



## State of South Carolina Office of the Inspector General

November 8, 2019

OIG File #2019-3316-PI

The Honorable Wm. Weston J. Newton  
House Legislative Oversight Committee, Chairman  
228 Blatt Building  
Columbia, South Carolina 29201

The Honorable William M. Hixon  
House Legislative Oversight Subcommittee, Chairman  
228 Blatt Building  
Columbia, South Carolina 29201

RE: Summary results of the South Carolina Office of the Inspector General's review of constituent concerns regarding the South Carolina Housing Finance and Development Authority.

Dear Chairman Newton and Chairman Hixon:

The purpose of this letter is to provide the results of the South Carolina Office of the Inspector General's (SIG) review of a constituent's concerns regarding the South Carolina Housing Finance and Development Authority (SC Housing) as requested in your joint letter dated 9/10/2019.

Enclosed for your review are the following appendices:

- Appendix A – Resignation, Waiver, and Release of All Claims, and Settlement Agreement
- Appendix B – 2019 SC Housing Employee Survey
- Appendix C – SIG Analysis of SC Housing Retreat Expenditures
- Appendix D – SC Housing Response Letter to U.S. Treasury
- Appendix E – SC Housing Bond Cash Balances
- Appendix F – SC Housing Organizational Chart

Appendices A – F may be viewed at the following link: [SC Housing Review Appendices A - F](#)

### **Purpose of Review**

The purpose of this review was to gather relevant information and conduct the necessary review and analysis to address specific constituent concerns identified by the House Legislative Oversight Committee's (HLOC) study of SC Housing. Specifically, the HLOC requested the SIG to ascertain the appropriateness of the following eight constituent concerns:

1. Development, structure, and lack of timely notice to appropriate officials (e.g., board of commissioners and agency general counsel) of a separation agreement with a former deputy director;
2. Position fulfillment practices (e.g., not posting positions);
3. Low employee morale with high turnover among senior management;
4. Annual board retreats costing the agency approximately \$10,000 to \$15,000 each year;
5. Implementation of appropriate agency practices to address issues identified in the federal audit of the SC HELP program, a program no longer accepting applications, which provided assistance to homeowners impacted by the economic crisis;
6. Exploration of formation of a non-profit organization that may supplement salaries of agency executive leadership;
7. Excess unspent bond proceeds (\$150 million) which could be put towards increasing housing across South Carolina; and
8. Termination of program with the Office on Aging without a vote by the agency's board of commissioners.

### **Executive Summary**

The following executive summary is derived from a review of relevant documentation provided by the HLOC and SC Housing, including SC Housing policies, human resource (HR) files, financial reports, SC Housing Board of Commissioners (Board) meeting minutes, and an agency-directed employee survey. In addition, the SIG interviewed 25 current and former SC Housing employees and Board members. The SIG consulted with the Division of State Human Resources (DSHR) and the State Fiscal Accountability Authority (SFAA) for guidance regarding state HR policies. The SIG also reviewed emails from the Office on Aging and SC Housing employees; reviewed relevant SCEIS HR records; and reviewed SC Housing employee testimony before the HLOC subcommittee. All amounts are rounded to the nearest dollar.

### **Background of the South Carolina Housing Finance and Development Authority**

SC Housing is authorized by the South Carolina Housing Finance and Development Authority Act of 1977.<sup>1</sup> A nine-member Board, which includes two ex officio members, governs SC Housing. A chairman who is appointed by the Governor leads the SC Housing Board. Governor Henry McMaster appointed the current chairman, Robert D. Mickle, Jr., on 5/21/2019. Donald R. Tomlin Jr., who served as chairman from 2015 until on or about 5/21/2019, when he was appointed by Governor McMaster to serve on the State Workforce Development Board, preceded Mickle as chairman.

The current SC Housing executive director is Bonita Shropshire, who was appointed by the SC Housing Board on [8/15/2018](#), having previously served as interim executive director since 5/10/2018. She succeeded former Interim Executive Director Robert S. Wilson, Jr. who served from 8/16/2017 until his resignation on 5/10/2018. Wilson succeeded former Executive Director Valerie M. Williams who separated from SC Housing on [8/16/2017](#).

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<sup>1</sup> South Carolina Code of Laws §31-13-10 et seq.

The mission of SC Housing is to create quality affordable housing opportunities for the citizens of South Carolina.<sup>2</sup> SC Housing is authorized to issue bonds secured by mortgages purchased by SC Housing. In that respect, SC Housing operates as a mortgage bank. SC Housing also administers federal programs, including tax credits and pass-through funding, to promote affordable housing development.

SC Housing receives state monies derived from deed stamp taxes<sup>3</sup> that are deposited into the South Carolina Housing Trust Fund account maintained by the State Treasurer's Office and administered by SC Housing. SC Housing does not receive general appropriations from the legislature for its operations, but is funded primarily through servicing fees on the South Carolina mortgage loans it purchases. SC Housing is not a mortgage loan originator.

### **House Legislative Oversight Committee Constituent Concerns and SIG Analysis**

**Concern #1:** *Development, structure, and lack of timely notice to appropriate officials (e.g., board of commissioners and agency general counsel) of a separation agreement with a former deputy director.*

**Question #1:** *What was the development and structure of a separation agreement with a former deputy director and was notice of the separation agreement made to appropriate officials (e.g., board of commissioners and agency general counsel) in a timely manner?*

The separation agreement was a contract entitled, "Resignation, Waiver, and Release of All Claims, and Settlement Agreement" ([Agreement](#)), and was executed by a former deputy director and then-Interim Executive Director Shropshire on 5/16/2018. (See Appendix A)

The SIG determined the SC Housing Board members and its general counsel were not notified of the Agreement until after it was executed. In some cases, members of the SC Housing Board did not learn of the Agreement until the HLOC's letter to the SIG, dated 9/10/2019.

Neither South Carolina law nor state HR regulations required prior notification or approval of the Agreement by the SC Housing Board or its general counsel. In addition, SC Housing Board members stated the Agreement was a personnel and operational matter.

**SIG Analysis:** The SIG assessed that the Agreement was a constructive severance payment. The former deputy director was a working retiree who previously received a lump sum payment for unused annual leave. The SIG determined the executive director sought no review or approval of the Agreement from either DSHR or SFAA. State HR regulations require the approval of SFAA for lump sum severance payments in excess of \$10,000 after a review and recommendation by the State Human Resources Director.<sup>4</sup> The SIG requested a review of the Agreement by senior executives at DSHR and SFAA.

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<sup>2</sup> [SCHousing.com/Mission and Vision and Values](#)

<sup>3</sup> The Housing Trust Fund, a special revenue fund, was established in 1992 pursuant to South Carolina Code of Laws, Chapter 31, Article 4. The South Carolina Department of Revenue collects documentary stamp taxes and remits \$0.20 of every \$1.30 collected to the Authority for the Housing Trust Fund. [SC Housing Trust Fund Annual Report](#)

<sup>4</sup> [SC Code of Regulations §19-718.11 "Approval of Personnel Settlements." State Human Resources Regulations](#)

Neither agency considered a non-lump sum payment to be a severance, nor that the Agreement required a review or approval by SFAA or DSHR.

The executive director utilized external counsel to construct the Agreement, which was effective from 6/4/2018 through 2/15/2019. It provided that the former deputy director would work from home via computer and telephone “to research and recommend to the executive director innovative housing concepts and to consult with and be available for consultation with the Executive Director concerning agency operations.” It further provided the former deputy director would “...neither report to nor be on the premises of the State Housing Authority offices nor will [the former deputy director] attend any State Housing Authority board or committee meetings unless specifically directed to do so by the State Housing Authority’s Executive Director ....”

The SIG determined the former deputy director attended one conference on behalf of SC Housing, but otherwise performed a minimal level of work. For example, a virtual private network established for the former deputy director’s use was never accessed, and an examination of the former deputy director’s emails showed *de minimus* consultation or work. During this period, the former deputy director was paid approximately \$88,000 in salary, exclusive of benefits. In effect, the former deputy director was stripped of any executive-level program authority while continuing to receive an executive-level salary.

**SIG Recommendation:** The DSHR and SFAA should consider a review of applicable state HR regulations regarding severance agreements to include non-lump sum severance payments to determine the necessity of a secondary review and/or approval by DSHR or SFAA.

**Concern #2:** *Position fulfillment practices (e.g., not posting positions).*

**Question #2:** *Did SC Housing conform with position fulfillment requirements by posting vacant positions?*

The SIG determined this concern referred to the vacancy of the SC Housing executive director position in 2017 and 2018.

No advertisement or formal search was undertaken by the SC Housing Board to fill the executive director position following the separation of former Executive Director Williams in 2017 and former Interim Executive Director Wilson in 2018. However, no posting or executive search was required by law, regulation, or policy for the vacant executive director position. Positions for senior-level managers and other staff positions were routinely posted in accordance with DSHR policy.

**SIG Analysis:** The SC Housing Board members advised the SIG no executive search for the executive director position was initiated because the salary approved by the Agency Head Salary Commission (AHSC) was considered to be non-competitive in the marketplace, particularly following the SC Housing Board’s review of salaries of housing directors in similarly situated southern states. In addition, an executive search, according to SC Housing Board members, would be both lengthy and costly with little expectation that a candidate would be identified who would accept the salary offered by SC Housing. The SC Housing Board sought to fill the position quickly to promote stability at SC Housing.<sup>5</sup>

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<sup>5</sup> [AHSC Laws and Provisos](#)

**Concern #3:** *Low employee morale with high turnover among senior management.*

**Question #3:** *Has SC Housing experienced low employee morale and high turnover among senior management?*

SC Housing had three executive directors or interim executive directors between August 2017 and May 2018, when Executive Director Shropshire received her permanent appointment. In addition, since August 2017, several senior-level managers separated from SC Housing, including two deputy directors, an internal auditor, two chief financial officers, and two program managers. The SIG assessed that turnover in senior leadership has adversely affected morale.

**SIG Analysis:** One employee noted that, while SC Housing lost many years of experience because of senior management turnover, “it also lost [many] years of baggage.” A SC Housing Board member said that the separation of senior managers, many of whom were resistant to change, created opportunities for advancement within SC Housing. In addition, current and former SC Housing Board members commented on the apparent lack of succession planning and employee development by former senior managers at the agency.

A SC Housing-administered employee survey was completed in October 2019. The survey results generally reflected pride in SC Housing and its mission; however, it reflected less confidence in SC Housing leadership. Through interviews, the SIG learned that feedback from staff indicated the staff found the survey questions confusing, which the executive director acknowledged to the SIG. In addition, the survey requested demographic and departmental information of each participant, which raised concerns about the anonymity of the survey participants. (*See Appendix B*)

The SIG recommended that an independent entity conduct an employee climate survey on behalf of SC Housing and offered the services of the SIG to conduct the survey. Executive Director Shropshire concurred with this recommendation and accepted the SIG’s offer to administer an employee climate survey to all SC Housing staff, with a target date of January 2020.

**Concern #4:** *Annual board retreats costing the agency approximately \$10,000 to \$15,000 each year.*

**Question #4:** *Have annual Board Retreats cost SC Housing between \$10,000 and \$15,000 per year?*

The SC Housing Board retreat costs for fiscal years (FY) 2017, 2018, and 2019 were \$11,522, \$13,510, and \$13,310, respectively. The retreat was held in Charleston for the past three years, over a three-day period, and one is planned for FY 2020 (November 2019). While the cost for lodging exceeded the U.S. General Services Administration (GSA) rate established for the Charleston area, SC Housing obtained appropriate approval from the South Carolina Comptroller General’s Office (CGO) in each case.

**SIG Analysis:** The SIG reviewed the costs and supporting documentation for FYs 2017, 2018, and 2019. As part of the continuing education for the SC Housing Board, staff conducted training workshops for the SC Housing Board each year. The workshops included sessions on SC Housing programs, including finance, tax credit programs, Qualified Allocation Plan, new initiatives, and setting goals for the future. In an effort to maximize SC Housing Board participation and provide adequate time for in-depth discussions the workshops were held off-site. The workshops and meetings were open to the public pursuant to the [Freedom of Information Act §30-4-80](#).

The retreat costs included lodging, meals, mileage, parking/portage, meeting space rental, and banquet services. In addition, SC Housing Board members had the option to receive a statutory per diem rate of \$35 in accordance with the annual [General Appropriations Act Proviso 117.19](#). The per diem is intended to reimburse the SC Housing Board for incidental personal expenses incurred. These retreat costs reflected reimbursed costs of the participants: 14 (Board-7; Staff-7) for FY 2019; 17 (Board-8; Staff-9) for FY 2018; and 14 (Board-8; Staff-6) for FY 2017.

Based on the results of this review, the SIG determined that SC Housing's expenses for meals, and mileage were reasonable and consistent with federal and state policy, and in some cases less than the federal and state policy. Expenses for lodging, when benchmarked in comparison to federal guidelines, exceeded the maximum GSA rate. This variance totaled \$7,556 for the three years. SC Housing requested an exception to exceed the maximum lodging rate established by GSA for each year. Written approval of the agency head to exceed the GSA rate, taking into consideration the purpose and location of the travel, was documented with the reimbursement request submitted to, and approved by, the CGO for each individual attending the annual retreats. (*See Appendix C*)

**Concern #5:** *Implementation of appropriate agency practices to address issues identified in the federal audit of the SC HELP program, a program no longer accepting applications, which provided assistance to homeowners impacted by the economic crisis.*

**Question #5a:** *Did SC Housing implement appropriate practices to address issues identified in the federal audit of the South Carolina Homeownership and Employment Lending program (SC HELP)?*

SC Housing conducted an internal audit to address issues identified in a Treasury Compliance Review by the U.S. Treasury (Treasury) and the cost allocations of the Hardest Hit Funds (HHF) program in connection with SC HELP. SC Housing provided an explanation of its remediation measures and the reallocation of these funds to Treasury in its [SC Housing Response Letter on the Treasury Compliance Review](#). Based on the SIG's review of SC HELP documentation the agency's response to Treasury addressed the concerns of the Treasury Compliance Review. There was no other communication identified from Treasury or SIGTARP regarding issues in need of correction. (*See Appendix D*)

**Question #5b:** *Is SC HELP accepting applications for assistance to homeowners impacted by the economic crisis?*

The SC HELP foreclosure mitigation program closed on 12/1/2017 to new applications. Existing participants are still receiving funds.

**SIG Analysis:** Treasury's HHF provided one-time aid in 2010 (\$295,431,547) to SC Housing following the economic crisis of 2007-2008. In 2016, Treasury allocated an additional \$22 million in funds to SC Housing to be utilized by 2020 ([Hardest Hit Fund - Program Purpose](#)). In 2018, Treasury added another \$210,942 to the program. Treasury is not currently offering additional funds.

SC Housing implemented the HHF through SC HELP, providing foreclosure mitigation, blight elimination through the Neighborhood Initiative Program (NIP), and down payment assistance. Foreclosure mitigation was accomplished through assisting homeowners with arrearages, monthly mortgage payments, or property disposition. Any HHF monies returned to SC HELP are re-cycled in the only remaining open and existing SC HELP activity; i.e., down payment assistance, which is still

accepting applicants. The NIP had two application rounds, and there are no new application rounds planned. Existing NIP recipients are still receiving funds.

The most recent quarterly report for SC HELP submitted to the federal government is dated [6/30/2019](#).

**Concern #6:** *Exploration of formation of a non-profit organization that may supplement salaries of agency executive leadership.*

**Question #6:** *Was the use of a non-profit organization explored, the purpose of which was to supplement the salaries of executive agency leadership?*

The SIG determined neither the executive director's salary nor the salary of any SC Housing employee was supplemented through a non-profit corporation.

**SIG Analysis:** On [11/15/2017](#), the SC Housing Board approved a motion "to create a qualified non-profit corporation established for the purpose of furthering construction lending capacity and engaging in other eligible activities in advancing support of affordable housing" as required by the Emergency Economic Stabilization Act of 2008 (EESA). The Troubled Asset Relief Program (TARP) and EESA mandated that only "eligible entities" could be awarded funds. The eligible entity was necessary to be considered a financial institution under TARP. Treasury determined that state agencies were not "eligible entities" and therefore were required to create a non-profit corporation for receipt of the funds. This resulted in the creation of the non-profit SC Housing Corporation.

The SC Housing Board, according to SC Housing Board members, considered creating a second non-profit corporation. The first aim of the proposed non-profit corporation was to facilitate the growth of small, multi-family developments. In addition, the use of the non-profit corporation for providing a nationally competitive executive director salary was considered. After appropriate coordination with the AHSC, the SC Housing general counsel created draft incorporation papers for both purposes. The draft was never presented to the SC Housing Board for approval, and no action was taken. SC Housing Board members stated the second non-profit corporation was not pursued because its primary purpose would compete with other non-profit corporations, which would be perceived as an unfair advantage by the proposed SC Housing non-profit corporation.

**Concern #7:** *Excess unspent bond proceeds (\$150 million) which could be put towards increasing housing across South Carolina.*

**Question #7:** *Did SC Housing retain excess unspent bond proceeds totaling \$150 million, funds that could be spent to increase housing across South Carolina?*

The SIG did not identify substantial, excess unspent bond proceeds held by SC Housing. The SIG further assessed the redirection of unspent bond proceeds is a strategic decision to be determined by the SC Housing Board and the agency's senior leadership.

**SIG Analysis:** Bonds sold to investors by SC Housing generate bond sales proceeds that are used by SC Housing to purchase mortgages from banks and mortgage lenders of low-income South Carolina homeowners. Fees generated from the servicing of these mortgage loans fund the indirect costs of SC Housing, which receives no state appropriation. The fees derived from servicing mortgages do not approach the \$150 million referenced by the constituent. While there may appear to be large amounts of

assets on hand at certain points on the calendar, these funds are largely obligated. The use of bond sales proceeds and the purchasing of mortgages is an outcome of strategic decisions appropriately made by the SC Housing Board and the agency’s senior leadership.

Interviews conducted of two former SC Housing chief financial officers did not identify any unencumbered funds approaching \$150 million in bond proceeds. In addition, financial reports provided by the SC Housing bond program’s senior accountant (*See Appendix E*) clearly demonstrated there were no significant reserves of unencumbered funds at SC Housing as detailed in the following two reports:

1. [SC Housing Analysis of Bond Cash Balances for FY 2018 and FY 2019](#)
2. [SC Housing FY 2018 and FY 2019 Monthly Cash Balances](#)

**Concern #8:** *Termination of program with the Office on Aging without a vote by the agency’s board of commissioners.*

**Question #8:** *Did the SC Housing Board terminate a program with the Office on Aging without a vote?*

During the Fall of 2017 (FY 2018), the SC Housing Board and former Interim Executive Director Wilson were presented with information regarding a grant request from the Office on Aging for the Emergency Rental Assistance to the Elderly Program (ERAEP). The SC Housing Board requested clarification and additional information, which was not provided to the SC Housing Board. Consequently, no action was taken on the Office on Aging’s grant request for FY 2018. In addition, a grant request was not presented to SC Housing for FY 2019.

**SIG Analysis:** The SC Housing and the Office on Aging first entered into a grant funding agreement on 8/1/2005 (FY 2006) with an initial grant of \$1 million to support the ERAEP. There were four subsequent amendments to the original agreement between 3/20/2007 and 8/1/2010; however, the Office on Aging received no additional funding for the ERAEP. The second amendment, dated 7/15/2008, included a mutually agreed upon termination date of 6/30/2011 (FY 2011).

The Office on Aging and SC Housing did not enter into a new grant funding agreement for FY 2012. At the close of FY 2013 (6/1/2013), this ERAEP grant funding relationship was reinitiated with the funding of \$250,000 that carried forward into FY 2014. Four subsequent funding arrangements occurred in:

<b>FY 2015</b>	\$350,000
8/1/2014 (\$250K)	
4/20/2015 (\$100K)	
<b>FY 2016</b>	\$350,000
9/1/2015	
<b>FY 2017</b>	\$250,000
9/1/2016	
<b>3-year Funding Total</b>	<b>\$950,000</b>

Over the life of this inter-agency relationship, SC Housing provided \$2.2 million in grant funding to the Office on Aging’s ERAEP.

The SIG review determined the Office on Aging was keenly interested in continuing the program in FY 2018. The SC Housing Board considered the request, but sought more information concerning the



program and the use of funds. The SC Housing Board did not receive the requested information; nevertheless, the SC Housing Board was aware of the program during the period to which the complaint referred. A review of emails at SC Housing and the Office on Aging determined the SC Housing former deputy director/program director never scheduled the ERAEP grant for presentation to the SC Housing Board.

### **Other SIG Observations**

#### **1. Internal Auditor Independence and Reporting Structure**

The SIG determined the current and former executive directors exercised strict control of the information flow to the SC Housing Board. As such, this can directly affect the independence of the internal auditor's findings where oversight concerns should be brought directly to the SC Housing Board's attention.

The SIG investigation determined that the internal auditor is a direct reporting subordinate to the executive director. This reporting structure is not consistent with industry best practices that ensure the independence of an internal auditor to fulfill the strategy and oversight functions of a governing board. It can result in a lack of independence due to the filtering of information by executive leadership prior to any independent finding made to the Board.

Per §1110 of the *International Standards for the Professional Practice of Internal Auditing (Standards)*, "Organizational independence is effectively achieved when the chief audit executive reports functionally to the board." The Standards further provide in §1111 that "The chief audit executive must communicate and interact directly with the board."

**SIG Recommendation:** The SC Housing Board should determine the core functions and duties required of the internal audit role and review available models designed to ensure the internal auditor's independence. It should then adopt an appropriate reporting structure.

#### **2. Agency Reserves and Emergency Funds**

Through interviews, the SIG observed that the SC Housing Board had not established a policy regarding minimum cash reserves for bond debt service, operations, and emergency funds.

In its Preliminary Official Statement dated 10/16/2019 regarding the offering of over \$111 million in Series 2019 B Bonds, SC Housing provided notice that the bonds do not constitute a debt, grant, or loan of credit by the State of South Carolina. The South Carolina Supreme Court has held that the State of South Carolina may not use appropriated money to pay the indebtedness represented by the SC Housing's bonds. Therefore, SC Housing is solely responsible for debt servicing of the bonds it issues. Consequently, SC Housing must have sufficient reserves to satisfy rating services such as Moody's that assess risk and grade bonds.

In justifying its "Aaa" rating of SC Housing bonds, Moody's cited SC Housing's transfer of approximately \$25 million in mortgage backed securities from the Homeownership Revenue Bond Program into the mortgage revenue bond program to support the 2019B bonds, to fund the 3% bond reserve requirement, and pay costs of issuance. Moody's noted that SC Housing had a program asset-to-debt ratio of 1.63x and margins of 49% in fiscal year 2018.

The SIG was not able to identify a SC Housing policy that established minimum cash reserves for bond debt service, operations, and emergency funds.

SIG Recommendation: The SC Housing Board should consider establishing a policy regarding minimum reserves for bond debt service, operations, and emergency funds.

### **3. SC Housing Management Structure**

The SIG observed that Executive Director Shropshire had eleven direct reporting subordinates, consisting of ten division (program) directors, and one executive assistant. The span of control contributed to a belief among senior managers the executive director lacked trust in senior management. In addition, it burdened the executive director with excessive day-to-day management decisions. Through interviews, the SIG also found that functions and tasks were not clearly defined between and among division directors. Tasks normally associated with the core business functions of a division were sometimes assigned across division lines, creating confusion and loss of accountability.

The SIG assessed that the executive director's span of control over eleven direct reporting subordinates was excessive. (*See Appendix F*)

SIG Recommendation: Executive Director Shropshire should re-consider the current senior level reporting structure in order to create a reasonable span of control for effective management, and assign tasks, responsibility, and accountability consistent with the core business functions of each division and standard business practices.

In closing, the SIG extends its gratitude to Executive Director Shropshire, and the SC Housing Board and staff for the assistance provided to the SIG during this review. The SIG is available to answer any questions you may have or provide a more detailed briefing to the committee members in this matter.

Sincerely,



Brian D. Lamkin  
Inspector General

Enc. (6)

Cc: The Honorable Henry McMaster, Governor  
The Honorable Harvey S. Peeler, Jr., Chairman, Senate Legislative Oversight Committee  
Bonita Shropshire, Executive Director, South Carolina Housing Finance and  
Development Authority  
Robert D. Mickle, Jr., Chairman, Board of Commissioners, South Carolina Housing Finance  
and Development Authority  
Marcia S. Adams, Director, Department of Administration  
Grant Gillespie, Executive Director, State Fiscal Accountability Authority