, US Dept. of the Treasury  
Douglas Croft  
Cynthia Deakyne  
Susan Eliason

Appendix 4  
Management Response



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

June 26, 2014

Marla Freedman  
Assistant Inspector General for Audit  
Department of the Treasury  
Office of Inspector General  
740 15<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20220

Dear Ms. Freedman:

Thank you for the opportunity to review and comment on the Office of the Inspector General's draft report titled "Audit of Delaware State Housing Authority's Payment Under 1602 Program." We concur with the report's findings that the Delaware State Housing Authority substantially complied with the terms and conditions of the Section 1602 program.

Sincerely,

A handwritten signature in cursive script that reads "Richard L. Gregg".

Richard L. Gregg  
Fiscal Assistant Secretary

Appendix 5  
Major Contributors To This Report

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Donna Joseph, Deputy Assistant Inspector General for Financial  
Management and Information Technology Audit  
Colleen McElwee, Audit Manager  
Erica Wardley, Audit Manager  
Myung Han, Audit Manager  
Gerald Kelly, Auditor-In-Charge  
Nicholas Slonka, Auditor  
Paul Harris, Program Analyst  
Aaron Clevestine, Program Analyst  
Adelia Gonzales, Referencer  
Vicki Preston, Referencer

Department of the Treasury

Assistant Secretary for Management of the Treasury,  
Chief Financial Officer and Chief Performance Officer  
Fiscal Assistant Secretary  
Deputy Assistant Secretary, Fiscal Operations and Policy  
Office of Strategic Planning and Performance Management  
Office of the Deputy Chief Financial Officer, Risk and Control  
Group  
Program Manager, Office of Fiscal Assistant Secretary

Office of Management and Budget

OIG Budget Examiner

Delaware State Housing Authority

Executive Director

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