



Audit Report



OIG-16-044

DOMESTIC ASSISTANCE

Recovery Act: Audit of California Tax Credit Allocation
Committee's Payment Under 1602 Program

May 20, 2016

Office of
Inspector General

Department of the Treasury

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Abbreviations

CTCAC	California Tax Credit Allocation Committee
IRC	Internal Revenue Code
OFAS	Office of the Fiscal Assistant Secretary
OIG	Office of Inspector General
OMB	Office of Management and Budget
QAP	Qualified Allocation Plan

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*The Department of the Treasury
Office of Inspector General*

May 20, 2016

David A. Lebryk
Fiscal Assistant Secretary

As part of our ongoing oversight of the Department of the Treasury's (Treasury) Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009 (1602 Program),¹ authorized by Section 1602 of the American Recovery and Reinvestment Act of 2009 (Recovery Act),² we conducted audits of awards made to selected State housing credit agencies. The objective of these audits was to assess whether the agencies awarded funds under Treasury's 1602 Program complied with the program's overall requirements and the "Grantee Terms and Conditions" (together referred to as 1602 Program requirements). In this report, we provide our assessment of California Tax Credit Allocation Committee's (CTCAC) compliance with the 1602 Program requirements. CTCAC was awarded \$477,943,476 in exchange for low-income housing tax credits in 2009 and 2010. Appendix 1 provides a more detailed description of our audit objective, scope, and methodology.

Results in Brief

We found that CTCAC did not fully comply with Treasury's 1602 Program requirements at the time of our review. Although CTCAC substantially met the eligibility and compliance requirements set forth in both Section 42 of the Internal Revenue Code (IRC)³ and Section 1602 of the Recovery Act for receiving its 1602 Program award, it did not meet all requirements for subawarding those funds to low-income housing projects. Specifically, CTCAC earned \$43,083 of interest in excess of \$200 allowed by Treasury's 1602

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

² Public Law 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.

³ 26 U.S.C. §42 "Low-Income Housing Credit"

Program requirements. Interest earned in excess of \$200 that is not applied to project disbursements is to be returned to Treasury.

Prior to our visit to CTCAC in March 2012, CTCAC management had identified and returned \$9,199 of unallowable interest to Treasury between March 2011 and February 2012. In verifying the accuracy of the amount remitted, we identified an additional \$33,883 of unallowable interest due to a miscalculation. CTCAC officials agreed with our calculation and remitted the additional unallowable interest to Treasury in April and May 2015.

We also found that CTCAC established a process for monitoring the long-term viability of projects and their compliance with 1602 Program requirements. However, CTCAC did not perform a timely on-site inspection for one funded project within the second full calendar-year after being placed in service.⁴ The inspection was required to be completed by December 31, 2011. Although untimely, CTCAC completed its inspection in August 2012.

In conclusion, we did not find that CTCAC's miscalculation of interest or untimely annual project inspection to have been intentional or systemically affect the organization's overall compliance with 1602 Program requirements. As such, we make no recommendation in this report. Nonetheless, we do want to emphasize the need for continued diligence on the part of Treasury and CTCAC to ensure compliance with the 1602 Program requirements over the remaining 15-year compliance period.

As part of our reporting process over the 1602 Program awardees, we provided CTCAC an opportunity to comment on a draft of this report. In a written response, CTCAC's Executive Director expressed overall agreement with our audit results. The response noted that CTCAC returned \$43,083 of excess interest to Treasury but that CTCAC, itself, did not receive any interest related to the 1602 Program awards. The California State Controller's office, which handles all incoming and outgoing Federal payments, did not remit interest to CTCAC. The response also acknowledged that one of the on-site inspections was not performed within the required

⁴ According to Section 42 of the IRC, "The Agency must conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service..."

timeframe and was completed as soon as the issue was revealed. CTCAC's response is provided as appendix 3.

After incorporating CTCAC's response into a draft of this report, we provided the draft to Treasury management for comment. Treasury management concurred with our audit results; its response is provided as 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 1986.⁵ The tax credit is an incentive for individuals and corporations to invest in the construction or rehabilitation of low-income housing. For projects meeting the program requirements, the tax credit provides the investor a dollar-for-dollar reduction in personal or corporate federal income tax liability for a 10-year period.

The Recovery Act intended to provide relief to the conditions caused by the economic crisis at the time. Part of that relief, provided in Section 1602 of the Recovery Act, consisted of grants awarded to States⁶ for low-income housing projects in lieu of low-income housing credit allocations. The purpose of Section 1602 was to fill the gap left by the reduced demand for low-income housing tax credits so that low-income housing projects could continue or start-up in instances where developers could not obtain private investment. It was also intended to 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

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

⁶ 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."

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

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

As part of its overall administration of Treasury’s 1602 Program, OFAS developed the “Grantee Terms and Conditions” 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 a 15-year compliance period. Among the requirements, 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

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

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

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' "Grantee Terms and Conditions."

Since awards under the 1602 Program are not conventional grants but an exchange of low-income housing credits falling under the requirements of Section 42 of the IRC, they are not within the scope of the Single Audit Act⁹ nor a part of the audit universe explicitly set by the Office of Management and Budget. Therefore, unless the State auditor specifically audits these awards, the awards to the respective States and their subawardees will not receive audit coverage.

California Tax Credit Allocation Committee



Mutual Housing at the Highlands
(OIG Photograph, January 2014)

CTCAC, a committee chaired by the California State Treasurer, administers both Federal and State low-income housing tax credit programs. Both programs were authorized to encourage private investment in affordable rental housing for households meeting certain

income requirements. CTCAC is responsible for administering California's low-income housing tax credit program and allocates credits based on the selection criteria set forth in its Qualified Allocation Plan (QAP). Between 2009 and 2011, CTCAC disbursed \$477,597,454 under the 1602 Program which funded 96 projects, many of which were stalled due to the downturn in the low-income housing tax credit equity market. The funded projects yielded 6,406 housing units, which were set aside as low-income for qualifying residents throughout California. Projects and units were

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

certified for occupancy and placed in-service between October 2009 and December 2012.

Audit Results

We found that CTCAC did not fully comply with Treasury's 1602 Program requirements at the time of our review. Although CTCAC substantially met the eligibility and compliance requirements set forth in both Section 42 of the IRC and Section 1602 of the Recovery Act for receiving its 1602 Program award, it did not meet all requirements for subawarding those funds to low-income housing projects. Specifically, CTCAC earned \$43,083 of interest in excess of \$200 allowed by Treasury's 1602 Program requirements. Interest earned in excess of \$200 that is not applied to project disbursements must be returned to Treasury.

Prior to our visit to CTCAC in March 2012, CTCAC management had identified and returned \$9,199 of unallowable interest to Treasury between March 2011 and February 2012. In verifying the accuracy of the amount remitted, we identified an additional \$33,883 of unallowable interest that resulted from a miscalculation. CTCAC officials agreed with our calculation and remitted this amount to Treasury in April and May 2015.

Lastly, we found that although CTCAC established a process for monitoring the long-term viability of projects and their compliance with the 1602 Program requirements, it did not perform a timely on-site inspection for one funded project within the second full calendar-year after being placed in service. That is, CTCAC reported a funded project's on-site inspection as being completed in 2011. Although untimely, the inspection was completed in August 2012.

Awarding

CTCAC requested and was awarded \$477,943,476 of 1602 Program funds, the amount equal to CTCAC's low-income housing election amount requested in its application packages. In turn, CTCAC subawarded and disbursed \$477,597,454 to 96 eligible low-income housing projects in exchange for tax credits. Since the remaining \$346,022 was not disbursed by Treasury's

December 31, 2011, deadline, funds were de-obligated and returned to the General Fund as required by the 1602 Program requirements.

Also required by the 1602 Program requirements, CTCAC 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.

Subawarding

CTCAC identified 96 qualified low-income housing projects for subawards that were already allocated low-income housing tax credits in 2008 and 2009. These projects were stalled due to the downturn in the low-income housing tax credit equity market, and were subawarded 1602 Program funds in exchange for their 2008 and 2009 low-income housing tax credit allocations. In identifying the 96 projects, CTCAC applied the selection criteria set forth in its QAP as required by Section 42 of the IRC. The QAP establishes the criteria used by the housing credit agency to determine the State’s housing priorities that are appropriate to the local conditions, and along with other requirements, gives preference to allocating credit dollar amounts among selected projects. Although CTCAC selected qualified low-income housing projects in accordance with Section 42 of the IRC, it did not disburse all subawards in accordance with the 1602 Program requirements at the time of our review. Specifically, CTCAC earned \$43,083 of interest that was neither applied to qualified low-income housing projects nor returned to Treasury timely.

For disbursing funds to subawardees, the 1602 Program requirements call for, among other things, State housing credit agencies to open accounts with financial institutions for receiving and disbursing funds. However, California State law prohibited the CTCAC from opening a separate bank account just for the administration of its 1602 Program funds. To remain compliant with California State law, the California State Controller’s Office managed the disbursement of 1602 Program funds on behalf of CTCAC using an interest bearing account. Because funds were disbursed by check to subawardees, and there was a delay in the

subawardees cashing their checks, check float occurred.¹⁰ As a result, approximately \$43,083 of interest was earned while checks cleared.

According to Treasury's 1602 Program requirements, interest earned in excess of \$200 that is not applied to project disbursements, must be returned to Treasury. During its August 2010 compliance visit, OFAS noted that CTCAC's financial records did not report interest earned on the 1602 Program funds and advised that a reasonable means to calculate such interest be developed. Using California's Surplus Money Investment Fund Apportionment Yield rates,¹¹ CTCAC calculated \$9,199 of interest and returned that amount to Treasury between March 2011 and February 2012.

We reviewed CTCAC's interest calculation and found that the interest remitted to Treasury was not calculated correctly. Specifically, we identified \$33,883 of additional interest that resulted from CTCAC using incorrect dates in its calculation. Specifically, CTCAC calculated interest for the period between receipt of 1602 Program funds and check issuance dates to subawardees. We recalculated interest for the period between CTCAC's receipt of 1602 Program funds and check clearance dates identifying an additional \$33,883 of interest. Additionally, CTCAC did not apply the interest earned to other low-income housing projects. CTCAC agreed with our calculation and remitted the additional funds to Treasury in April and May of 2015.

Compliance and Asset Management

As required by Section 1602 of the Recovery Act, CTCAC established compliance and asset management oversight functions to ensure that low-income housing projects comply with Section 42 of the IRC and remain viable during the 15-year compliance period. CTCAC performs compliance monitoring in the same manner it does for the State's low-income housing tax credit

¹⁰ Check float is the amount of time between when a check issued for payment and when the bank receives the instruction to move funds from the account.

¹¹ The California Surplus Money Investment Fund Apportionment Yield rates set by the State Controller's Office.

program, while third-party contractors perform the asset management function for 1602 Program projects.

Section 1602 of the Recovery Act also required that State housing credit agencies impose conditions and/or restrictions, including recapture requirements, on subawardees to ensure low-income housing projects remain qualified during the 15-year compliance period. OFAS further stipulated in its terms and condition that recapture requirements be included in State credit housing agencies' written subaward agreements. Furthermore, State housing credit agencies were required by OFAS to have procedures in place for monitoring 1602 Program subawardees to identify and correct issues of noncompliance during the compliance period. In the event of noncompliance, State housing credit agencies must impose consequences such as possible State program debarment and the recapture of 1602 Program funds, payable to Treasury.¹²

In the case of CTCAC, the requisite recapture requirements were included in its subaward agreements in the event of subawardee noncompliance. CTCAC structured its 1602 Program subawards as tax credit exchange funds, subject to recapture in the event a low-income building does not remain qualified during the 15-year compliance period. All 14 projects we reviewed had commenced the first year of the 15-year compliance period. CTCAC's compliance monitoring procedures included performing on-site inspections of project buildings and units and reviews of management practices, and reviews of project tenant files for compliance with Section 42 of the IRC. However, we identified one project where CTCAC did not perform on-site project inspection by December 31, 2011, which was within the second full calendar-year after being placed in service. Management explained that a computer system crash was responsible for the delay in the compliance monitoring process and completed the review by May 2012.

CTCAC's policy requires that an annual asset management review be performed on each 1602 Program project throughout the 15-year compliance period to ensure its long-term viability. Third-party contractors' asset management services include reviewing

¹² Treasury, "Section 1602—Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009 Recapture Guidance"

budgets, rent/occupancy reports, and quarterly financial reports to determine the fiscal health and long-term viability of low-income housing projects.

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

Quarterly and Annual Reporting

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

We found that CTCAC complied with OFAS' reporting requirements by submitting reports timely. CTCAC submitted quarterly project performance reports during each project's developmental stage and annual certification reports after the project was placed in service. However, we found that CTCAC misreported the completion of its 2011 calendar year on-site compliance monitoring for one project in its "Annual Report of Compliance" submitted to OFAS. As noted above, CTCAC reported a funded project's on-site inspection as being completed in 2011, which was not performed until May 2012. Although untimely, the inspection was performed prior to CTCAC submitting its annual report to OFAS in July 2012.

Conclusion

Overall, we did not find that CTCAC's miscalculation of interest or untimely annual project inspection to have been intentional or systemically affect the organization's overall compliance with 1602 Program requirements. As such, we make no recommendations in

this report. Nonetheless, we do want to emphasize the need for continued diligence on the part of Treasury and CTCAC to ensure compliance with the 1602 Program requirements over the remaining 15-year compliance period.

* * * * *

We appreciate the courtesies and cooperation extended by your staff during this audit. Major contributors to this report are listed in appendix 5. A distribution list for this report is provided as appendix 6. If you have any questions, you may contact me at (202) 927-5373 or Shiela Michel, Audit Manager, at (202) 927-5407.

/s/

John Gauthier
Acting Audit Director

In March 2012, we initiated an audit of the California Tax Credit Allocation Committee (CTCAC) 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 was to assess whether State housing credit agencies awarded funds under Treasury's 1602 Program complied with the program's overall requirements and the "Grantee Terms and Conditions" (together referred to as 1602 Program requirements). To meet our objective we assessed whether CTCAC properly received and subawarded 1602 Program funds, implemented compliance and asset management processes, and met Treasury's reporting requirements.

We selected CTCAC from the universe of 55 states and territories eligible to receive 1602 Program funds. We caution, however, that our sample was randomly selected to avoid bias and not for the purpose of projecting results to the universe or concluding on the effectiveness of the 1602 Program. In the case of CTCAC, we statistically selected and reviewed 14 of 96 projects and related cash disbursements representing approximately \$57 million of the \$477.5 million awarded to California.

In performing our work, we reviewed applicable laws and regulations governing the 1602 Program to include the Recovery Act and Section 42 of the Internal Revenue Code, as well as Treasury's policies and procedures. We also visited CTCAC in Sacramento, California, where we interviewed key personnel of CTCAC; reviewed documents used to support California's low-income housing credit allocation, low income housing projects' existence, and cash disbursements in our sample, and assessed CTCAC's overall compliance with Treasury's 1602 Program requirements. We also conducted site visits to three projects located in North Highlands and Rocklin, California. We performed our fieldwork between March 2012 and February 2015.

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 are required on a quarterly basis, due 10 working days after the end of the quarter. Quarters end on March 31, June 30, September 30, and December 31.

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

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

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

9. Recapture

- a. The grantee shall include in any subaward a requirement providing for recapture to assure that the building remains a qualified low-income building during the 15-year compliance period.
- b. The grantee shall notify subawardees that any amount subject to recapture becomes a debt owed to the United States payable to the General Fund of the Treasury and enforceable by all available means against any assets of the recipient entity.

10. Financial Management

- a. The grantee must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the designated State housing credit agency must be sufficient to permit preparation of required reports and permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Effective control and accountability must be maintained for all grant funds.
- b. The grantee shall open a new account (Grant Account) with a financial institution for the purpose of receiving grant election amounts, for making distributions of grant election amounts to other agencies within the State, and for making subawards.
- c. The grantee must maintain program, financial, and accounting records sufficient to demonstrate that grant funds were used in accordance with the Section 1602 program and these terms and conditions. The Treasury as the awarding office, the cognizant Treasury inspector general, and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to facilities and to any pertinent books, documents, papers, or other records (electronic and otherwise) of grantees, which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.
- d. The grantee shall minimize the time between the receipt of grant funds and the disbursement of those funds to subawardees. Federal funds cannot be drawn by the grantee from the U.S. Treasury in advance of need. The grantee shall not place in escrow or advance lump sums to project owners. Once funds are drawn from the grantee's U.S. Treasury account, they must be expended as a subaward by the grantee within three days, or if grant funds are transferred by the grantee to another agency, as a subaward by that agency within three days following the date of transfer by the grantee.
- e. The grantee shall promptly return to its Grant Account any subawards returned to the designated State housing credit agency from subawardees and shall expend returned amounts as subawards before additional grant amounts are drawn from the Treasury.

11. Disallowance, Suspension, and Termination

- a. If the grantee materially fails to comply with any term of the award, whether stated in a Federal statute or regulation, the terms and conditions herein, in a State plan or application, a

notice of award, or elsewhere, Treasury may take one or more of the following actions, as appropriate in the circumstances:

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

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

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

12. Return of Unused Grant Funds

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

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

Signature

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

Name		Title	
Phone		Email	
Signature		Date signed	



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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Mark Stivers

April 14, 2016

Donna Joseph, Deputy Assistant Inspector General for Audit
Treasury – Office of Inspector General
875 15th Street, NW
Washington, D.C. 20005

Re: OIG Draft Audit Report – Section 1602 Program
California Tax Credit Allocation Committee

Dear Ms. Joseph:

Thank you for providing a draft copy of the OIG Audit Report concerning the award of Section 1602 Program funds to the California Tax Credit Allocation Committee (TCAC).

The Audit Report found that TCAC generally met the eligibility and compliance requirements set forth in both Section 42 of the IRC and Section 1602 of the Recovery Act; however TCAC did not meet all requirements. Specifically, the OIG found that TCAC earned \$43,083 of interest in excess of \$200 allowed by Treasury's 1602 Program requirements. TCAC returned the interest to Treasury between March 2011 and February 2012. For the record, TCAC did not receive any interest related to the 1602 Program awards. The California State Controller's office handles all incoming and outgoing federal payments and did not remit any interest related to the 1602 Program to TCAC. TCAC paid the interest out of its own budget.

The OIG also found that TCAC established a process for monitoring the long-term viability of projects and their compliance with the 1602 Program requirements, however one on-site inspection was not performed within the second full calendar-year after being placed in service due to a computer crash issue. The inspection was

completed as soon as the issue was revealed and TCAC ensured that all other projects were monitored timely.

Overall, OIG did not find that the interest issue or untimely inspection for one project to be intentional or to systemically affect TCAC's overall compliance with 1602 Program requirements. As such, OIG made no recommendations in the report.

We appreciate the professionalism of the OIG team that conducted the audit. If you need any further assistance, please do not hesitate to contact us.

Regards,



Mark Stivers
Executive Director

Appendix 4
Treasury Management Response



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

May 19, 2016

John Gauthier
Department of the Treasury
Office of the Inspector General
875 15th Street, NW
Washington, D.C. 20005

Dear Mr Gauthier:

Thank you for the opportunity to review and comment on the Office of the Inspector General's draft report titled "Audit of California Tax Credit Allocation Committee Under the 1602 Program." We concur with the report's findings that the California Tax Credit Allocation Committee (CTCAC) substantially complied with the terms and conditions of the Section 1602 program but did not meet all of the sub-award requirements. The report noted that during the audit the CTCAC corrected these matters and thus made no recommendations.

Sincerely,

David A. Lebryk
Fiscal Assistant Secretary

Appendix 5
Major Contributors To This Report

Shiela Michel, Audit Manager
Gerald Kelly, Auditor-In-Charge
Nicholas Slonka, Auditor
Paul Harris, Program Analyst
Olivia Scott, Referencer
Kevin Guishard, Referencer

Department of the Treasury

Deputy Secretary
Assistant Secretary for Management of the Treasury
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

California Tax Credit Allocation Committee

Executive Director



Treasury OIG Website

Access Treasury OIG reports and other information online:

<http://www.treasury.gov/about/organizational-structure/ig/Pages/default.aspx>

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