

BOARD MEETING OF AUGUST 19, 2004

Beth Anderson, Chair
C. Kent Conine, Vice-Chair



Patrick R. Gordon, Member
Vidal Gonzalez, Member
Shadrick Bogany, Member
Norberto Salinas, Member

MISSION

***TEXAS DEPARTMENT OF HOUSING AND COMMUNITY
AFFAIRS***

***TO HELP TEXANS ACHIEVE AN IMPROVED QUALITY OF
LIFE THROUGH THE DEVELOPMENT OF BETTER
COMMUNITIES***

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

AUGUST 19, 2004

ROLL CALL

	Present	Absent
Anderson, Beth, Chair	_____	_____
Conine, C. Kent, Vice-Chair	_____	_____
Bogany, Shadrick, Member	_____	_____
Gonzalez, Vidal, Member	_____	_____
Gordon, Patrick, Member	_____	_____
Salinas, Norberto, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
State Capitol Extension Auditorium, 1100 Congress, Austin, Texas 78701
Thursday, August 19, 2004 11:00 am

A G E N D A

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

Elizabeth Anderson
Chair of Board

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the department staff and motions made by the Board.

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

ACTION ITEMS

- | | | |
|--------|--|--------------------|
| Item 1 | Presentation, Discussion and Possible Approval of Minutes of Board Meetings of July 8, 2004 | Elizabeth Anderson |
| Item 2 | Presentation and Discussion of Single Family Marketing Efforts; Introduction of TKO Advertising, Inc. | Elizabeth Anderson |
| Item 3 | Presentation, Discussion and Possible Preliminary Approval of Single Family Mortgage Revenue Bonds, 2004 Series C, 2004 Series D, 2004 Series E and 2004 Series F (Program 62) | Vidal Gonzalez |
| Item 4 | Presentation, Discussion and Possible Approval of Resolution and Request for Use of Traditional Carry Forward Funds for Multi-Family Bonds | Vidal Gonzalez |
| Item 5 | Presentation, Discussion and Possible Approval of Housing Tax Credit Items: | Elizabeth Anderson |
| a) | Appeals to Board from Housing Tax Credit Applicants on Underwriting Matters: | |
| | 04-012 Tyler Square Apartments, Tyler, Texas, Reg. 4 | |
| | 04-018 College Station Terrace Pines, College Station, Texas, Reg. 8 | |
| | 04-032 Los Milagros Apartments, Weslaco, Texas Reg. 11 | |
| | 03-036 Villa Del Sol, Pharr, Texas, Reg. 11 | |
| | 04-079 Baybrook Apartments, Webster, Texas, Reg. 6 | |
| | 04-098 Copperwood Apartments, The Woodlands, Texas, Reg. 6 | |
| | 04-101 Pleasant Hill Apartments, Austin, Texas, Reg. 7 | |
| | 04-107 Whitefield Place Apartments, San Antonio, Texas, Reg. 9 | |
| | 04-147 Shiloh Village, Dallas, Texas, Reg. 9 | |
| | 04-149 Seton Home Center for Teen Moms, San Antonio, Texas, Reg. 9 | |
| | 04-160 The Village Hobbs Road, League City, Reg. 6 | |
| | 04-194 Lexington Court, Kilgore, Texas, Reg. 4 | |
| | 04-228 Stone Hearst, Beaumont, Texas, Reg. 5 | |
| | 04-246 Wildwood Trails, Brownwood, Texas, Reg. 2 | |
| | 04-268 Lansborough Apartments, Houston, Texas, Reg. 6 | |

Any Other Appeals Timely Filed

- b) Information from the 2004 Housing Tax Credit Cycle on Applications Likely Impacted by the Emergency Qualified Allocation Plan and by Successful Appeals Related to Quantifiable Community Participation
- c) Consideration and Possible Approval of Issuance of 2005 Housing Tax Credits as Forward Commitments to 2004 Housing Tax Credit Applications
- d) Extension Requests on Closing Deadline for 2003 Housing Tax Credit Awards
 - 03-001 Heritage Pointe Apts. Austin
 - 03-016 Amarillo Gardens Amarillo
 - 03-081 Wright Senior Apts. Grand Prairie
 - 03-159 Summit Senior Village Gainesville
 - 03-245 Meadows Place Senior Village Meadows Place
- e) Issuance of Determination Notices on Tax Exempt Bond Transactions with Other Issuers:
 - 04-435 Aventine Tarrant Parkway Apartments, Fort Worth, Texas
Tarrant County Housing Finance Corporation is the Issuer
(Requested Amount of \$751,233 and Recommended Amount of \$0)
 - 04-429 Uvalde Ranch, Houston, Texas
Victory Street Public Facility Corporation is the Issuer
(Requested Amount of \$604,806 and Recommended Amount of \$604,806)

Item 6 Presentation and Discussion of Report from Programs Committee: C. Kent Conine

- a) Update and Discussion on Section 8 Program
- b) Presentation and Discussion of 30-90 Day Rule Relating to the Weatherization Assistance Program (WAP), Comprehensive Energy Assistance Program (CEAP) and Community Services Block Grant (CSBG)

Item 7 Presentation, Discussion and Possible Approval of Programmatic Items: C. Kent Conine

- a) Board Action on Staff Recommendations For the 2004 Housing Trust Fund Capacity Building Awards From the **List of All Applications** Submitted

Application Number	Organization	Region	City	Amount Requested	Amount Recommended
04901	Opportunity Center for the Homeless	13	El Paso	\$30,000	\$30,000
04902	FUTURO Communities, Inc.	11	Uvalde	\$25,500	\$25,500
04903	Habitat for Humanity of Wichita Falls	2	Wichita Falls	\$30,000	\$30,000
04904	Alianza Para El Desarrollo Comunitario	13	San Elizario	\$30,000	\$30,000
04905	The Marvellous Light Corporation	13	El Paso	\$30,000	\$30,000
04906	United Cerebral Palsy of Texas	7	Austin	\$30,000	\$30,000
04907	Montgomery County Women's Center	6	The Woodlands	\$30,000	\$30,000
04908	South East Texas Economic Dev. District	5	Beaumont	\$30,000	\$0

04909	Affordable Housing of Parker County	3	Springtown	\$30,000	\$30,000
04910	Midland Community Development Corp.	12	Midland	\$30,000	\$30,000
04911	South Plains Community Action Assoc.	1	Levelland	\$30,000	\$30,000
04912	Denton Affordable Housing Corporation	3	Denton	\$30,000	\$30,000
04913	Ability Resources Inc.	3	Fort Worth	\$30,000	\$30,000
04914	Austin Revitalization Authority	7	Austin	\$25,150	\$25,150
04915	Accessible Communities Inc.	10	Corpus Christi	\$29,480	\$0
04916	Habitat for Humanity of Denton County	3	Denton	\$34,500	\$30,000

b) Board Action on Staff Recommendations For FY 2004 HOME Program Awards: Homebuyer Assistance (HBA); Owner Occupied (OCC); and Tenant Based Rental Assistance (TBRA)

Applicant	Region	Project Funds Requested	Project Funds Recommended
City of Lorenzo	1	\$100,000.00	\$100,000.00
City of Abernathy	1	\$495,000.00	\$495,000.00
South Plains Community Action Association, Inc.	1	\$500,000.00	\$444,279.00
City of Crosbyton	1	\$250,000.00	\$250,000.00
City of Ropesville	1	\$500,000.00	\$500,000.00
City of De Leon	2	\$495,000.00	\$231,623.00
City of Ranger	2	\$495,000.00	\$495,000.00
City of Cisco	2	\$500,000.00	\$500,000.00
Central Texas Mental Health Mental Retardation	2	\$240,000.00	\$240,000.00
City of McKinney	3	\$150,000.00	\$150,000.00
City of Bonham	3	\$100,000.00	\$100,000.00
Habitat for Humanity Council of North Central Texas	3	\$100,000.00	\$100,000.00
City of Alvarado	3	\$434,000.00	\$434,000.00
City of Commerce	3	\$495,000.00	\$240,569.00
City of Mesquite	3	\$500,000.00	\$500,000.00
Cornerstone Community Development Corporation	3	\$10,000.00	\$10,000.00
City of Terrell	3	\$500,000.00	\$500,000.00
City of Lewisville	3	\$416,000.00	\$416,000.00
City of Boyd	3	\$495,000.00	\$240,569.00
City of Josephine	3	\$495,000.00	\$495,000.00
City of Wolfe City	3	\$495,000.00	\$495,000.00
City of Bridgeport	3	\$275,000.00	\$275,000.00
City of Whitesboro	3	\$495,000.00	\$495,000.00
Affordable Housing of Parker County, Inc.	3	\$131,160.00	\$131,160.00
Texas Neighborhood Services	3	\$492,216.00	\$492,216.00
The Harrison County Housing Finance Corporation	4	\$100,000.00	\$100,000.00
City of Jacksonville	4	\$250,000.00	\$250,000.00
City of Wake Village	4	\$275,000.00	\$275,000.00
City of Roxton	4	\$385,000.00	\$385,000.00
City of Trinidad	4	\$495,000.00	\$495,000.00
City of Cooper	4	\$495,000.00	\$275,928.00
City of Texarkana	4	\$500,000.00	\$81,389.00
City of Caney City	4	\$495,000.00	\$275,928.00
City of Waskom	4	\$495,000.00	\$495,000.00

City of Jacksonville	4	\$300,000.00	\$300,000.00
Special Health Resources for Texas, Incorporated	4	\$500,000.00	\$500,000.00
Affordable Caring Housing, Inc.	4	\$268,992.00	\$233,311.00
Alpha Concepts, Inc.	5	\$350,000.00	\$350,000.00
Faith Temple COGIC - Silsbee, Inc.	5	\$75,000.00	\$75,000.00
City of Corrigan	5	\$495,000.00	\$335,343.00
Corrigan Housing Authority	5	\$495,000.00	\$335,342.00
City of Nacogdoches	5	\$500,000.00	\$500,000.00
Buckner Children & Family Svs. Inc. dba Buckner Family Place	5	\$425,000.00	\$398,921.00
Spindletop Mental Health Mental Retardation Services	5	\$163,700.00	\$163,700.00
Dayton Housing Authority	6	\$30,000.00	\$30,000.00
The Southeast Texas Housing Finance Corporation	6	\$250,000.00	\$250,000.00
The Southeast Texas Housing Finance Corporation	6	\$250,000.00	\$250,000.00
City of Huntsville	6	\$500,000.00	\$500,000.00
City of La Marque	6	\$500,000.00	\$411,511.00
City of Cleveland	6	\$500,000.00	\$496,378.00
Affordable Caring Housing, Inc.	6	\$174,048.00	\$174,048.00
City of Wharton	6	\$495,000.00	\$347,657.00
City of Dayton	6	\$500,000.00	\$500,000.00
San Marcos Reinvestment Corporation	7	\$100,000.00	\$100,000.00
City of Jonestown	7	\$495,000.00	\$408,167.00
City of Martindale	7	\$495,000.00	\$408,167.00
City of Thrall	7	\$275,000.00	\$275,000.00
City of San Marcos	7	\$500,000.00	\$453,868.00
City of Granger	7	\$220,000.00	\$181,407.00
Combined Community Action, Inc.	7	\$80,000.00	\$80,000.00
Temple Housing Residential Corporation	8	\$60,000.00	\$60,000.00
Temple Housing Residential Corporation	8	\$365,000.00	\$236,640.00
City of Hamilton	8	\$162,000.00	\$162,000.00
City of Bellmead	8	\$500,000.00	\$51,992.00
City of Lacy Lakeview	8	\$220,000.00	\$220,000.00
City of Lometa	8	\$495,000.00	\$495,000.00
City of Temple	8	\$500,000.00	\$51,991.00
Temple Housing Authority	8	\$189,000.00	\$189,000.00
City of New Braunfels	9	\$100,000.00	\$18,809.00
City of Dilley	9	\$495,000.00	\$159,375.00
Housing Authority of City of Dilley	9	\$495,000.00	\$159,375.00
Frio County	9	\$500,000.00	\$500,000.00
City of Pearsall	9	\$500,000.00	\$500,000.00
Comal County Housing Authority	9	\$400,000.00	\$334,390.00
Catholic Charities	10	\$500,000.00	\$500,000.00
Housing Authority of the City of Beeville	10	\$150,000.00	\$150,000.00
Institute of Rural Development	10	\$495,000.00	\$234,425.00
City of Premont	10	\$495,000.00	\$214,171.00
City of Hallettsville	10	\$500,000.00	\$500,000.00
Community Action Corporation of South Texas	10	\$448,000.00	\$448,000.00
The Latino Education Project (LEP)	10	\$300,000.00	\$300,000.00
City of Mathis	10	\$495,000.00	\$347,656.00
City of San Benito	11	\$400,000.00	\$167,516.00

Community Development Corporation of Brownsville	11	\$500,000.00	\$500,000.00
Southern Rio Services, Inc.	11	\$350,000.00	\$350,000.00
Community Colonias Organization, Inc.	11	\$500,000.00	\$122,050.00
Community Colonias Organization	11	\$245,000.00	\$245,000.00
City of Santa Rosa	11	\$500,000.00	\$500,000.00
Zapata County	11	\$500,000.00	\$500,000.00
Town of Combes	11	\$500,000.00	\$220,156.00
Willacy County Housing Authority	11	\$200,000.00	\$200,000.00
Edinburg Housing Authority	11	\$500,000.00	\$451,180.00
City of Midland	12	\$75,000.00	\$75,000.00
City of Midland	12	\$240,000.00	\$240,000.00
City of Grandfalls	12	\$495,000.00	\$495,000.00
City of Junction	12	\$250,000.00	\$112,565.00
City of Lamesa	12	\$250,000.00	\$112,564.00
City of Balmorhea	12	\$500,000.00	\$500,000.00
Buckner Children & Family Services, Inc. dba Family Place at Hearthstone	12	\$78,156.00	\$78,156.00
Sparks Housing Development Corporation	13	\$450,000.00	\$338,790.00
Town of Anthony	13	\$500,000.00	\$180,333.00
City of Presidio	13	\$500,000.00	\$448,848.00
El Paso Community Mental Health Mental Retardation Center	13	\$404,040.00	\$404,040.00

Item 8 Presentation, Discussion and Possible Approval of Rules to be Published in *Texas Register*: Elizabeth Anderson

- a) Housing Tax Credit Program Rules: Proposed Repeal of Title 10, Part 1, Chapter 49 – 2003 Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules; and Proposed New Title 10, Part 1, Chapter 49 – 2005 Housing Tax Credit Program Qualified Allocation Plan and Rules
- b) Home Investment Partnerships Program (HOME) Rules: Proposed Amendment to Title 10, Part 1, Chapter 53 – Home Investment Partnerships Program
- c) Housing Trust Fund Rules: Proposed Amendment to Title 10, Part 1 Chapter 51 – Housing Trust Fund Rules
- d) Real Estate Analysis Rules: Proposed Amendment to Title 10, Part 1 Chapter 1, Subchapter B - Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, and Property Condition Assessment Rules And Guidelines and Proposed New § 1.37 Reserve for Replacement Rules and Guidelines
- e) Compliance Monitoring and Asset Management Rules: Proposed Amendment to Title 10, Part 1, Chapter 60, Subchapter A – Compliance Monitoring and Asset Management, Section 60.1 Compliance Monitoring Policies and Procedures

Item 9 Presentation and Discussion of Report from Audit Committee Meeting: Shad Bogany

- a) HUD Annual Assessment for Program Year 2003

- b) SAO Audit Report on Compliance with Benefits Proportional by Fund Requirements in Fiscal Years 2002 and 2003
- c) Comptroller of Public Accounts Post-Payment Audit of Certain Disbursement Transaction Types
- d) Status of Prior Audit Issues
- e) Status of Internal/External Audits
- f) Status of Central Database
- g) Report on Personnel Evaluation of Internal Auditor

EXECUTIVE SESSION

Elizabeth Anderson

If permitted by law, the Board may discuss any item listed on this agenda in Executive Session

Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning an Investigation by the Brazoria County Criminal District Attorney on Forged Letters Concerning Tranquility Bay Apartments

Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning Pending or Contemplated Litigation

Personnel Matters – Discussion Under Sec. 551.074, Texas Government Code, of Performance Evaluation for Internal Auditor

OPEN SESSION

Elizabeth Anderson

Action in Open Session on Items Discussed in Executive Session

REPORT ITEMS

Executive Directors Report

1. National Award for Excellence in Community Action for Community Action Council of South Texas
2. Department Outreach Activities – Meetings, Trainings, Conferences, Workshops for July, 2004
3. Special Recognition Award from Community Affairs Division
4. Draft Legislative Appropriations Request

ADJOURN

Elizabeth Anderson

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

EXECUTIVE OFFICE
BOARD ACTION REQUEST
AUGUST 19, 2004

Action Item

Board Minutes of July 8, 2004.

Required Action

Review of the minutes of the Board Meeting and make any necessary corrections.

Background

The Board is required to keep minutes of each of their meetings. Staff recommends approval of the minutes.

Recommendation

Approve the minutes with any requested corrections.

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1100 Congress Avenue, State Capitol Extension Auditorium, Austin, Texas 78701
July 8, 2004 9:00 a. m.

Summary of Minutes

CALL TO ORDER, ROLL CALL

CERTIFICATION OF QUORUM

The Board Meeting of the Texas Department of Housing and Community Affairs of July 8, 2004 was called to order by the Chair of the Board Elizabeth Anderson at 9:20 a.m. It was held at the State Capitol Extension Auditorium, 1100 Congress, Austin, Texas 78701. Roll call certified a quorum was present.

Members present:

Elizabeth Anderson – Chair

C. Kent Conine – Vice Chair

Shadrick Bogany – Member

Vidal Gonzalez – Member (joined the meeting in progress)

Patrick Gordon - Member

Norberto Salinas – Member

Staff of the Texas Department of Housing and Community Affairs was also present.

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Board.

Ms. Anderson called for public comment and the following either gave comments at this time or preferred to wait until the agenda item was presented.

Bob Montgomery, Denton City Council, Place 5, Councilman-at-Large, Denton, Texas

Mr. Montgomery stated he was in support of project number 04151 Renaissance Courts. If this project is approved, it will replace deteriorated public housing project that is in that location now. The new project will be well located and is in the heart of where they need affordable housing. The city council, legislative representative, and congressman have endorsed it.

David Kelly, Denton, Texas

Mr. Kelly stated he was speaking on behalf of the Denton Housing Authority and this project is on the recommended but not the funded list from the last meeting. They had about 200 public support letters.

Shirley Hensley, Interim Director Denton Housing Authority, Denton, Texas

Ms. Hensley thanked the Board members for giving them the opportunity to speak on behalf of awarding the Denton Housing Authority tax credits for Renaissance Courts. The project to build a replacement for the families that live at the Phoenix Apartments presently in Denton began four years ago and the Housing Authority has purchasing property in various neighborhoods. The plan that the neighborhood and the city approved was to rebuild on that same site as the Phoenix as it is a deteriorated apartment building. These apartments have assisted families that are low-income for 30 years and the new Renaissance Courts will continue to foster these families in a mixed income development. The amenities the development has proposed will add to the revitalization of this neighborhood. Churches, the city officials, the neighborhood associations, service organizations are supporting this development. Denton Housing Authority has 1,300 individuals and families on their waiting list for housing, and there is an urgent need to provide the area with affordable and desirable

housing. The residents, the neighborhood and the City support the development and ask for the Boards consideration.

Betty Jean Longoria, Nueces County Commissioner, Corpus Christi, Texas

Ms. Longoria thanked the Board for the opportunity to address them and wanted to thank each and every one for the time and effort that they give to serve on this board. She has been a Nueces County Commissioner for a year and a half. She was in support of 04-290, L.U.L.A.C. Village Park Apartments. These are 152 units that are 35 years and have been maintained but need updating. Community Action does have a daycare, and they foresee that in the future, we will be able to provide a larger area for them, so they can serve a larger population of children there. They need to add air conditioning, carpeting and make the kitchen appliances energy efficient. There will be a swimming pool and an outside area to have barbecues.

Perla Cavazos, Senator Lucio's Office, Austin, Texas

Ms. Cavazos read a letter on behalf of Senator Lucio, regarding file number 04-037, Las Canteras in Pharr, Texas which stated:

"Dear Ms. Carrington. I would like to commend you, your board members and your staff for the outstanding improvements made within the Texas Department of Housing and Community Affairs in the last few years. Overall, your agency has done an impressive job of implementing the comprehensive legislation passed during the 77th and 78th Legislative Sessions. I trust in the Agency to do its best in upholding these responsibilities and will continue to monitor your progress. At this time, I would like to express my full support for Las Canteras Apartments in their appeal to the TDHCA Board of Directors for 2004 tax credits. Las Canteras Apartments was not recommended to the board because its letters of support were considered unqualified under the guidelines set forth by the Agency. The four neighborhood organizations that submitted support letters have been active in affordable housing for an average of 15 years. There is no doubt in my mind that these organizations represent the needs, concerns and housing challenges of Pharr and Hidalgo County families.

I feel that at least some of the letters of support submitted by these neighborhood organizations and other community organizations should be considered in the scoring of their tax credit application. The Las Canteras application was also denied points for its public meeting. Although word-for-word transcripts of a public meeting were not submitted, due to an equipment malfunction, the developer went above and beyond the call of duty by submitting several materials that verified the meeting took place, including affidavits signed by all attendees stating the meeting summary was accurate. I am concerned by the method used by your staff in processing letters from local communities with regard to applications for financing the tax credits. While I recognize that the enabling legislation was not written as clearly as the agency would have preferred, I am concerned that the spirit and intent of the legislation to encourage local groups to comment on specific applications is being diminished by an overly technical reading of the QAP.

Additionally, I am concerned that unless the process is improved, community members will feel sidelined and ignored by the process, thereby having the reluctance to write future letters of support. I would believe actions such as this would be detrimental to the intent of the bill, SB 264. I appreciate your efforts to bring more affordable housing to low and moderate-income Texans, but I strongly urge you and the board of directors to reconsider the award process for the quantifiable community participation. I would be more than happy to provide additional feedback on this matter. Thank you for your kind attention to this matter, and for all that you do for Texas families in need."

Robert Garza, Legislative Director for Senator Gallegos, Austin, Texas

Mr. Garza stated he was reading a letter into the record from Senator Gallegos which stated:

"I am writing today in regard to the board appeal by Creative Choice Texas for the rehabilitation of the Ambassador North Apartments, TDHCA number 04188. This project is located within Senate District 6 and identified by both elected officials and community leaders as a project that is sorely needed. Mayor White has identified that rehabilitation of existing structures as this project sets forth a priority in the City of Houston, and both Representative Bailey and I support Creative Choice's efforts. As I am sure that I do not need to tell you, revitalization of older buildings in our inner cities and the opportunity to restore and renovate this property in particular is greatly needed. I am concerned that the previous appeal was based on ambiguous and inconsistent

interpretations of the 2004 QAP, namely Section 50.3(47)(g) relating to new construction and section 50.5(a)(8), relating to distance restrictions for new developments.

These issues are elaborated more in correspondence with John C. Shackelford, attorney for Creative Choice. I urge the board to revisit his correspondence and give Creative Choice's appeal a favorable vote. Sincerely, Mario Gallegos."

Richard Brown, Co-Developer of Brownstone Affordable Housing,

Mr. Brown stated he was speaking on behalf of San Diego Creek Apartments, 04-050. He had concerns on the community participation letter. On the community participation letter there were affidavits signed by Kelly Hunter stating that this is an affidavit that she sent in on this community participation letter. The logs reflect that she sent in the documentation and he asked for the point to be put back for the project as the affidavit was submitted. He also had concerns about leveraging as there were three, six and nine points in leveraging. They gave one point to three, two points to six, and simple mathematics says that one should give three points to the nine, which would make a 33% increase on an even average. Five points given to that category on nine and there was two extra points. He felt the entire process wasn't fair and asked the Board to be fair on that project.

The next project he spoke on was Vista Del Sol, Rudy C. Perez Apartments, 04-250. They were on the recommended list with original rules. It was one of the highest scoring nonprofits in the state and was higher than some of the non-profits selected. The nonprofit is American Opportunity for Housing. The only fair thing to do, and not only this project but the projects that basically got knocked out because of the rule change, to look at them and determine that they are worth of a forward commitment.

Susana Benavidez, Representing Congressman Charlie Gonzalez, Washington, DC

Ms. Benavides read a letter that the Congressman has prepared for Ms. Carrington which stated:

"Dear Ms. Carrington, I would like to reiterate my support for the rehabilitation of the Las Palmas Garden Apartments. These apartments are located in west San Antonio, an area that has experienced very little economic development in the past. While I would like to personally attend the Committee meetings and the Texas Department of Housing and Community Affairs board meetings, my schedule constraints prevent me from doing so. However, my staff has kept me abreast of the progress of this application by attending the meetings and speaking on my behalf to express my unequivocal support of this worthy development. The rehabilitation of Las Palmas Garden Apartments can serve as a catalyst for the area. The San Antonio Housing Authority built a 30-unit senior development in this area, but that is not sufficient in meeting the housing needs in this particular area. You have the ability to change the lives of my constituents who are the residents of Las Palmas Garden Apartments. A better apartment with air conditioning and energy efficiencies would make their lives more comfortable and would give them the ability to save more money.

A building to house services that will improve their children's education and skills providing them with a more promising future. One of the residents is over 80 years of age, and has been a resident at Las Palmas Garden Apartments for many years. I would like to respectfully request your consideration for awarding housing tax credits in this round, or a forward commitment for the 2005 round, as those would give this area an opportunity for growth.

"If you should need any additional information, please call my office at 210/472-6195. Thank you for the consideration extended to the Las Palmas Garden Apartments appeal."

Jessica James, Resident of the Las Palmas Garden Apartments, 04074.

Ms. James stated she was looking forward to the rehabilitation of our apartments and read into the record a second letter of support from our State Representative Joaquin Castro which stated:

"Dear Ms. Carrington. I want to take this time to write the Texas Department of Housing and Community Affairs and express my support for the rehabilitation of Las Palmas Garden Apartments. This part of the west side of San Antonio has experienced very little economic development in its past. The rehabilitation of Las Palmas Garden Apartments could serve as a catalyst for the area. The San Antonio housing authority built a 30-unit senior development in this area, but it still does not scratch the surface of the needs. You have the ability to change the lives of the residents of Las Palmas Garden Apartments. A better apartment with air-conditioner and

energy efficiency would make their lives more comfortable and would give them the ability to save more money. These changes will improve their children's education and provide them with more promising future. Your consideration for awarding housing tax credits in this round, or a forward commitment for the 2005 round, would give this area an opportunity for a rebirth. Thank you for your time and consideration. If you have any questions, please feel free to contact me or my staff at my district office at 210/684-6896. Sincerely, Joaquin Castro."

Margarita James, Resident, San Antonio, Texas

Ms. James spoke in support of application 04074, Las Palmas Garden Apartments in San Antonio, Texas. She is a resident at Las Palmas and stated the rehabilitation of 39-year-old property is very important to the families of Las Palmas Garden Apartments. More than half of the residents have sent in letters to support this endeavor and many have attended community meetings. Aside from needing major repair, rehabilitation, the apartments have no air-conditioning or central heat. They could use new appliances, ceiling fans, carpeting, flooring, better security and a community center.

Manuel Garza, Edgewood Neighborhood Association, San Antonio, Texas

Mr. Garza spoke on behalf of the Vista Del Sol, Rudy C. Perez Apartments 04258. He presented letters of support from Mayor Garza, State Representative Jose Menendez, State Representative Joaquin Castro, and City Councilwoman Patty Radle. Others will be forwarding letters to you from the city council members and State Senator Van de Putte and Congressman Charlie Gonzalez. Edgewood Neighborhood Association is on record with the City and the committee of workers' council is on record with the Secretary of State and they have been since 1956. It is a veteran and blacks organization that started in Edgewood, and they had recently made some payments at the Secretary of State office, so they are on record with the Secretary of State's office. They would like to get funded this year but also asked the Board to consider a forward commitment.

The Honorable Kino Flores, State Representative, Austin, Texas

The Representative stated he is the Representative for District 36, as chairman of the Licensing and Administrative Committee, and as a dad and as a coach of the Little League Baseball program in their area. He spoke on behalf of 04037, Las Canteras Apartments in Pharr. This is an area that needs help and he has seen what can be done for the children with this complex. This is about children and what they have been able to do with children who have never had an opportunity to live in a better home, to travel out of the area, to be part of the community and to give back in the community, and to ask for consideration on two technicalities. One is the issue of not being tape-recorded. Sworn affidavits have been submitted on the meeting taking place and it is the only nonprofit organization in the area. And the other issue of the certification and the papers of the neighborhood association that testified in favor of the project, the sworn affidavits had been submitted. The paperwork from the county clerk's office had been submitted. He asked consideration for this project as nothing more important in District 36 today than it is for the children of District 36.

Ms. Anderson stated she had several letters that she was asked to read into the record.

The first letter was from State Representative Myra Crownover in District 64 which stated:

"It is my understanding that the Renaissance Courts development in Denton, Texas, is still under consideration by the board of the Texas Department of Housing and Community Affairs. Therefore, I wanted to take a moment to explain how important this development is to my district. Renaissance Court is an essential part of a larger master plan, and is vital to the continued revitalization of the neighborhood that has recently seen the construction of the Denton County Courthouse, Denton Sheriff's office, Martin Luther King, Jr., Community Center and a new city park as well as other numerous projects. I understand the need for affordable housing is acute in Texas. However given the project's broad impact on both continuing redevelopment of Denton's southern gateway, and the provision of much-needed housing in the area, I believe this project should be a priority for funding at the earliest possible date. In addition to being the northwest anchor of the courthouse redevelopment zone, Renaissance will replace 110 units of substandard existing housing with 150 units of quality affordable housing. Sincerely, Myra Crownover."

The next letter is the letter from Sen. Gallegos and the staff person spoke to the letter which stated:

"I am writing with regard to the board appeal by Creative Choice Texas for the rehabilitation of the Ambassador North Apartments, TDHCA number 04188. This project is located within Senate District 6, and is identified by both elected officials and community leaders as a project that is sorely needed. Mayor White has established, has identified the rehabilitation of existing structures as this project sets forth the priority of the City of Houston. Both Representative Bailey and I support Creative Choice's efforts. I am sure I do not need to tell you that revitalization of older buildings in our inner cities, and the opportunity to restore and renovate this property in particular is greatly needed.

"I am concerned that the previous appeal is based on ambiguous and inconsistent interpretations to the 2004 QAP, namely Section 50.347 (g) relating to new construction, and 50.588 relating to distance restrictions for new developments. These issues are elaborated more in correspondence from John C. Shackelford, attorney for Creative Choice. I urge the board to revisit his correspondence and give Creative Choice's appeal a favorable vote."

The next letter was from Representative Senfronia Thompson, concerning tax credit application number 04224, The Commons at Grace which stated:

"It is my understanding that you will be reviewing the above application tomorrow, therefore, I would like to lend my support for a much-needed housing project within my legislative district. There are few housing projects dedicated to senior citizens. I am happy that this organization made an application to build such a worthy project. In Houston alone, there is a great need for housing for all ages of citizens. I am sure you are aware that many senior citizens are unable to financially maintain themselves in their homes because the majority of them are on a fixed income.

That income does not allow them to have the conveniences many of them so desperately -- such as staying warm in the winter months and cool on the hot summer months, making the choice to buy food, medicine or comfort so necessary while living within in the south. So many of them opt to drop the needed comfort. The Commons of Grace will allow them to live in a comfortable environment, enable them to afford the purchase of their medications and certainly eat nourishing meals. We all believe they deserve at least these comforts at this stage of their life. Meanwhile, I am again lending my total unconditional support for this worthy and needed project."

The last letter was from Congressman Sheila Jackson Lee and the letter stated:

"I write this letter in support of three proposed projects that are situated in my congressional district that are pending on your agenda for approval. The first two projects are in the Acres Homes Community and the third project is located on Cullen Boulevard. These three projects, if approved, will offer affordable housing for people of low median income. These proposed projects would greatly enhance the housing stock not only in my district, but also in the entire City of Houston. As you know, there is a serious need in Houston for expanded and affordable housing resources, and particularly in the 18th Congressional District because of the increasing population of young families and the elderly. The true tragedy is that many of these people are in fact employed, yet they still cannot afford suitable housing. The projects referenced in this letter will be a part of helping to alleviate this problem. In fact, it is my belief that they will keep some families from having to live in less than desirable conditions. These projects are part of an effort to give a helping hand to the thousands of people in Houston who deserve adequate housing, but do not have access to affordable housing options. Thank you for considering my support for the proposed projects referenced in this letter, situated in the 18th Congressional District."

Jerry Wright, Investment Banker, Houston, Texas

Mr. Wright did not give any comments.

Chris Engle, Austin, Texas

Mr. Engle did not give any comments.

Darrell Jack, San Antonio, Texas

Mr. Jack did not give any comments.

Michael Moses, Cleveland, Ohio

Mr. Moses did not give any comments.

Harvey Davis, Travis County Housing Finance Corp., Austin, Texas

Mr. Davis did not give any comments.

John Pitts, Attorney, Austin, Texas

Mr. Pitts did not give any comments.

Belinda E. Taylor, Houston, Texas

Ms. Taylor did not give any comments.

Charles Taylor, Sr. Houston, Texas

Mr. Taylor did not give any comments.

Barbara Gaston, Houston, Texas

Ms. Gaston did not give any comments.

Willis R. Taylor, Houston, Texas

Mr. Taylor did not give any comments.

Dick Kilday, Houston, Texas

Mr. Kilday did not give any comments

Les Kilday, Houston, Texas

Mr. Kilday did not give any comments.

ACTION ITEMS

- 1) **Presentation, Discussion and Possible Approval of Minutes of Board Meeting of June 10, 2004**
Motion made by Shad Bogany and seconded by C. Kent Conine to approve the Minutes of the Board Meeting of June 10, 2004.
Amendment accepted to the motion by Mr. Bogany and Mr. Conine to change the four years to 40 years on the Tranquility Bay project in the minutes.
Passed Unanimously

- 2) **Presentation, Discussion and Possible Approval of Housing Tax Credit Items:**
a) **Appeals to Board from Housing Tax Credit Applicants on Application Matters:**

Project #	Project Name
04037	Las Canteras Apartments
04041	Mesa Senior's Apartments
04050	San Diego Creek Apartments
04052	Chisholm Trail Senior Village
04060	Providence Place Apartments
04063	Depriest Gardens
04064	Ramah Village
04120	Sedona Springs Village
04120	Sedona Springs Village
04141	Spring Creek Station Apartments
04143	Courtland Square Apartments
04211	Arbors at Rose Park
04213	Village at Morningstar
04214	Las Villas de Magnolia
04214	Las Villas de Magnolia

04218	Converse Village Apartments
04252	Waxahachie Senior Apartments
04258	Vista Del Sol-The Rudy C Perez, Sr.
04268	Lansborough Apartments

Any Other Appeals Timely Filed

04-036, Villa Del Sol Apartments

Ms. Carrington stated the appeal for Villa Del Sol was denied by the Executive Director and the developers are now appealing to the Board. There was insufficient documentation to determine whether the neighborhood organizations listed were on file with the county or state and insufficient documentation to establish they were within the boundaries of the development site. They provided new documentation but it was submitted after the deadline to submit.

William Lee, Developer, Austin, Texas

Mr. Lee gave his time to Mr. Skeen.

Bill Skeen, Developer, Austin, Texas

Mr. Skeen stated the Vista Del Sol Resident Council did submit a letter of support for this project. All the support letters came from 3 resident councils which represent over 500 families. The Housing Authority has agreed to provide an annual subsidy of over \$400,000 for residents of this project. He asked the Board to allow the support letters to be counted in the points for quantifiable community participation.

Mary Gutierrez, President of Linda Vista, Las Vista Sunset Terrace and Rose Garden Association, Brownsville, Texas

Ms. Gutierrez stated the department did not award any points for community support letters for Villa Del Sol application. She stated the renovation of this project is for all residents of public housing in Brownsville. The Brownsville Housing Authority does not have enough money to renovate the building so they need tax credits. This project is for the elderly and disabled people who have little money.

Maria Socorro Basavilvazo, President, Vista Del Sol Resident Association, Brownsville, Texas

Ms. Basavilvazo stated the organization was created in 1999 to support the residents of Villa Del Sol and they are a volunteer organization with the board members being elected annually. The department did not award any points for letters of support for this application as they stated she provided insufficient evidence that the organizations boundaries included the proposed development site. This organization does represent the residents of this development and she asked that the Board award the points for their support of this project.

Remberto Arteaga, Brownsville Housing Authority, Brownsville, Texas

Mr. Arteaga asked the Board to grant this appeal and award points for the letters of support. The resident councils are neighborhood organizations and are an important part of the community. The department did not recognize their letters and this project is not being recommended by the staff. There is strong support from the City of Brownsville, the State Senator, Representative and US Congressman. They have leveraging and he asked the Board award points for community support letters.

Mr. Chris Wittmayer, General Counsel, stated the department lacked documentation that these councils were on record with the state or county. He stated the Villa Del Sol project had in their appeals papers a document that was stamped as received by the department prior to April 30th. He recommended that the department take this evidence and review and issue a new determination.

Motion made by C. Kent Conine and seconded by Norberto Salinas to have the resident's council letter stand and qualify and that EARAC should score it and that the other 3 be denied.

Passed Unanimously

04-037 Las Canteras Apartments

Ms. Carrington stated this appeal also related to the scoring of letters for quantifiable community participation. 4 letters were received and not scored and staff is recommending that these points not be granted.

Ms. Jennifer Joyce, Program Analyst for the Multifamily Finance Production Division, stated the letters were not scored as they did not provide the number of total members of the organization and the reason that they support the project. The proof that this group was a neighborhood organization was not provided.

Mr. Wittmayer stated the transcript of a public hearing is required to be submitted and all they submitted was minutes of the hearing and they did not provide a transcript.

Bill Skeen, Developer, Austin, Texas

Mr. Skeen stated they are requesting points for quantifiable community participation and asked that the points be reinstated for the public hearing. He asked for the points for the public hearing as they submitted the minutes and provided evidence that a meeting was held. This meeting was held less than ½ mile of the site location. Their tape recorder broke and they did not provide a word for word transcript of the hearing. He provided minutes of the hearing in both English and Spanish, a copy of the power point presentation, photographs and affidavits from everyone who attended.

Margaret Shaw, Austin, Texas

Ms. Shaw gave her time to Ms. Gutierrez.

Claudia Barbarer, Interpreter, Pharr, Texas

Ms. Barbarer acted as the interpreter for Maria Gutierrez.

Maria Gutierrez, President of Sunset Terrace Resident Council, Brownsville, Texas

Ms. Gutierrez stated she was in support of the project and many residents of this council did submit support letters. This group is in unanimous support of the project and the site is near a school and will have many amenities for the people who have children. She asked the Board to support this application and award the points for the support letters from Sunset Terrace Resident Council.

Hollis Rutledge, Mission, Texas

Mr. Rutledge stated this project will address replacement of demolished public housing and the Housing Authority will provide rental assistance for the very low income renters. He asked that the points for the public hearing be given to this project along with points for quantifiable community participation.

Leo Palacios, Mayor, City of Pharr, Texas

Mayor Palacios requested support from the Board for Las Canteras Apartments. There is support from the Public Housing Authority, the residents of Pharr and the elected officials.

Roy Navarro, Pharr Housing Development Corporation, Pharr, Texas

Mr. Navarro stated they are appealing staff's decision not to award points for quantifiable community participation and to deny points for them for not having a transcript of a public hearing. There are over 400 low income families on the waiting list and these units will assist these people.

Fred Sandoval, Assistant City Manager, City of Pharr, Texas

Mr. Sandoval stated this project is important to Pharr as they have many families and children who do not have safe, decent and affordable housing. The city will waive all development fees and permitting fees for this project and they are committed to assisting this project.

Apollonio Flores, Consultant to the PHA, San Antonio, Texas

Mr. Flores stated he was at the public hearing and attested to the accuracy of the minutes of the hearing.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the appeal except for the letter from Habitat for Humanity of McAllen but all the other 3 letters should be approved.

Amendment to the motion made by Beth Anderson to consider the Las Milpas Residents' Council letter for scoring only. This amendment was accepted by Shad Bogany and Norberto Salinas.
Passed Unanimously

Motion made by made by Shad Bogany and seconded by Norberto Salinas to grant the appeal for the public hearing based on the information supplied and the affidavits that were furnished for this meeting.
Passed Unanimously

04-041, Mesa Seniors Apartments

Ms. Carrington stated this appeal relates to the points that were eligible for receiving a letter on a subsidy being a grant or a forgivable loan and letters from the City of Houston on a pay back of the funds.

Sally Gaskin, Sponsor of Mesa Seniors Apartments, Houston, Texas

Ms. Gaskin stated on Mesa Seniors the loan is forgivable on a monthly basis. The QAP was not specific other than stating that it should be a grant or forgivable loan and she felt this qualified as a forgivable loan.

Motion made by C. Kent Conine and seconded by Norberto Salinas to grant the appeal for Mesa Senior Apartments on the City of Houston letter on the forgivable loan statute as well as all other projects that are related to that particular letter from the City of Houston. EARAC needs to go back and score them.
Passed Unanimously

Reverend Harvey Clemons, Jr., Pastor, Houston, Texas

Rev. Clemons asked for a clarification on all projects that had an appeal under the City of Houston letter and was advised that this motion was for all projects and EARAC would score the letters.

Ms. Carrington stated they also had an appeal on a letter from the East Houston Super Neighborhood Council and the application is appealing the fact that this letter did not receive points under the quantifiable community participation.

Mr. Chris Wittmayer stated EARAC scored the letter but it received a zero as the department determined that the expressions in the letter and in the materials that the documentation included would be inconsistent with the Department's obligation to affirmatively further fair housing.

Ms. Gaskin stated they worked with the community and found out that they needed senior housing in this area.

Elizabeth Julian, Attorney, Dallas, Texas

Ms. Julian read an opinion letter on Fair Housing into the record which stated:

"Dear Ms. Gaskin. You have asked my opinion on the issue of whether a letter of support from a qualified neighborhood association for a specific senior housing development under consideration by TDHCA which contains the statement, 'We currently have too many low-income family developments in our community; however, we have no senior developments' runs afoul of the language of the QAP which states that TDHCA will give no points for input which, 'evidences unlawful discrimination under the Fair Housing law.'" And I am quoting from the QAP in that regard. That is, as I understand it, the basis upon which TDHCA advised developers that input would not be scored related to Fair Housing, was if it evidenced unlawful discrimination under the Fair Housing law. You indicated that the proposed development is located in a predominantly African-American neighborhood in Houston, and that there are, in fact, a substantial number of low-income family developments in the area served by the neighborhood association.

You indicate that the neighborhood organization is specifically in support of your proposed development because it will be a senior development, operated as housing for older persons pursuant to the terms of such housing under the Fair Housing Act, which can lawfully school children under 18 years of age. You indicated that such support is consistent with the organizations bylaws, which call for the promotion of both affordable housing and senior housing, and you advise me that affordable family development financed with tax-exempt bonds which closed last fall, Mr. Kilday's development to which Ms. Gaskin referred was not opposed by the organization.

Based on the information you provided, I am of the opinion that the statement contained in the letter of support does not evidence unlawful discrimination under the Fair Housing law. At the time the Congress added family status as protected status under the Fair Housing Act, it specifically exempted housing for older persons as defined in the Act from the provisions regarding familial status. The subsequent 1995 amendments made that even clearer. “

Motion made by Shad Bogany to accept staff recommendation and deny the support letter.
Motion died from a lack of a second.

Motion made by C. Kent Conine and seconded by Norberto Salinas to deny staffs recommendation and grant the appeal on the quantifiable community participation letter.
Motion passed with 5 ayes and 1 no (Shad Bogany)

04-050, San Diego Creek

Ms. Carrington stated this appeal relates to two items. If the developer was able to certify that they had no knowledge of neighborhood organizations within their area, and no letters were received from any organizations, that they were eligible for the average score of 1 point. They did not submit the certification by June 4. The department did not grant them the one point. The second part of the appeal is they are appealing the new point structure under the leveraging section of the QAP.

Tammie Goldston, Consultant, Amarillo, Texas

Ms. Goldston gave her time to Mr. Brown.

William Brown, Houston, Texas

Mr. Brown stated they provided an affidavit stating that the appeal for the one point was sent to the department. He asked the Board to review this application on a fair even basis process.

Motion made by C. Kent Conine and seconded by Norberto Salinas to defer the leveraging appeal until after the review the agenda item on quantifiable community participation is handled.
Passed Unanimously

Ms. Joyce stated the department did not receive the certified form that was to be submitted.

Motion made by C. Kent Conine and seconded by Norberto Salinas to grant the appeal on the certification.
Motion passed with 5 ayes and 1 no (Shad Bogany)

04-051, Chisholm Trail

This appeal was withdrawn.

04-060, Providence Place Apartments

Ms. Carrington stated EARAC did not score a letter from the May Creek Community Acting Together Organization due to the fair housing issue.

Tess Zimmerman, Houston, Texas

Ms. Zimmerman stated the letter was submitted by their organization and they do not believe it violated any Fair Housing Act. It was their intention to show the community’s complete support for Providence Place.

Chris Richardson, Developer, Houston, Texas

Mr. Richardson stated they have worked with the neighborhood and community organizations to gain their support and appealed to the Board to grant them the 12 points for quantifiable community participation.

Motion made by C. Kent Conine and seconded by Shad Bogany to grant the appeal.
Passed Unanimously

04-063, Depriest Gardens

04-064, Ramah Village

Ms. Carrington stated they are appealing some elements regarding the Attorney General's opinion and the department's interpretation of various legislative requirements in the Qualified Allocation Plan.

Eddie Winslow, Houston, Texas

Mr. Winslow gave his time to Mr. Sims.

Thomas Freeman, Houston, Texas

Mr. Freeman gave his time to Mr. Sims.

Jacqueline Freeman, Houston, Texas

Ms. Freeman gave her time to Mr. Sims

Rick Sims, Minister, Houston, Texas

Rev. Sims stated he is representing the church and the community. They have concerns on the QAP and fair housing and civil rights and believe the QAP is blatantly discriminating against all populations with disabilities. He stated the department should say they enforce fair housing opportunities.

Mr. Wittmayer assured everyone that the QAP is in compliance with all legal requirements and the Fair Housing Act.

Motion made by C. Kent Conine and seconded by Vidal Gonzalez to deny the appeal for Depriest Gardens.

Passed Unanimously

Motion made by C. Kent Conine and seconded by Vidal Gonzalez to deny the appeal for Ramah Village.

Passed Unanimously

04-120, Sedona Springs Village

This appeal was pulled from the agenda.

04-141, Spring Creek Station

Ms. Carrington stated this appeal relates to a termination of an application due to deficiencies in the Phase One Environmental site assessment. The assessment was received by the department but upon review it was determined that there were significant errors in the assessment.

Jim Plummer, 1987 Community Development Corporation, San Antonio, Texas

Mr. Plummer stated the environmental engineer reviewed his notes and sent a letter to the department which stated that the department may rely on his ESA as submitted and he stated he did look at the right site.

James Dismukes, President, Phase Engineering, San Antonio, Texas

Mr. Dismukes stated the small portion of the environmental site was reviewed and was represented by the environmental site assessment. He stated a noise study was not done in relation to a nearby airport as it is only recommended and not required in the QAP.

Bert Magill Houston, Texas

Mr. Magill gave his time to Mr. Dell.

Jack Dell, President of 1897 Community Development Corporation, San Antonio, Texas

Mr. Dell stated this project is vital to the Saginaw area and this is a very rapidly growing community in Tarrant County. There is not sufficient affordable housing in this community.

Joyce Erwin, Real Estate, Ft. Worth, Texas

Ms. Erwin stated their schools are growing at a rate of 8% each year and these students have no place to live and they need affordable housing.

Brendon Payne, Saginaw Area Chamber of Commerce, Saginaw, Texas

Mr. Payne stated he was in support of this project and there is a need for affordable housing in their community.

Mr. Tom Gouris stated they reviewed the documents and found that the plan that they had provided appeared to show a different site than the site drawing that was described in the ESA. That caused significant concerns, especially since the ESA showed that there was no floodplain in the area. The site plan itself showed a floodplain on the site. A letter was sent to try to ascertain what the correct floodplain situation was on the site. It was identified that the ESA had it wrong and the department tried to get clarification.

Motion made by C. Kent Conine and seconded by Vidal Gonzalez to deny the appeal.
Passed Unanimously

04-043, Courtland Square Apartments

Ms. Carrington stated this concerns a letter that was received late from the State Senator for this project which was a letter of support. It was to be in the department by May 31 to be eligible for scoring but was not received until June 10.

Bert Magill, Magill Development Company, Houston, Texas

Mr. Magill asked the Board to consider the senators letter and particularly the portion which states "I am aware of the deadline for submitting letters of recommendation has passed, and my office takes responsibility for the tardiness in this letter. I respectfully request your favorable consideration of this project and that the developer not be unduly penalized due to our inaction."

Motion made by C. Kent Conine and seconded by Norberto Salinas to deny the appeal.
Passed Unanimously

04-211, Arbors at Rose Park

Ms. Carrington this appeal relates to the department denying of scoring of a letter for quantifiable community participation from the Abilene Neighborhoods in Progress. The department stated the letter did quality under the requirements under the statute and the QAP. It did not provide the total number of members and only gave a total number of board members. This information indicated that the organization served an entire city and not just this neighborhood.

Diana Mclver, Developer, Austin, Texas

Ms. Mclver stated this involves quantifiable community participation and there is a flaw in the legislation because the title of the section states QCP but after that it says as evidenced by letters from neighborhood organizations. This organization is an inner city organization that revitalizes homes and provides services. This is a non-profit and felt the site is within their boundaries.

Motion made by Shad Bogany and seconded by C. Kent Conine to deny the appeal.
Passed Unanimously

Motion made by C. Kent Conine and seconded by Shad Bogany to deny the application on the one point on the certification.
Passed Unanimously

04-213, Village at Morningstar

Ms. Carrington stated this is a two part request where there were two letters of support that were received but not scored. One letter from the Retired American Persons of Texas City did not meet the requirements to be scored as it serves two cities and not a specific neighborhood. The letter from the Texas Habitat for Humanity did not meet the requirements as it served an entire city. The request is for the one point to be added to this project.

Diana Mclver, Developer, Austin, Texas

Ms. McIver stated she was appealing the Texas Habitat for Humanity letter which states in part "At our April 12 chapter board meeting, we approved a resolution supporting the Morningstar project for the following reasons," etc.

Bob Greeley, President of Texas City Chapter of Habitat for Humanity, Texas City, Texas

Mr. Greeley stated this area they are working in is about 4 miles wide and 8 miles long. He felt in Texas City they area neighborhood organization and have about 12-18 member board. They have volunteers from all of the community and raise funds throughout the community.

Motion made by C. Kent Conine and seconded by Shad Bogany to deny the appeal.
Passed Unanimously

04-214, Los Villas De Magnolia

Ms. Carrington stated this project has 2 appeals. The first is the deduction of 5 points for not clearing up a deficiency by April 30. The second part of the appeal is they are requesting the one point average that was received by the applications for certification. The department did receive two letters of support and since the department did receive these letters the applicant could not certify that no letters were received.

Janine Sisak, Austin, Texas

Ms. Sisak gave her time to Mr. Santos.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to deny the appeal on both.

Rogelio Santos, Houston, Texas

Mr. Santos stated they received the notice of deficiency the day it was due back to the department. They never received any faxes from TDHCA and if they had been aware of the deficiency, they would have responded earlier and within 24 hours.

Motion was withdrawn by Mr. Bogany.

Motion was made by C. Kent Conine and seconded by Norberto Salinas to approve the appeal on the issue related to the technical deficiency in the notice and their response to it.

Passed with 5 ayes and 1 no (Shad Bogany)

04-218, Converse Village Apartments

Ms. Carrington stated this is an appeal related to the minutes. A set of minutes was provided by the City Secretary of Converse for the 6 points instead of sending in a transcript for holding a public meeting.

Tina Brooks, Member of Development Team, San Antonio, Texas

Ms. Brooks stated they did hold a public meeting on this project and they had a sign in sheet and a transcript. The definition in the dictionary of a transcript is a copy or recording. All city officials were involved in this meeting. The city secretary produced the minutes as the official public record of the meeting. The minutes were very thorough and had been signed by the mayor and mayor pro-tem. There was a copy of the tape of the recording of this meeting but the tape was not transcribed.

Motion made by Shad Bogany and seconded by C. Kent Conine to approve the appeal for Converse Village.

Passed Unanimously

04-252, Waxahachie Senior Apartments

Ms. Carrington stated this application was terminated as it violated the statute and the QAP which says if a development is located in a community in a city that has more than 2 times the state average of tax credits in that area, that there were two items required: 1) development have prior approval in the form of

a resolution from the city council and 2) there be a letter of support from the city council. The applicant did not have either of these documents.

Tammie Goldston, Amarillo, Texas

Ms. Goldston gave her time to Mr. Evans.

David Evans, Developer, Ft. Worth, Texas

Mr. Evans stated this site was zoned multifamily and a non profit is the owner. The project is viable with the points they have and the requirement to obtain the city council resolution became the NIMBYs only way to stop this project and this is not the intent of the legislation.

Ms. Joyce stated this is a statutory requirement in SB 264 and notices were sent to all applicants on this information needed from the city council.

Motion made by C. Kent Conine and seconded by Shad Bogany to deny the appeal.
Passed Unanimously

02-058, Vista Del Sol - The Rudy C. Perez Project

Ms. Carrington stated they are two items related to this appeal and 1) denial of points from two organizations for quantifiable community participation and 2) Attorney General Opinion.

Margaret Starkey, Seton Home Center for Teen Toms, San Antonio, Texas

Ms. Starkey stated she opposed the granting of the appeal with regards to the neighborhood points. Her application has scored high and she was concerned on the consideration given to these appeals that do not meet the requirements in the QAP.

Tammy Goldston, Amarillo, Texas

Ms. Goldston gave her time to Mr. Brown.

Leslie Holloman, Developer, Brownwood, Texas

Ms. Holloman gave her time to Mr. Brown.

Bill Brown, Developer, Houston, Texas

Mr. Brown stated this project is in the non profit category and did score high. This project is ready to begin construction and the Edgewood Neighborhood has been in existence since 1985 and they are on record with the county however this county does not keep these records. The Community Workers Council is on record with the state. These two organizations have been around for a long time and they are neighborhood organizations.

Mr. Wittmayer stated that they provided documentations that they were on record with the city and the department staff checked with the Secretary of State and they show the organization had been involuntarily dissolved.

Manuel Garza, San Antonio, Texas

Mr. Garza stated he has letters of support from the senator, the mayor and the city council. He stated this organization is registered with the state and underwent an voluntary dissolution of the organization as fees were not paid. They are now registered with the state and will remain registered with the state.

Ms. Anderson read a letter into the record from Senator Leticia Van de Putte which stated:

"Dear Ms. Anderson: I am writing you in regard to the Vista Del Sol, Rudy C. Perez Senior Apartments, 04258, project. I would like to assure your department that I am cognizant of the Edgewood Neighborhood Association and the Community Workers' Council. Both organizations have been actively involved in community efforts in San Antonio since 1985. They have worked tirelessly to improve the Edgewood Community and have a commendable record of accomplishments. I recommend that the Vista Del Sol, Rudy C. Perez Senior Apartment Project be granted the tax credits that it needs to move

forward. The project is worthwhile, and is dedicated to improving the lives of those within the Edgewood District."

Motion made by C. Kent Conine and seconded by Vidal Gonzalez to approve the appeal for this project. Motion failed with 2 ayes (C. Kent Conine and Vidal Gonzalez) and 4 nos (Shad Bogany, Norberto Salinas, Pat Gordon and Elizabeth Anderson)

04-268, Lansborough Apartments

Ms. Carrington stated that part of the appeal has been settled but the second portion relates to the denial of quantifiable community participation points for the development.

Margie Bingham, Houston, Texas

Ms. Bingham stated that based on the requirements of the QAP she was required to send notices to 42 different civic clubs that were registered with the City of Houston. She hosted a meeting with the civic clubs and received the six points. She stated she followed the guidelines in the QAP by sending out these notices. 18 of these clubs have worked with the city to form what is called a super neighborhood and this super neighborhood sent in a letter of support.

Mr. Wittmayer stated there is a difference in the two super neighborhoods that have been discussed. One was on record with the state or county and one was not.

Motion made by C. Kent Conine and seconded by Shad Bogany to grant the appeal.
Passed Unanimously

04-218, Heritage Park

Ms. Carrington stated this appeal relates to points for low income targeting. The department required these letters to be submitted by June 14. On this development the department did not confirm the receipt of the commitment letter from Denison Industrial Foundation until the appeal was received on June 18. The department is requesting that the appeal be denied.

Motion made by C. Kent Conine and seconded by Shad Bogany to deny the appeal.

Steve Rumsey, Developer, Plano, Texas

Mr. Rumsey stated they received support from local and state representatives. He stated the letter in question was sent to TDHCA and was dated May 4. The staff did confirm receipt of the package but no description of what was in the packet was recorded. This letter was due on June 14 and they mailed it overnight on May 18th. He said the department's decision is not adequate for the denial of these points.

Motion was withdrawn by C. Kent Conine.

Motion made by C. Kent Conine and seconded by Shad Bogany to approve the appeal.
Passed Unanimously

04-188, Ambassador North Apartments

Ms. Carrington stated this application was terminated due to a requirement in the QAP that no more than 45% of unit max can have two bedroom units. This project is rehab and some new construction would add 20 new units. Staff requests denial of the appeal.

John Shackelford, Dallas, Texas

Mr. Shackelford stated this is an equity rehab application that includes the addition of 20 new units. He stated there was no clear definition of construction in the QAP and asked the Board to reinstate the application.

Andy Inamdar, Creative Choice Homes, Houston, Texas

Mr. Inamdar stated the unit mix construction of 2 bedroom units to 45% of the total units applies for developments involving new construction. Ambassador North is an existing community with 60 two bedroom mix and 40 one

bedroom units. They are adding 14 one bedroom units for a total mix of 54 one bedroom units with 60 two bedroom units.

A group of residents from the Houston area were in attendance and in support of this project and they were all recognized.

Robert Cash, Aide to the Honorable Kevin Bailey, Austin, Texas

Mr. Cash read a letter into the record from Representative Kevin Bailey which stated:

"Dear Members of the Board: I am writing in regards to the appeal for housing tax credits by Creative Choice Texas for the rehabilitation of Ambassador North Apartments complex, located at 8210 Bohm Road in Houston. The existing complex is located in my legislative district, and is in serious need of rehabilitation. I am appalled that the TDHCA staff has determined that this project is ineligible for further consideration. Rehabilitation of aging apartment complexes is rare. Yet, if we are going to reverse the blight in my district and have a coherent plan for sustainable economic development, we must have rehabilitation of existing aging complexes.

"This applicant moved aggressively to reduce crime at the complex and to stabilize the deteriorating structures. They reached out to the community and elected officials with a positive vision of promise for restoration of an old deteriorating property. This is rare in my district. The plan for economic rebirth captures the imagination of the community. Longtime residents, seeing the obvious changes brought about by Creative Choice in addressing criminal activity at the complex began to believe that a new day was at hand. The letter dated July 2, 2004, from executive director Carrington states that it should also be noted that the proposed development is located within one mile of a development that has received an allocation of HTCs for new construction during the three-year period preceding the date of the application round began. I find it curious that Ambassador North Apartments project has been singled out when a separate application for HTCs, namely Oxford Place on the approval list is located within the one-mile radius of Arbor Oaks, the development referred to in Ms. Carrington's letter. Both the Arbor Oaks and Oxford Place are new construction, while Ambassador North is an existing complex, which more readily meets the standards the HTCs were established for.

Furthermore, in a letter I have received from Houston Mayor Bill White, the City's priority as addressed in the City's Annual Consolidated Plan is rehabilitation of existing housing stock, rather than new construction. "I would urge the board to carefully consider the Creative Choice Texas and overwhelming support from me, Senator Mario Gallegos, and the community as a whole. Sincerely, Kevin Bailey."

Lee Arrington, Houston, Texas

Mr. Arrington gave his time to Paula Parshall.

Paula Parshall, President, Northline Park Advisory Council, Houston, Texas

Ms. Parshall stated they are in support of this project and need affordable housing. This project has community support and the support of local officials and state representatives and state senators.

Ilta Hall, Houston, Texas

Ms. Hall stated she has lived in this area for some time and the apartments were deteriorating but now there is hope for the people living there. Problem tenants are gone and a security guard patrols the property. The apartments are in poor condition and they need to fix drainage, flooding problems, rotten walkways and stairs and carpets. The playground also needs repairs. The developer has a big job to do but she felt he could do it and she was in support of this project.

Joseph Sanchez, Houston, Texas

Mr. Sanchez asked the Board to approve funds for the rebuilding of these apartments to make it a better place for him and his family and other people to live.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the appeal for Ambassador North Apartments.
Passed Unanimously

Ms. Anderson that there have been several times in this meeting where there were QCP appeals, the quantifiable community participation, where the board accepted certain of the neighborhood organizations letters. The staff has asked for clarification is whether the Board wants the staff to evaluate whether the letters qualify, or is that what the board determined, and therefore want the staff to score the letters? She felt it is the second option and the Board agreed. She stated that it was OK to score the letters.

04224, Grace of Commons

Ms. Carrington stated the Grace of Commons Seniors is the last appeal. The appeal relates to the commitment letter from the City of Houston and this portion of the appeal has been handled. They also appealed the 7 preapplication points and the Board previously said this would apply to all applications that had been denied these points. There is no action to be taken on this appeal.

- b) **Issuance of Determination Notice on Tax Exempt Bond Transactions with Other Issuer:
04-427 Rosemont At Old Manor, Austin, Texas
Travis County Housing Finance Corporation is the Issuer
(Requested Amount of \$917,585 and Recommended
Amount of \$906,289)**

Ms. Carrington stated this is new construction consisting of 250 units. The issuer is the Travis County Housing Finance Corporation. The project is a family transaction and staff is recommending a determination notice for tax credits in the amount of \$906,289.

Craig Alter, Austin, Texas

Mr. Alter stated he was available to answer any questions the Board members might have.

Charles Heimseth, President of Capitol Market Research, Austin, Texas

Mr. Heimseth stated the Austin market is on the rebound and is currently at 90.3% for multifamily apartments.

Motion made by Vidal Gonzalez and seconded by Norberto Salinas to approve the issuance of a determination for tax credits in the amount of \$906,289.

Passed Unanimously

**04-430 Heatherbrook Apartments, Port Arthur
Port Arthur Housing Finance Corporation is the Issuer
(Requested Amount of \$421,398 and Recommended
Amount of \$421,398)**

Ms. Carrington stated these apartments are in Port Arthur Texas and the Port Arthur Housing Finance Corporation is the issuer. This is a rehab of 256 units which were built in 1984.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the determination notice for tax credits in the amount of \$421,398.

Passed Unanimously

3) Presentation, Discussion and Possible Approval of Programmatic Items:

a) Office of Colonia Initiatives 2004 Bootstrap Awards for:

2/3rd Economically Distressed County Applicants	Location	Requested and Recommended Amount	# of Units
Community Services Agency of South Texas	Dimmit/LaSalle Counties	\$312,000	10
Community Colonias Organ. Edinburg Housing Opp.	Maverick Co. Hidalgo Co.	\$374,400 \$624,000	12 20
El Paso Assoc. of Adult Familias Unidas De Val County, Inc. Comm. Council Of SW Texas	El Paso Co. Val Verde Co.	\$258,960 \$499,200	23 16

La Gloria Dev. Corp.	Webb Co.	\$374,400	12
Organizacion Progresiva	El Paso Co.	\$276,240	9
De San Elizario (Requested \$300,000)			
Canaan Latin American Ministries, Inc.	Cameron Co.	\$0	0
El Paso Community Action Program, Project Bravo, Inc.	El Paso Co	\$0	0

1/3rd Statewide Applicants	Location	Requested and # of Units Recommended Amount	
Midland Habitat for Humanity	Midland Co.	\$ 31,200	1
Ft. Worth Habitat for Humanity	Tarrant/Johnson Counties	\$249,600	8

Ms. Carrington stated these are the Bootstrap Awards which use sweat equity and are loans. The department is required by statute to make \$3 million per year available for this program.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the Bootstrap awards for: Community Services Agency of South Texas for \$312,000; Community Colonias Organ. for \$374,400; Edinburg Housing Opp. For \$624,000; El Paso Assoc. of Adult for \$258,960; Familias Unidas De Val for \$499,200; County, Inc. Comm. Council Of SW Texas La Gloria Dev. Corp. for \$374,400; Organizacion Progresiva for \$276,240; Midland Habitat for Humanity for \$31,200; and Ft. Worth Habitat for Humanity for \$249,600.

Passed Unanimously

- b) Resolution No. 04-050 Approving the Application to the Bond Review for Reservation of Calendar Year 2004 Private Activity Bond Authority**
 Ms. Carrington stated this is a request to the Texas Bond Review Board for reservation of private activity bond authority. The department is requesting \$165,151,534 in issuance authority.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve Resolution No. 04-050 and file this request with the Texas Bond Review Board for the bond authority.
 Passed Unanimously

- c) Restructuring of Program 57A, Part I**
 Ms. Carrington stated this is to allow staff to terminate the requirement that a portion of these funds, \$10 million that includes the Fannie Mae Expanded Approval Loan Program.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the staff to terminate the requirement that \$10 million include the FNMA Expanded Approval Loan Program.
 Passed Unanimously

- d) Restructuring of Program 57A, Part II**
 Ms. Carrington stated staff is requesting to eliminate the down payment assistance under this program and to reduce the interest rate from 5.9% to 4.99%.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the elimination of the down payment assistance under this program.
 Passed Unanimously

- e) TDHCA Market Rate Mortgage Program**
 This item has been deferred to a later meeting.

- 4) Presentation, Discussion and Possible Approval of Department Rules**

a) **Adoption of Emergency Amendment to the 2004 Housing Tax Credit Qualified Allocation Plan and Rules, Title 10, Part 1, Chapter 50, Texas Administrative Code, Based on Texas Attorney General Opinion No. GA-0208**

Ms. Carrington stated this is the adoption of an emergency amendment to the 2004 Qualified Allocation Plan and Rules. The first part is to adopt the emergency amendment that would ensure compliance with the Attorney General opinion, #GAO-0208. The second part is to approve the proposed amendment for public comment to the 2004 Qualified Allocation Plan to ensure compliance with the Attorney General opinion.

Robert Joy, Austin, Texas

Mr. Joy stated that under the scoring breakdown in descending order of points, it says proportionally and says the same thing under the housing needs score; however, under leveraging and mixed income, there is no proportional. He stated he understood why the department went to the 14 points as the Attorney General said the department should but this puts people at a disadvantage who do the lower levels.

Tim Smith, Developer, The Woodlands, Texas

Mr. Smith asked if the rule is adopted would developments that were serving units at 30% qualify for these points even if the subsidy points would not qualify.

Ms. Boston stated that because the 20 points total for low-income targeting are a combination of both 30 percent points and 40 and 50 percent points, and if someone couldn't get the subsidy, they got a zero. If they got eight points for the 40 at 50, they would get credit for these units, but not for the 30s since they don't have the subsidy. If this gets approved for the projects that are getting their subsidy points reinstated, because of the Houston letters or something similar, they will get this based on their reinstated score.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the staff's recommendation and adopt the amendment and to approve the amendment for publication to receive public comments
Passed Unanimously

b) **Proposed Amendment for Public Comment to the 2004 Housing Tax Credit Qualified Allocation Plan and Rules, Title 10, Part 1, Chapter 50, Texas Administrative Code, (Identical to the Emergency Amendment) Based on Texas Attorney General Opinion No. GA-0308**

Ms. Carrington stated staff is asking for the approval of an amendment that would be identical to the emergency amendment to be publicized for public comment and after receiving the public comment, staff will bring the rule back to the Board.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve the proposed amendment (identical to the Emergency Amendment) to be published for public comment.
Passed Unanimously

c) **Final Adoption of New Rule on Department Policy Concerning Alternative Dispute Resolution and Negotiated Rulemaking, Title 10, Part 1, Chapter 1, §1.17, Texas Administrative Code**

Ms. Carrington stated that this is the final approval of this policy as the department received no comments on this rule.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve the new rule concerning Alternative Dispute Resolution.
Passed Unanimously

d) **Final Adoption of Amended Rule for Public Comment Procedures and Topics at Public Hearings and Meetings, Title 10, Part 1, Chapter 1, §1.10, Texas Administrative Code**

Ms. Carrington stated this rule is an amended rule for public comment procedures and topics at public hearings and meetings and this is the final adoption.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve the final adoption of the rule for public comment procedures and topics at public hearings and meetings.
Passed Unanimously

- 5) **Presentation, Discussion and Possible Approval of Multi-Family Mortgage Revenue Bonds and Four Percent (4%) Housing Tax Credits With TDHCA as the Issuer:**
a) **Proposed Issuance of Multifamily Mortgage Revenue Bonds for Churchill at Pinnacle Park, Dallas, Texas in an Amount Not to Exceed \$10,750,000 and Issuance of Determination Notice Requested Amount of \$615,327 and Recommended Amount of \$615,327) for Housing Tax Credits for Churchill at Pinnacle Park, Dallas, Texas #04-422**

Ms. Carrington stated this project is to be located in Dallas and will be new construction of 200 units with one, two and three bedrooms. Staff is recommending \$10,750,000 in bonds and \$615,327 in tax credits.

Motion made by Vidal Gonzalez and seconded by Vidal Gonzalez to approve the issuance of multifamily bonds for Pinnacle Park in Dallas in an amount not to exceed \$10,750,000 and tax credits in the amount of \$615,327.

Passed Unanimously

- b) **Proposed Issuance of Multifamily Mortgage Revenue Bonds for Post Oak East Apartments, Fort Worth, Texas in an Amount Not To Exceed \$13,700,000 and Issuance of Determination Notice (Requested Amount of \$651,286) for Housing Tax Credits for Post Oak East Apartments, Fort Worth, Texas #04-433**

Ms. Carrington stated this project is to be located in Ft. Worth, Texas and is new construction. The bond amount is not to exceed \$13,700,000 and there is a taxable portion of \$700,000. This will be one and two bedroom units. The tax credit amount is \$651,286

Motion made by Vidal Gonzalez and seconded by Shad Bogany to approve the issuance of bonds for Post Oak East Apartments in Ft. Worth in an amount not to exceed \$13,700,000 and issue tax credits in the amount of \$651,286.

Passed Unanimously

- c) **Proposed Issuance of Multifamily Mortgage Revenue Bonds for Sphinx at Delafield, Dallas, Texas in an Amount Not to Exceed \$11,346,000 and Issuance of Determination Notice (Requested Amount of \$729,073 and Recommended Amount of \$729,073) for Housing Tax Credits for Sphinx at Delafield, Dallas, Texas, #04-419**

Ms. Carrington stated the Sphinx at Delafield is located in Dallas and the bond amount is not to exceed \$11,346,000 in tax credit bonds and staff is requesting the issuance of these bonds and an allocation of tax credits in the amount of \$729,073.

Motion made by Vidal Gonzalez and seconded by Shad Bogany to approve the issuance of multifamily mortgage revenue bonds for Sphinx at Delafield in Dallas in an amount not to exceed \$11,346,000 and tax credits in the amount of \$729,073.

Passed Unanimously

- 6) **Presentation, Discussion and Possible Approval of:**
a) **FY 2005 Draft Operating Budget**

Mr. Bill Dally stated this budget was presented to the Board at a previous meeting and staff is requesting approval of the budget. Page 3 was a new page which presents a comparison between the 2004 and 2005 budgets by division areas. There was a change in the Human Resources area as one FTE has been eliminated in this area.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the 2005 Operating Budget.
Passed Unanimously

- b) **FY 2005 Draft Housing Finance Operating Budget**

Mr. Dally stated this is the Housing Finance Budget which is required by statute to be approved by the Board.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the Housing Finance Operating Budget for 2005.
Passed Unanimously

c) Third Quarter Investment Report

Mr. Dally stated this investment report decreased by about \$27 million and does reflect the single family issues of the \$180.7 million and 57 multifamily issues.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the investment report.
Passed Unanimously

Ms. Anderson noted that Scott Sims from the Speakers Office, Lisa Gonzalez from the Governors Office, Beau Rothchild from the Urban Affairs Committee and Jeremy Mazur from Rep. Callageri's Office had been in attendance at this meeting and that Ms. Gonzalez was still present. She thanked them for attending this important meeting.

Ms. Anderson thanked Senator Madla for sponsoring the department for the use of the Auditorium.

EXECUTIVE SESSION

If permitted by law, the Board may discuss any item listed on this agenda in Executive Session
Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning an Investigation by the Brazoria County Criminal District Attorney on Forged Letters Concerning Tranquility Bay Apartments

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

There was no Executive Session held.

REPORT ITEMS

Executive Directors Report
There was no Executive Directors Report given.

ADJOURN

Motion made by Vidal Gonzalez and seconded by Shad Bogany to adjourn.
Passed Unanimously

The meeting adjourned at 4:20 p.m.

Respectfully submitted,

Delores Groneck
Board Secretary

Bdmijuly1

SINGLE FAMILY FINANCE PRODUCTION DIVISION

INTRODUCTION OF TKO ADVERTISING, INC. AUGUST 19, 2004

Introduction

In May 2004, the Single Family Finance Production Division released a Request For Proposal seeking a vendor to perform marketing services for the Texas First Time Homebuyer Program. A total of nine proposals were submitted. Based on staff review, TKO Advertising, Inc. was selected to perform the services beginning June 1, 2004.

TKO is located in Austin, Texas and has considerable experience creating advertising campaigns for State and non-profit agencies. In addition to developing outreach campaigns for first time homebuyers in the Central Texas market for several clients, they have strong results in successful campaigns for AmeriCorp National Service, The Texas Attorney General's Office and a bilingual marketing campaign for the Public Utility Commission and The Texas Workforce Commission.

TDHCA staff has provided a significant amount of statistical data on existing program borrowers to TKO to help them in their efforts to develop a comprehensive marketing and communications plan for the Texas First Time Homebuyer Program. Several goals of the plan include geographic analysis, generating awareness of the program across the state and increased production.

Please welcome, Mr. Raul Garza, President, TKO Advertising, Inc. for further discussion and questions.

BOND FINANCE DIVISION

BOARD ACTION REQUEST

August 19, 2004

Action Items

Single Family Mortgage Revenue Bonds, 2004 Series C, 2004 Series D, 2004 Series E (Variable Rate), and 2004 Series F (COB) for Program 62.

Required Action

Preliminary approval of Single Family Mortgage Revenue Bonds, 2004 Series C, 2004 Series D, 2004 Series E (Variable Rate), and 2004 Series F (COB) for Program 62.

Background

TDHCA's annual volume cap allocation in 2004 for single family bonds equals \$165,151,534. Bond Finance recommends issuing TDHCA's next single family bond issue to provide funds for unassisted mortgages. Bond Finance estimates that TDHCA will deplete, by late October, its current balance of unassisted mortgage funds available for very low, low and moderate income Texans seeking to purchase their first home. In conjunction with the issuance of tax-exempt bonds using 2004 volume cap, Bond Finance anticipates refunding several of TDHCA's outstanding 1993 Single Family Collateralized Home Mortgage Revenue Bond issues. In addition, Bond Finance anticipates issuing Convertible Option Bonds (COBs) that will be issued to provide additional mortgages in 2005. The following table illustrates the various components of the proposed transaction.

Program	Series	Amount *	Purpose	Bond Description
62	2004 C	\$45,000,000	Tax-Exempt New Money (2004 Mortgages)	Fixed Rate Bonds
62	2004 D	35,000,000	Tax-Exempt New Money (2004 Mortgages)	Variable Rate Demand Bonds
62	2004 E	11,000,000	SF - CHMRB Refundings	Fixed Rate Bonds
TBD	2004 F	<u>91,000,000</u>	Tax-Exempt New Money (2005 Mortgages)	Convertible Option Bonds
Total		<u>\$182,000,000</u>		

* Preliminary, subject to change

Interest rates remain at 40-year historical lows. To take advantage of these historical lows and create a marketable and competitive mortgage product for first-time homebuyers, Bond Finance recommends issuing a portion of the transaction, approximately 30% to 50%, in the form of *variable rate demand bonds*. To reduce interest rate exposure associated with unhedged variable interest rates that change according to market conditions, Bond Finance recommends implementing a hedge referred to as an *interest rate swap*. An interest rate swap is a contractual agreement whereby two parties, called counterparties, agree to exchange periodic interest payments. Through an interest rate swap agreement, TDHCA will pay a highly rated counterparty a fixed interest rate. In exchange, the highly rated counterparty will pay TDHCA a variable interest rate which is reasonably expected to be

similar to the variable interest rate TDHCA will pay on the variable rate demand bonds. An interest rate swap contract is a derivative security.

Bond Finance successfully incorporated TDHCA's first variable rate demand bonds and interest rate swap for 30% of the transaction total in TDHCA's March 2004 issue, Single Family Mortgage Revenue Bonds, 2004 Series A and 2004 Series B.

The new mortgages will be unassisted low rate mortgages with projected interest rates of approximately 4.99% - 5.30%. Without issuing variable rate bonds, TDHCA would attain mortgage rates of approximately 5.95-6.00% for unassisted mortgages. The mortgages will be securitized and will be marketed to very low and moderate income residents of Texas. If authorized, the bonds are expected to be sold in October and the bond closing will occur approximately three to four weeks subsequent to the bond pricing.

Continuing with the previously approved senior manager rotation plan, Bond Finance recommends Piper Jaffray & Co. for this transaction and the subsequent refunding of the 2004 Series F Convertible Option Bond next spring. In addition, Bond Finance recommends Goldman, Sachs & Co. for the role of interest rate swap provider. Goldman, Sachs & Co. executes interest rate swaps on a principal basis with many other state housing finance agencies and proposed an innovative and beneficial swap that will help TDHCA alleviate risk.

The following table provides certain details related to this plan of finance.

Program Designation	Program 62
Down Payment Assistance (%)	None; All funds unassisted
Down Payment Assistance (% of Loans)	None; All funds unassisted
2004 Volume Cap	\$165 million
Unassisted Lendable Funds Available in November 2004	\$75 million
Unassisted Lendable Funds Deferred Until April 2005	\$90 million
TDHCA Approval Date	September 10, 2004
Bond Review Board Planning Session	September 14, 2004
Bond Review Board Approval Date	September 23, 2004
Pricing Window	September 27, 2004 – October 8, 2004
Pre-Closing/Closing Dates	October 27/28, 2004

Recommendation

Preliminary approval of Single Family Mortgage Revenue Bonds, 2004 Series C, 2004 Series D, 2004 Series E (Variable Rate), and 2004 Series F (COB) for Program 62.

Supplemental Information

Current lendable proceeds in existing programs as of August 6, 2004:

Program Number	Original Allocation	Rate	Committed/(In Pipeline)	Loans Purchased	Uncommitted Allocation	Targeted Area Balances
56	124,915,000	6.25%	2,302,428	122,242,735	696,865	
57A	97,332,736	5.90%- 6.65%	8,591,207	23,978,951	64,762,578	
EA Loans	10,000,000	6.20%- 6.50%	168,785	223,440	9,607,775	
59	40,000,000	5.30%- 5.99%	5,221,156	32,707,774	2,071,070	
59A	71,056,914	4.99%	14,896,508	37,960,324	18,200,082	13,651,149
61	175,865,983	4.99%- 5.50%	57,521,126	23,985,515	94,359,342	19,584,313
TOTAL:	519,170,633		88,701,210	241,098,739	189,697,712	

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

August 19, 2004

Action Item

Presentation, Discussion and Possible Approval of Application Submission to the Texas Bond Review Board for Traditional carryforward Funds for Multifamily Mortgage Revenue Bond Transactions.

Requested Action

Approve staff's request to seek the Governor's approval to make application to the Texas Bond Review Board for Traditional carryforward Funds in an amount not to exceed \$50 million. A Resolution is attached to this action item.

Background

Traditional carryforward is Private Activity Volume Cap that is not used prior to December 15th of a calendar year. Issuers of Private Activity Bonds may apply at any time in the program year for any volume cap released between December 1 – December 31. Issuers granted said carryforward designation will have three years from the date of reservation to close on their bonds, which may be combined with another bond issue. An application for carryforward must be signed by an officer of the issuer and the Governor, if the issuer was created to act on behalf of the State. The carryforward designation the Department will be applying under will be Priority 3 carryforward. The Department will post a notice of "possible" funds available on the website and accept applications during the month of October. Staff will score and rank the applications the same as if they were induced for the lottery. Staff will apply for the total dollar amount of applications received not to exceed the amount requested above.

Recommendation

The Board approve the resolution and request to apply for the Traditional carryforward Funds and seek the Governor's approval to do the same.

Resolution No. 04-060

RESOLUTION AUTHORIZING THE IMPLEMENTATION OF A PROGRAM TO UTILIZE 2004 PROGRAM YEAR PRIVATE ACTIVITY BOND CARRYFORWARD FOR MULTIFAMILY RESIDENTIAL RENTAL PROJECTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended from time to time (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (i) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by persons and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, Section 103 and Section 142 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance qualified residential rental projects shall be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 142(d) of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State Ceiling" (as defined in Section 146(d) of the Code) applicable to the State for calendar year 2004 is subject to allocation, in the manner authorized by Section 146(e) of the Code, pursuant to Chapter 1372 Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act provides that the Texas Bond Review Board (the "Bond Review Board") may designate as carryforward the amount of the State Ceiling that is not reserved before December 15 and any amount of the State Ceiling that was reserved before December 15 and becomes available on or after that date because of the cancellation of a reservation ("Carryforward"); and

WHEREAS, the Allocation Act requires the Department, in order to apply for a Carryforward designation, to file an application for carryforward (the "Application for Carryforward ") with the Bond

Review Board, stating the amount of the carryforward sought, describing the project, stating which priority classification is applicable and including evidence of the priority classification, and any other information that the Bond Review Board by rule may require; and

WHEREAS, the Department desires to implement a program by which applications submitted to the Department for multifamily residential rental projects will be accepted and scored and, upon approval by the Board, Applications for Carryforward will be filed with the Bond Review Board in an amount not to exceed \$50,000,000 in the aggregate for all applications (the "Carryforward Program");

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

Section 1 Approval of Carryforward Program. The Board hereby approves the implementation of the Carryforward Program and authorizes the staff of the Department to solicit applications for participation in the Carryforward Program.

Section 2 Authorization of Certain Actions. The Board authorizes the Executive Director, the staff of the Department, as designated by the Executive Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the purposes of this Resolution, including, without limitation, seeking approval of the Carryforward Program from the Governor's office.

Section 3 Purposes of Resolution. The Board has expressly determined and hereby confirms that the implementation of the Carryforward Program in order to facilitate the issuance of qualified residential rental project bonds will accomplish a valid public purpose of the Department by providing for the housing needs of persons and families of low, very low and extremely low income and families of moderate income in the State.

Section 5 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Section 6 Notice of Meeting. That written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the Texas Register not later than seven (7) days before the meeting of the Board as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 19th day of August, 2004.

Chair, Governing Board

ATTEST:

Secretary

(SEAL)

**REAL ESTATE ANALYSIS DIVISION
BOARD REQUEST**

August 19, 2004

Appeals to Board from Housing Tax Credit Applicants on Underwriting Matters:

- 04-012 Tyler Square Apartments, Tyler, Texas, Reg. 4
- 04-018 College Station Terrace Pines, College Station, Texas, Reg. 8
- 04-032 Los Milagros Apartments, Weslaco, Texas Reg. 11
- 03-036 Villa Del Sol, Pharr, Texas, Reg. 11
- 04-079 Baybrook Apartments, Webster, Texas, Reg. 6
- 04-098 Copperwood Apartments, The Woodlands, Texas, Reg. 6
- 04-101 Pleasant Hill Apartments, Austin, Texas, Reg. 7
- 04-107 Whitefield Place Apartments, San Antonio, Texas, Reg. 9
- 04-147 Shiloh Village, Dallas, Texas, Reg. 9
- 04-149 Seton Home Center for Teen Moms, San Antonio, Texas, Reg. 9
- 04-160 The Village Hobbs Road, League City, Reg. 6
- 04-194 Lexington Court, Kilgore, Texas, Reg. 4
- 04-228 Stone Hearst, Beaumont, Texas, Reg. 5
- 04-246 Wildwood Trails, Brownwood, Texas, Reg. 2
- 04-268 Lansborough Apartments, Houston, Texas, Reg. 6

Any Other Appeals Timely Filed

See addendum for this item.

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD INFORMATION
August 19, 2004

Information Item

Information for Board review: Staff has completed an analysis of the 2004 Housing Tax Credit (HTC) Applications that would likely have been recommended for an award of tax credits under specific circumstances (these are being termed the “impacted” Applications).

Background and Recommendations

As noted, staff has performed an analysis of the Applications that have been “impacted”. Specifically, those with this designation are those Applications that would most likely have been recommended to the Board for an allocation of tax credits had the Emergency Qualified Allocation Plan (“Emergency QAP”) not been implemented, or that would most likely have been recommended to the Board for an allocation had the successful Quantifiable Community Participation Appeals not been granted by the Board and the QCP points awarded for those appeals.

Scenario One

On July 8, 2004 the Board approved the 2004 Emergency QAP. The Emergency QAP was signed by Governor Rick Perry on July 30, 2004. In an effort to determine those 2004 HTC Applications likely “impacted” by the Emergency QAP, the Department scored each active Application in accordance with the original 2004 QAP. The Department then ranked these Applications and evaluated them based on what their “original score” would have been had the Emergency QAP not been implemented. The purpose of this was to determine if any Applications would have been recommended for tax credits under the original 2004 QAP that were not recommended under the Emergency QAP.

There are four HTC Applications that were likely “impacted” by the implementation of the Emergency QAP. These Applications would most likely have been recommended for an allocation of credits based on their original score had the original scoring method from the 2004 Qualified Allocation Plan (QAP) been the basis for recommendations. The 4 Applications are as follows:

Region	TDHCA #	Development Name	City	Set-Aside	Credit Req.
2	04172	Gardens of Tye	Tye	General	\$245,557
2	04173	Gardens of Burkburnett	Burkburnett	General	\$229,311
3	04192	Providence at UT Southwestern	Dallas	General	\$909,255
10	04050	San Diego Creek	Alice	General	\$490,000

Please see the attached, “Scenario 1- Final Score Compared To Score Prior To AG Opinion”. The report provides a breakdown of the final score awarded pursuant to the 2004 Emergency QAP, as well as the score using the original scoring method.

Scenario Two

The Department utilized a similar process in evaluating the 2004 HTC Applications that were affected by the successful appeals for QCP at the July 8, 2004 Board meeting. There were five HTC Applications which received an additional twelve points on their 2004 HTC Application because of successful QCP appeals to the Board. The rescoring of those letters also resulted in a subsequent increase from one (1) to two (2) points for all Applications that had qualified for “average” points under §50.9(g)(2)(C)(i) of the 2004 QAP. This increase to 2 points was given to all 85 Applications that qualified for this section.

Department staff ran a scenario in which the Board had not granted the QCP appeals and therefore in which none of the scoring adjustments for those 5 applications, or the “average” adjustments were made. The Department then ranked these Applications and evaluated them based on their “original score”. The purpose of this was to determine if any Applications would most likely have been recommended for tax credits had the Board not granted the QCP appeals.

There was one HTC Application that was likely “impacted” by the successful QCP appeals. This Application would most likely have been recommended had the original scoring method appeals not have been granted by the Board on July 8, 2004. The Application is as follows:

Region	TDHCA #	Development Name	City	Set-Aside	Credit Rec.
11	04014	La Villita Apartments	Brownsville	General	\$453,311

Please see the attached, “Scenario 2- Final Score Compared To Score Prior To Successful QCP Appeals”. The report provides a breakdown of the final score awarded pursuant to the 2004 Emergency QAP, as well as the score prior to the successful QCP appeals.

Scenario Three

Staff also ran a third scenario which combined the first and second scenarios together to identify if any other applications would have been likely “impacted” by the compound effect of these two scenarios. However, when this scenario was produced and the results evaluated, the only impacted applications were the five already identified above in Scenarios One and Two.

**Scenario 1- Final Score Compared to Score Prior To AG Apinion
Sorted by Region, Allocation Status, Recommendation Status and Final Score**

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act. ²	Set-Asides ³			Units	Pop. ⁴	Credits Rec. ⁵	Owner Contact	Final Score ⁷	Prior Score ⁸	Comment
							USDA	NP	AR	LI	Total					

Region: 2

Allocation Information for Region 2:	Total Credits Available for Region: \$1,122,652	Rural Allocation: \$511,597	Urban/Exurban Allocation: \$611,055
		5% Required for USDA \$56,132	15% Required for At-Risk: \$168,398

Applications Submitted in Region 2: U/E⁶

04241	2	A	Anson Park II	3102 Old Anson Road	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	80	F	\$535,250	R.J. Collins	147	148	Competitive in Region. Wins Tie with 04172
Subtotal:										64	80		\$535,250				
04172	2	N	Gardens of Tye	601 Scott Street	Tye	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	32	36	E	\$245,557	George Hopper	147	157	Loses Tie with 04241
04095	2	N	Green Briar Village	601 Airport Drive	Wichita Falls	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	126	140	F	\$851,219	Randy Stevenson	146	145	
04094	2	N	Big Country Senior Village	700 East Stamford	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	108	120	E	\$611,410	Randy Stevenson	145	144	
04051	2	N	Frontier Trail Senior Village	Wildlife Trail Pkwy at Glen Eagles Court	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	72	80	E	\$530,000	Beverly Funderburgh	143	143	
04211	2	N	Arbors at Rose Park	2702 South 7th Street	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	72	80	E	\$542,577	Diana McIver	129	133	
Subtotal:										410	456		\$2,780,763				
Total:										474	536		\$3,316,013				

Applications Submitted in Region 2: R⁶

04246	2	A	Wildwood Trails Apartments	McClain & Looney Street	Brownwood	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	75	75	F	\$558,403	Justin Zimmerman	130	134	Competitive in Region
Subtotal:										75	75		\$558,403				
04174	2	N	Gardens of Early	401 Old Comanche Road	Early	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	30	36	E	\$230,137	George Hopper	132	139	Excessive Inclusive Capture Rate
04173	2	N	Gardens of Burkburnett	105 Williams Street	Burkburnett	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	30	36	E	\$229,311	George Hopper	127	135	
Subtotal:										60	72		\$459,448				
Total:										135	147		\$1,017,851				
9 Applications in Region										609	683		\$4,333,864				

Dev. #	Reg.	A	Development Name	Development Address	Dev. City	Act.	Set-Asides ³			Units	Pop.	Credits Rec.	Owner Contact	Final Score	Prior Score	Comment
							2	USDA	NP	AR	LI	Total	4	5	7	8

Region: 3

Allocation Information for Region 3:	Total Credits Available for Region:	\$7,362,180	Rural Allocation:	\$480,034	Urban/Exurban Allocation:	\$6,882,146
			5% Required for USDA	\$368,109	15% Required for At-Risk:	\$1,104,327

Applications Submitted in Region 3:

U/E⁶

04026	3	A	Oak Timbers-White Settlement II	8301 Tumbleweed Trail	White Settlement	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$417,280	Vaughan Mitchell	150	158	High Score Nonprofit
04028	3	A	Heritage Park	1916 N. S.H. 91	Denison	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	100	100	F	\$501,577	Steve Rumsey	147	153	Competitive in Region
04105	3	A	Preston Trace Apartments	8660 Preston Trace Blvd	Frisco	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	38	40	F	\$140,298	Dan Allgeier	146	151	At-Risk
04058	3	A	Spring Oaks Apartments	4317 & 4321 Shepherd Ln.	Balch Springs	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	128	160	F	\$850,235	Ron Pegram	141	147	Competitive in Region
04109	3	A	Frazier Fellowship	Blocks 4700-4900 Hatcher St.	Dallas	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	60	76	F	\$547,378	Lester Nevels	140	142	At-Risk
04089	3	A	Villas of Forest Hill	7400 Block of Forest Hill Drive	Forest Hill	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	78	100	E	\$424,859	Deborah Griffin	138	151	Competitive in Region
04157	3	A	Samaritan House	929 Hemphill Ave.	Fort Worth	NC/AC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	126	126	F	\$819,331	Thomas Scott	137	153	Competitive in Region
04093	3	A	Villas of Seagoville	600 Block of East Malloy Bridge Rd.	Seagoville	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	78	100	E	\$428,270	Deborah Griffin	137	147	Competitive in Region
04222	3	A	Primrose at Highland	2100 Block of Highland Avenue	Dallas	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	120	150	E	\$935,153	Deepak Sulakhe	129	137	Competitive in Region
04151	3	A	Renaissance Courts	308 S. Ruddell Street	Denton	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	150	F	\$993,822	Shirley Hensley	129	130	Competitive in Region
04147	3	A	Shiloh Village Apartments	8702 Shiloh Road	Dallas	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	168	168	F	\$800,000	Chad Cooley	112	119	At-Risk
							Subtotal:	1,096	1,270	\$6,858,203							
04192	3	N	Providence at UT Southwestern	Mockingbird Lane and Harry Hines	Dallas	NC/AC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	162	180	E	\$909,255	Saleem Jafar	126	132	
							Subtotal:	162	180	\$909,255							
							Total:	1,258	1,450	\$7,767,458							

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	2 Act.	Set-Asides ³			Units	4 Pop.	5 Credits Rec.	Owner Contact	7 Final Score	8 Prior Score	Comment	
							USDA	NP	AR	LI	Total						
Applications Submitted in Region 3: R⁶																	
04288	3	A	Briarwood Apartment	513 E. 6th Street	Kaufman	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	48	48	F	\$173,148	Patrick Barbolla	91	89	USDA
										Subtotal:	48	48	\$173,148				
04175	3	N	Gardens of Mabank	801 S. Second Street	Mabank	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28	36	E	\$215,498	George Hopper	145	148	Not Financially Feasible
04118	3	N	Churchill at Commerce	731 Culver	Commerce	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	90	100	F	\$727,212	Brad Forslund	139	141	
04180	3	N	Hanford Square	New Highway 4	Granbury	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	60	76	F	\$414,945	Ronnie Hodges	122	128	
										Subtotal:	178	212	\$1,357,655				
										Total:	226	260	\$1,530,803				
16 Applications in Region						Region Total:	1,484	1,710	\$9,298,261								

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	Prior Score	Comment
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Region: 10

Allocation Information for Region 10:	Total Credits Available for Region: \$1,729,075	Rural Allocation: \$723,114	Urban/Exurban Allocation: \$1,005,961
		5% Required for USDA: \$86,453	15% Required for At-Risk: \$259,361

Applications Submitted in Region 10: U/E⁶

04290	10	A	L.U.L.A.C. Village Park	1417 Home Road	Corpus Christi	R	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	152	152	F	\$899,429	David Marquez	102	110	At-Risk
							Subtotal:			152	152		\$899,429				
04216	10	N	Thomas Ninke Senior Village	1900 Block of Lova Drive	Victoria	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	80	E	\$439,626	Debbie Gillespie	154	155	
04071	10	N	Sea Breeze	7220 Staples	Corpus Christi	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	200	200	E	\$943,037	Richard Franco	128	127	
							Subtotal:			276	280		\$1,382,663				
							Total:			428	432		\$2,282,092				

Applications Submitted in Region 10: R⁶

04302	10	A	Sierra Royale Apartments	601 Wright Street	Robstown	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	68	76	F	\$529,620	Rick Deyoe	141	144	Competitive in Region
04082	10	A	Fenner Square	Burke at Campbell Street	Goliad	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	32	32	F	\$195,062	Gary Driggers	138	140	
04291	10	A	Saltgrass Landing Apartments	1602 South Church Street	Rockport	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	55	56	F	\$95,218	James Brawner	90	93	USDA
							Subtotal:			155	164		\$819,900				
04050	10	N	San Diego Creek Apartments	1499 Easterling Drive	Alice	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	72	F	\$490,000	Doak Brown	139	144	
04129	10	N	Pelican Landing Townhomes	2511-2699 Block of Highway 35	Rockport	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	61	76	F	\$504,173	Kimberly Herzog	136	141	
							Subtotal:			125	148		\$994,173				
							Total:			280	312		\$1,814,073				
8 Applications in Region							Region Total:			708	744		\$4,096,165				

Dev. #	Reg. A	1 Development Name	Development Address	Dev. City	2 Act.	3 Set-Asides			Units	4 Pop.	5 Credits Rec.	Owner Contact	7 Final Score	8 Prior Score	Comment
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1. Award: A = recommended for an allocation, N = not recommended for an allocation
2. Activity: ACQ = Acquisition, R = Rehabilitation, NC = New Construction
3. Set-Asides: USDA=U.S. Department of Agriculture, NP = Nonprofit, AR = At-Risk
4. Population: E = Elderly, F = Family, ET = Elderly Transitional, FT = Family Transitional
5. Credit amounts reflected are those requested. The awarded amount will not exceed this amount. Developments approved will be conditioned on a final underwriting amount and conditions. The credit amount underwritten may be less than the credits reflected on this list.
6. Allocation: R = Rural Regional Allocation, U/E = Urban/ Exurban Regional Allocation
7. Final Score= Score awarded pursuant to the 2004 Emergency QAP
8. Prior Score= The score that would have been awarded pursuant to the original 2004 QAP

**Scenario 2- Final Score Compared to Score Prior To Successful QCP Appeals
Sorted by Region, Allocation Status, Recommendation Status and Final Score**

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act. ²	Set-Asides ³			Units	Pop. ⁴	Credits Rec. ⁵	Owner Contact	Final Score ⁷	Prior Score ⁸	Comment														
							USDA	NP	AR	LI	Total																			
Region: 11																														
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Allocation Information for Region 11:</td> <td>Total Credits Available for Region:</td> <td>\$4,725,727</td> <td>Rural Allocation:</td> <td>\$1,919,277</td> <td>Urban/Exurban Allocation:</td> <td>\$2,806,450</td> </tr> <tr> <td></td> <td>5% Required for USDA</td> <td>\$236,286</td> <td>15% Required for At-Risk:</td> <td>\$708,859</td> <td></td> <td></td> </tr> </table>																	Allocation Information for Region 11:	Total Credits Available for Region:	\$4,725,727	Rural Allocation:	\$1,919,277	Urban/Exurban Allocation:	\$2,806,450		5% Required for USDA	\$236,286	15% Required for At-Risk:	\$708,859		
Allocation Information for Region 11:	Total Credits Available for Region:	\$4,725,727	Rural Allocation:	\$1,919,277	Urban/Exurban Allocation:	\$2,806,450																								
	5% Required for USDA	\$236,286	15% Required for At-Risk:	\$708,859																										
Applications Submitted in Region 11: U/E⁶																														
04037	11	A	Las Canteras Apartments	400 Block of East Thomas Road	Pharr	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	100	100	F	\$577,000	William Skeen	158	146	High Score Nonprofit													
04036	11	A	Villa del Sol	700 East St. Charles Street	Brownsville	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	189	200	E	\$485,000	William Skeen	151	139	Competitive in Region													
04193	11	A	Providence at Edinburg	201 North 13th Ave	Edinburg	NC/AC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100	100	E	\$361,397	Saleem Jafar	140	140	At-Risk													
04191	11	A	Providence at Boca Chica	Intersection of Ash Street & Elm Street	Brownsville	ACQ	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	150	158	F	\$1,034,927	Saleem Jafar	128	128	At-Risk													
Subtotal:										539	558						\$2,458,324													
04014	11	N	La Villita Apartments II	2828 Rockwell Dr.	Brownsville	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	72	F	\$453,311	Mark Musemeche	147	146														
04032	11	N	Los Milagros	3600 Block of E. Mile 8 North	Weslaco	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	128	160	F	\$1,002,175	Rowan Smith	134	134														
04013	11	N	Kingswood Village	521 South 27th Avenue	Edinburg	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	80	80	F	\$352,618	Doug Gurkin	114	113														
Subtotal:										272	312						\$1,808,104													
Total:										811	870						\$4,266,428													
7 Applications in Region										811	870						\$4,266,428													

1. Award: A = recommended for an allocation, N = not recommended for an allocation
2. Activity: ACQ = Acquisition, R = Rehabilitation, NC = New Construction
3. Set-Asides: USDA=U.S. Department of Agriculture, NP = Nonprofit, AR = At-Risk
4. Population: E = Elderly, F = Family, ET = Elderly Transitional, FT = Family Transitional
5. Credit amounts reflected are those requested. The awarded amount will not exceed this amount. Developments approved will be conditioned on a final underwriting amount and conditions. The credit amount underwritten may be less than the credits reflected on this list.
6. Allocation: R = Rural Regional Allocation, U/E = Urban/ Exurban Regional Allocation
7. Final Score= Score awarded pursuant to the 2004 Emergency QAP
8. Prior Score= The score that would have been awarded pursuant to the original 2004 QAP

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
August 19, 2004

Action Items

Discussion of issuance of Forward Commitments of 2004 Housing Tax Credits.

Required Action

Discuss, and possibly act on, Forward Commitments of 2004 Housing Tax Credits.

Background and Recommendations

At the July 28, 2004 Board meeting, where tax credit allocations were approved, it was discussed that forward commitments might be considered at the August board meeting. Staff is presenting this item to prompt discussion and possible actions if the Board chooses.

Staff is not making any recommendations for forward commitments at this time. It should be noted that because each region is divided into rural and urban/exurban, the award of one Forward Commitment in an area could potentially absorb a substantial portion of the following year's credits for that category.

If, however, the Board does proceed with a recommendation of 2004 Forward Commitments, the Department has provided, under Agenda Item 5 (b), a list of Applications impacted by the Emergency Qualified Allocation Plan and by successful appeals related to Quantifiable Community Participation, which may be useful in considering applicants for forward commitments.

Attached, is a report showing all of the developments by region, sorted by score. The first set of developments in each region, denoted with an "A" are those that have already been awarded. The second set in each region, those denoted with a "N" are those that have not received an allocation but are still active and eligible, and therefore are available for consideration for forward commitments. If the Board decides to make a forward commitment to any development that has not been underwritten, staff recommends that the approval is contingent on successful underwriting, that the credit amount in the commitment notice be the amount recommended by underwriting, that all underwriting conditions be made a condition to the award, and that the applicant successfully undergo a review by the Portfolio Management and Compliance Division.

Under the 2004 QAP, the Board is authorized to use its discretion in determining the reasons for making forward commitments considering score and discretionary factors. On awarding tax credits, the Board is required to document the reasons for each application's selection, including any discretionary factors used in making its determination. The discretionary factors listed in the QAP are as follows:

- (A) the market study;
- (B) the proposed location of the Development, including supporting broad geographic dispersion;
- (C) the compliance history of the Applicant and/or Developer;
- (D) the Applicant and/or Developer's efforts to engage the neighborhood;
- (E) the financial feasibility of the Development;
- (F) the Development's proposed size and configuration;
- (G) the housing needs of the community in which the Development will be located and the needs of the community, area, region and state;
- (H) the Development's proximity to other rent restricted developments, including avoiding overconcentration;
- (I) the availability of adequate public and private facilities and services;
- (J) the anticipated impact on local school districts, giving due consideration to the authorized land use;
- (K) laws relating to fair housing including affirmatively furthering fair housing;
- (L) the efficient use of the tax credits;
- (M) consistency with local needs, including consideration of revitalization or preservation needs;
- (N) the allocation of credits among many different entities without diminishing the quality of the housing;
- (O) meeting a compelling housing need;
- (P) providing integrated, affordable housing for individuals and families with different levels of income;
- (Q) any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes and the policies of Chapter 2306, Texas Government Code; or
- (R) other good cause as determined by the Board.

**August 19, 2004 Board Meeting Information for Forward Commitments
Sorted by Region, Allocation Status, Recommendation Status and Score**

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act. ²	Set-Asides ³			Units	Pop. ⁴	Credits Rec. ⁵	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total					

Region: 1

Allocation Information for Region 1:	Total Credits Available for Region: \$1,704,279	Rural Allocation: \$805,212	Urban/Exurban Allocation: \$899,067
		5% Required for USDA \$85,214	15% Required for At-Risk: \$255,642

Applications Submitted in Region 1: U/E⁶

04057	1	A	Stone Hollow Village	E. Cornell & Martin Luther King Jr. Blvd.	Lubbock	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	112	140	F	\$845,849	Ron Hance	145	NA	High Score Nonprofit
04088	1	A	South Plains Apartments	5520 58th Street	Lubbock	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	144	144	F	\$379,812	Gary Hall	113	NA	At-Risk
Subtotal:										256	284		\$1,225,661				
04162	1	N	Travis Place Apartments	Corner of E 4th St. & Guava Ave.	Lubbock	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	96	120	F	\$764,539	Tim Smith	142	NA	
04123	1	N	Amarillo Apartment Community	2000 W. Amarillo Blvd.	Amarillo	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	96	120	F	\$676,605	Brad Forslund	132	NA	
04033	1	N	Bethany Gates Apartments	6300 43rd Street	Lubbock	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	160	200	F	\$887,418	Ketinna Livingston	116	NA	
Subtotal:										352	440		\$2,328,562				
Total:										608	724		\$3,554,223				

Applications Submitted in Region 1: R⁶

04154	1	A	Plainview Vistas	3200 Block of Lexington	Plainview	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	60	76	F	\$668,428	Cathy Graugnard	142	NA	Competitive in Region
04295	1	A	La Mirage Villas	309 SE 15th	Perryton	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	47	47	F	\$173,281	Patrick Barbolla	94	NA	USDA
Subtotal:										107	123		\$841,709				
04240	1	N	Deer Creek Apartments	West Ellis Street & Martin Luther King	Levelland	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	63	63	F	\$454,573	Justin Zimmerman	126	NA	
04244	1	N	Camden Crossing Apartments	NE Corner of North Avenue D & Stewart St.	Brownfield	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	63	63	F	\$455,296	Justin Zimmerman	123	NA	
04054	1	N	Vista Serena Court	24th and Date Street	Plainview	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	112	120	F	\$828,278	Ron Hance	123	NA	
Subtotal:										238	246		\$1,738,147				
Total:										345	369		\$2,579,856				

Dev. #	Reg.	A	Development Name	Development Address	Dev. City	Act.	Set-Asides ³			Units	Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment	
							USDA	NP	AR	LI	Total						
10 Applications in Region							Region Total:			953	1,093	\$6,134,079					

Region: 2

Allocation Information for Region 2:	Total Credits Available for Region:	\$1,122,652	Rural Allocation:	\$511,597	Urban/Exurban Allocation:	\$611,055
			5% Required for USDA	\$56,132	15% Required for At-Risk:	\$168,398

Applications Submitted in Region 2: U/E⁶

04241	2	A	Anson Park II	3102 Old Anson Road	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	80	F	\$535,250	R.J. Collins	147	NA	Competitive in Region. Wins Tie with 04172
										Subtotal:	64	80	\$535,250				
04172	2	N	Gardens of Tye	601 Scott Street	Tye	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	32	36	E	\$245,557	George Hopper	147	NA	Loses Tie with 04241
04095	2	N	Green Briar Village	601 Airport Drive	Wichita Falls	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	126	140	F	\$851,219	Randy Stevenson	146	NA	
04094	2	N	Big Country Senior Village	700 East Stamford	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	108	120	E	\$611,410	Randy Stevenson	145	NA	
04051	2	N	Frontier Trail Senior Village	Wildlife Trail Pkwy at Glen Eagles Court	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	72	80	E	\$530,000	Beverly Funderburgh	143	NA	
04211	2	N	Arbors at Rose Park	2702 South 7th Street	Abilene	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	72	80	E	\$542,577	Diana Mclver	129	NA	
										Subtotal:	410	456	\$2,780,763				
										Total:	474	536	\$3,316,013				

Applications Submitted in Region 2: R⁶

04246	2	A	Wildwood Trails Apartments	McClain & Looney Street	Brownwood	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	75	75	F	\$558,403	Justin Zimmerman	130	NA	Competitive in Region
										Subtotal:	75	75	\$558,403				
04174	2	N	Gardens of Early	401 Old Comanche Road	Early	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	30	36	E	\$230,137	George Hopper	132	NA	Excessive Inclusive Capture Rate
04173	2	N	Gardens of Burkburnett	105 Williams Street	Burkburnett	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	30	36	E	\$229,311	George Hopper	127	NA	
										Subtotal:	60	72	\$459,448				
										Total:	135	147	\$1,017,851				
9 Applications in Region							Region Total:			609	683	\$4,333,864					

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total				

Region: 3

Allocation Information for Region 3:	Total Credits Available for Region: \$7,362,180	Rural Allocation: \$480,034	Urban/Exurban Allocation: \$6,882,146
		5% Required for USDA \$368,109	15% Required for At-Risk: \$1,104,327

Applications Submitted in Region 3:

U/E⁶

04026	3	A	Oak Timbers-White Settlement II	8301 Tumbleweed Trail	White Settlement	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$417,280	Vaughan Mitchell	150	NA	High Score Nonprofit
04028	3	A	Heritage Park	1916 N. S.H. 91	Denison	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	100	100	F	\$501,577	Steve Rumsey	147	NA	Competitive in Region
04105	3	A	Preston Trace Apartments	8660 Preston Trace Blvd	Frisco	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	38	40	F	\$140,298	Dan Allgeier	146	NA	At-Risk
04058	3	A	Spring Oaks Apartments	4317 & 4321 Shepherd Ln.	Balch Springs	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	128	160	F	\$850,235	Ron Pegram	141	NA	Competitive in Region
04109	3	A	Frazier Fellowship	Blocks 4700-4900 Hatcher St.	Dallas	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	60	76	F	\$547,378	Lester Nevels	140	NA	At-Risk
04089	3	A	Villas of Forest Hill	7400 Block of Forest Hill Drive	Forest Hill	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	78	100	E	\$424,859	Deborah Griffin	138	NA	Competitive in Region
04157	3	A	Samaritan House	929 Hemphill Ave.	Fort Worth	NC/AC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	126	126	F	\$819,331	Thomas Scott	137	NA	Competitive in Region
04093	3	A	Villas of Seagoville	600 Block of East Malloy Bridge Rd.	Seagoville	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	78	100	E	\$428,270	Deborah Griffin	137	NA	Competitive in Region
04151	3	A	Renaissance Courts	308 S. Ruddell Street	Denton	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	150	F	\$993,822	Shirley Hensley	129	NA	Competitive in Region
04222	3	A	Primrose at Highland	2100 Block of Highland Avenue	Dallas	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	120	150	E	\$935,153	Deepak Sulakhe	129	NA	Competitive in Region
04147	3	A	Shiloh Village Apartments	8702 Shiloh Road	Dallas	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	168	168	F	\$800,000	Chad Cooley	112	04223	At-Risk
							Subtotal:	1,096	1,270			\$6,858,203					

04192	3	N	Providence at UT Southwestern	Mockingbird Lane and Harry Hines	Dallas	NC/AC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	162	180	E	\$909,255	Saleem Jafar	126	NA	
							Subtotal:	162	180			\$909,255					

Total: 1,258 1,450 \$7,767,458

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³			Units	Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment	
							USDA	NP	AR	LI	Total						
Applications Submitted in Region 3: R⁶																	
04288	3	A	Briarwood Apartment	513 E. 6th Street	Kaufman	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	48	48	F	\$173,148	Patrick Barbolla	91	NA	USDA
							Subtotal:			48	48		\$173,148				
04175	3	N	Gardens of Mabank	801 S. Second Street	Mabank	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28	36	E	\$215,498	George Hopper	145	NA	Not Financially Feasible
04118	3	N	Churchill at Commerce	731 Culver	Commerce	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	90	100	F	\$727,212	Brad Forslund	139	NA	
04180	3	N	Hanford Square	New Highway 4	Granbury	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	60	76	F	\$414,945	Ronnie Hodges	122	NA	
							Subtotal:			178	212		\$1,357,655				
							Total:			226	260		\$1,530,803				
16 Applications in Region							Region Total:			1,484	1,710		\$9,298,261				

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units				Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
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Region: 4

Allocation Information for Region 4:	Total Credits Available for Region: \$1,947,249	Rural Allocation: \$1,201,626	Urban/Exurban Allocation: \$745,623
	5% Required for USDA \$97,362	15% Required for At-Risk: \$292,087	

Applications Submitted in Region 4: U/E⁶

04012	4	A	Tyler Square Apartments	1007 NNW Loop 323	Tyler	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	160	160	F	\$652,315	Doug Gurkin	109	NA	At-Risk
Subtotal:										160	160		\$652,315				
04121	4	N	Tyler Senior Apartment Community	3200 Block of W. Front St.	Tyler	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	90	100	E	\$638,196	Brad Forslund	147	NA	
04117	4	N	Longview Senior Apartment	1600 Block of East Whatley	Longview	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	90	100	F	\$656,458	Brad Forslund	145	NA	
04247	4	N	Hawthorne Hills Apartments	Grand Avenue & Crawford St.	Marshall	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	63	63	F	\$455,467	Justin Zimmerman	135	NA	
04086	4	N	Timber Village Apartments	2707 Norwood Street at Loop 390	Marshall	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	82	96	F	\$640,277	Rick Deyoe	131	NA	
Subtotal:										325	359		\$2,390,398				
Total:										485	519		\$3,042,713				

Applications Submitted in Region 4: R⁶

04194	4	A	Lexington Court	3407 U.S. Highway 259 North	Kilgore	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	76	80	F	\$549,640	Emanuel Glockzin	136	NA	Competitive in Region
04170	4	A	Gardens of Athens	314 N Wood Street	Athens	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	32	36	E	\$245,888	George Hopper	136	NA	Competitive in Region
04176	4	A	Gardens of Gladewater	108 N. Lee Drive	Gladewater	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	34	36	E	\$260,918	George Hopper	130	NA	
04285	4	A	Ole Town Apartments	501 MLK Drive	Jefferson	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	24	24	F	\$117,328	Jim Fieser	36	NA	USDA
Subtotal:										166	176		\$1,173,774				
04243	4	N	Hampton Chase Apartments	State HWY-155, South of N. Loop 256	Palestine	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	75	76	F	\$556,158	Justin Zimmerman	129	NA	
04212	4	N	Village at Forest Grove	1000 Block of Richardson Road	Mount Pleasant	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	72	F	\$540,697	Eric Hartzell	129	NA	
04286	4	N	Country Place Apartments	1300 Courtland Rd.	Atlanta	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	72	72	F	\$219,663	Jim Fieser	36	NA	
04280	4	N	Country Square Apartments	1001 Lakeview	Lone Star	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	24	24	F	\$78,006	Jim Fieser	36	NA	
Subtotal:										235	244		\$1,394,524				
Total:										401	420		\$2,568,298				

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³			Units	Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
13 Applications in Region							Region Total:			886	939	\$5,611,011				

Region: 5

Allocation Information for Region 5:	Total Credits Available for Region:	\$1,562,356	Rural Allocation:	\$845,109	Urban/Exurban Allocation:	\$717,247
	5% Required for USDA	\$78,117	15% Required for At-Risk:	\$234,353		

Applications Submitted in Region 5: U/E⁶

04228	5	A	Stone Hearst	1650 East Lucas Drive	Beaumont	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	83	104	F	\$685,739	R.J. Collins	138	NA	Competitive in Region
04100	5	A	O.W. Collins Apartments	4440 Gulfway Drive	Port Arthur	R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	200	200	E	\$406,999	Ike Akbari	127	NA	At-Risk
Subtotal:										283	304	\$1,092,738					

04067	5	N	Beverly Place Apartments	5307 Gulfway Drive	Groves	ACQ/R	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	124	124	F	\$185,762	Madison Hopson	113	NA	
04096	5	N	Villa Main Apartments	901 Main Avenue	Port Arthur	ACQ/R	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	140	140	F	\$192,811	Madison Hopson	110	NA	
Subtotal:										264	264	\$378,573					

Total: 547 568 \$1,471,311

Applications Submitted in Region 5: R⁶

04030	5	A	Park Estates	1200 Block	Nacogdoches	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	34	36	F	\$393,033	Mark Musemeche	147	NA	Competitive in Region
04066	5	A	Pineywoods Community Orange	36 Scattered Sites in East Orange	Orange	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	36	36	F	\$411,155	Douglas Dowler	137	NA	Competitive in Region
Subtotal:										70	72	\$804,188					

04072	5	N	Nacogdoches Senior Village	6005 Harris Street	Nacogdoches	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	36	36	E	\$256,888	Bonita Williams	125	NA	
04091	5	N	Roselawn Manor	350- 37th street	Orange	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	54	80	FT	\$800,000	Mildred Putnam	95	NA	
Subtotal:										90	116	\$1,056,888					

Total: 160 188 \$1,861,076

8 Applications in Region

Region Total: 707 756 \$3,332,387

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
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Region: 6

Allocation Information for Region 6:	Total Credits Available for Region: \$9,788,743	Rural Allocation: \$894,228	Urban/Exurban Allocation: \$8,894,515
		5% Required for USDA \$489,437	15% Required for At-Risk: \$1,468,311

Applications Submitted in Region 6:

U/E⁶

04268	6	A	Lansbourough Apartments	10050 Cullen Blvd.	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	141	176	F	\$1,084,983	Margie Bingham	157	NA	Competitive in Region
04160	6	A	Village on Hobbs Road	6000 Hobbs Road	League City	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$552,528	Thomas Scott	153	NA	Competitive in Region
04079	6	A	Baybrook Park Retirement Center	500 Texas Avenue West	Webster	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$450,043	Barry Kahn	152	NA	Competitive in Region
04200	6	A	Alvin Manor Estates	917 E. Hwy 6	Alvin	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28	36	F	\$251,978	Elizabeth Young	151	NA	Competitive in Region
04203	6	A	Alvin Manor	837 E. Highway 6	Alvin	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28	36	F	\$177,273	Elizabeth Young	151	NA	Competitive in Region
04213	6	A	Village at Morningstar	3401 Magnolia Avenue	Texas City	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	90	100	E	\$537,331	Diana McIver	149	NA	Competitive in Region
04206	6	A	Lake Jackson Manor	100 Garland	Lake Jackson	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$409,155	Elizabeth Young	145	NA	Competitive in Region
04224	6	A	Commons of Grace Senior	8900 Block of Tidwell	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	86	108	ET	\$759,068	Deepak Sulakhe	145	04041	Competitive in Region
04024	6	A	South Union Place	7210 Scott Street	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	100	125	ET	\$739,345	John Barineau, III	142	NA	Competitive in Region
04085	6	A	Redwood Heights Apartments	7300 Block of Jensen Driven	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	96	F	\$600,146	Rick Deyoe	141	NA	Competitive in Region
04167	6	A	Oxford Place	605 Berry Road	Houston	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	200	250	F	\$1,200,000	Ernie Etuk	141	04188	At-Risk and Nonprofit
04255	6	A	Freeport Oaks Apartments	NE Corner of Avenue J & Skinner St.	Freeport	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	F	\$721,599	Les Kilday	140	NA	Competitive in Region
04098	6	A	Copperwood Apartments	4407 South Panther Creek Dr.	The Woodlands	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	300	300	E	\$1,057,335	Paul Patierno	137	NA	At-Risk
							Subtotal:	1,369	1,627	\$8,540,784							

Dev. #	Reg.	A	Development Name	Development Address	Dev. City	2 Act.	Set-Asides ³			Units		4 Pop.	5 Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total						
04188	6	N	Ambassador North Apartments	8210 Bauman	Houston	NC/AC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	91	114	F	\$486,067	Amay Inamdar	146	04167	Violates 1 Mile - 1 Year with 04167
04041	6	N	Mesa Senior's Apartments	9700 Block of Mesa Road	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	150	E	\$1,132,759	Sally Gaskin	143	04224	Violates 1 Mile - 1 Year with 04224
04210	6	N	Westview Place	Westview Blvd and Montgomery Park Blvd.	Conroe	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	28	36	F	\$228,852	Emanuel Glockzin	143	NA	Not Financially Feasible
04108	6	N	Tamarac Pines Apartments	10510 Six Pines Drive	The Woodlands	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	300	300	E	\$911,804	Paul Patierno	137	NA	\$2 million cap violation
04214	6	N	Las Villas de Magnolia	7123 Capitol Street	Houston	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	104	116	E	\$681,856	Rogelio Santos	137	NA	
04270	6	N	Essex Gardens Apartments	800 Columbus Road	Sealy	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	109	136	F	\$654,654	Brian Cogburn	137	NA	
04060	6	N	Providence Place Apartments	20300 Saums Road	Katy	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	139	174	E	\$772,798	Chris Richardson	135	NA	
04156	6	N	College Street Apartments	College Street near FM 2218	Richmond	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	80	100	F	\$507,651	Lucy Hancock	134	NA	
04267	6	N	Brentwood Apartments	W. Hardy. Rd. and Langwick	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$799,000	Angie Stahl	131	NA	
04235	6	N	Crescent Moon	7720 Emmett Lowry Expressway	Texas City	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	140	180	F	\$754,845	Manish Verma	122	NA	
04103	6	N	Countryside Village	625 Wilson Rd.	Humble	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	182	182	F	\$414,315	Lisa Castillo	118	NA	
04059	6	N	Asbury Commons Apartments	8526 Pitner Road	Houston	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	83	104	F	\$706,862	Chris Richardson	116	NA	
04064	6	N	Ramah Village	6501 E. Little York	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	80	FT	\$924,991	Eddie Winslow	99	04063	
04063	6	N	Depriest Gardens	6701 E. Little York	Houston	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	120	FT	\$1,136,358	Earnest Williams	97	04064	
Subtotal:								1,656	1,892		\$10,112,812						
Total:								3,025	3,519		\$18,653,596						

Dev. #	Reg.	A	1 Development Name	Development Address	Dev. City	2 Act.	3 Set-Asides			Units	4 Pop.	5 Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment	
							USDA	NP	AR	LI	Total						
Applications Submitted in Region 6: R 6																	
04002	6	A	Cricket Hollow Apartments	9700 FM 1097	Willis	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	150	176	0	\$871,110	Brian Cogburn	200	NA	2003 Forward Commitment
04294	6	A	Lantana Ridge Apartments	2200 N. Adams St.	Beeville	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	55	55	F	\$66,535	James Brawner	90	NA	USDA
04293	6	A	Lantana Ridge Apartments South	2200 N. Adams St.	Beeville	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	35	35	F	\$51,980	James Brawner	86	NA	USDA
04283	6	A	Shady Oaks Apartments	506 Ellen Powell Dr.	Prairie View	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	40	40	E	\$128,636	Keridi Cameron	40	NA	USDA
04284	6	A	Katy Manor Apartments	5360 E. 5th Street	Katy	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	48	48	F	\$123,768	Keridi Cameron	39	NA	USDA
04279	6	A	Golden Manor Apartments	800 Avenue H	Bay City	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	40	40	E	\$116,099	Melissa Baughman	38	NA	USDA
							Subtotal:			368	394		\$1,358,128				
04229	6	N	The Villages	FM 247 & Midway Road	Huntsville	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	F	\$691,442	R.J. Collins	138	NA	
04292	6	N	West Side Place Apartments	1000 N. 13th.	West Columbia	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	24	24	F	\$84,339	Melissa Baughman	37	NA	
							Subtotal:			104	124		\$775,781				
							Total:			472	518		\$2,133,909				
35 Applications in Region							Region Total:			3,497	4,037		\$20,787,505				

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³			Units	Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total					

Region: 7

Allocation Information for Region 7:	Total Credits Available for Region: \$2,036,696	Rural Allocation: \$444,394	Urban/Exurban Allocation: \$1,592,302
		5% Required for USDA \$101,834	15% Required for At-Risk: \$305,504

Applications Submitted in Region 7: U/E⁶

04003	7	A	Villas on Sixth Street	1900 Block of E. Sixth Street	Austin	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	136	160	0	\$1,072,039	Martin Gonzalez	200	NA	2003 Forward Commitment
04101	7	A	Pleasant Hill Apartments	2501 Anken Dr.	Austin	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	100	100	F	\$493,633	Paul Patierno	132	NA	At-Risk
										Subtotal:	236	260	\$1,565,672				
04182	7	N	Montopolis Senior Pavilion	2101 Montopolis Drive	Austin	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28	36	E	\$206,339	Gene Watkins	148	NA	
04183	7	N	Riverside Senior Pavilion	6010 E. Riverside Drive	Austin	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28	36	E	\$206,339	Gene Watkins	141	NA	
04187	7	N	Chandler's Cove Retirement	Sunrise Drive and Old Settler's Boulevard	Round Rock	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	72	90	E	\$457,724	David Saling	121	NA	
										Subtotal:	128	162	\$870,402				
										Total:	364	422	\$2,436,074				

Applications Submitted in Region 7: R⁶

04004	7	A	Kingsland Trail Apartments	4800 Block of 2900	Kingsland	0	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	60	76	0	\$444,394	Mark Mayfield	200	NA	2003 Forward Commitment
										Subtotal:	60	76	\$444,394				
										Total:	60	76	\$444,394				
6 Applications in Region										Region Total:	424	498	\$2,880,468				

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total				

Region: 8

Allocation Information for Region 8:	Total Credits Available for Region: \$2,180,011	Rural Allocation: \$457,956	Urban/Exurban Allocation: \$1,722,055
		5% Required for USDA: \$109,000	15% Required for At-Risk: \$327,002

Applications Submitted in Region 8:

U/E⁶

04052	8	A	Chisholm Trail Senior Village	9th Street at Harris Street	Belton	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	54	60	E	\$415,000	Leslie Holleman	149	NA	Competitive in Region
04145	8	A	Village at Meadowbend Apartments II	Case Road at Martin Luther King Blvd.	Temple	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	79	99	F	\$656,486	Robert Joy	149	NA	Competitive in Region
04018	8	A	Terrace Pines	819 Krenek Tap Road	College Station	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	E	\$589,664	Michael Lankford	149	NA	Competitive in Region
Subtotal:										213	259		\$1,661,150				

04017	8	N	Country Lane Seniors-Temple	H.K. Dodgen Loop at MLK Jr. Drive	Temple	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	85	100	E	\$762,879	Kenneth Mitchell	147	NA	
04239	8	N	Crescent Rivers	Lake Brazos Dr., West of Waco Dr.	Waco	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	144	180	F	\$955,575	Manish Verma	116	NA	
04122	8	N	Temple Senior Apartment	1900 Block of Case Road	Temple	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	95	100	E	\$658,555	Brad Forslund	115	NA	
Subtotal:										324	380		\$2,377,009				

Total: 537 639 \$4,038,159

Applications Submitted in Region 8:

R⁶

04152	8	A	Bluffview Villas	2800 Hwy 36 South	Brenham	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	76	E	\$453,021	Samuel Tijerina	112	NA	Competitive in Region
Subtotal:										76	76		\$453,021				

Total: 76 76 \$453,021

7 Applications in Region

Region Total: 613 715 \$4,491,180

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
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Region: 9

Allocation Information for Region 9:	Total Credits Available for Region: \$3,156,143	Rural Allocation: \$885,772	Urban/Exurban Allocation: \$2,270,371
		5% Required for USDA: \$157,807	15% Required for At-Risk: \$473,421

Applications Submitted in Region 9: U/E⁶

04005	9	A	Palacio del Sol	400 North Frio	San Antonio	0	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	160	200	0	\$1,096,828	Fernando Godinez	200	NA	2003 Forward Commitment
04047	9	A	Stratton Oaks	Stratton Ave. & Zunker St.	Seguin	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	100	100	F	\$590,539	Colby Denison	149	NA	High Score Nonprofit
04149	9	A	Seton Home Center for Teen Moms	1115 Mission Road	San Antonio	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	24	24	F	\$368,360	Margaret Starkey	149	NA	High Score Nonprofit
04107	9	A	Whitefield Place Apartments	4622 Clark Avenue	San Antonio	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	80	80	F	\$430,196	Paul Patierno	133	04073/04139	At-Risk
Subtotal:							364	404	\$2,485,923								

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act. ²	Set-Asides ³			Units		Pop. ⁴	Credits Rec. ⁵	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total						
04139	9	N	Villas at Costa Almadena	6000 Block of New Braunfels Ave.	San Antonio	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	150	F	\$1,000,000	Daniel Markson	159	04073/ 04107	Violates 1 Mile - 1 Year with 04107
04131	9	N	Alhambra	7100 Block of New Laredo Hwy.	San Antonio	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	112	140	E	\$932,296	Laura Wingfield	148	NA	Insufficient credits in Region 9 U/E to award.
04258	9	N	Vista Del Sol-The Rudy C Perez, Sr.	400 Block of SW 36th Street	San Antonio	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	96	120	F	\$700,000	David Starr	147	04074	Insufficient credits in Region 9 U/E to award
04140	9	N	Villa at Costa Cadiz	2813 W. W. White Road	San Antonio	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	150	F	\$1,000,000	Daniel Markson	147	NA	
04130	9	N	Villas at Costa Biscaya	5400 Block of Eisenhower Ave.	San Antonio	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	120	150	F	\$1,000,000	Daniel Markson	147	NA	
04142	9	N	Western Trail Apartments	4910 S W Military Drive	San Antonio	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	108	136	F	\$881,285	Bert Magill	144	NA	
04084	9	N	Chelsea Place Apartments	300 Block of Chelsea Place	Selma	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	142	178	F	\$870,953	Paul Inameti	143	NA	
04218	9	N	Converse Village Apartments	500 S. Sequin Rd.	Converse	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	80	100	F	\$458,035	Tina Brooks	137	NA	
04074	9	N	Las Palmas Garden Apartments	1014 S. San Eduardo	San Antonio	R	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100	100	F	\$639,786	David Marquez	132	04258	
04261	9	N	Gruene Oaks Apartments	NE Corner of Common St. and Gruene Rd.	New Braunfels	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	90	100	E	\$534,693	Les Kilday	128	NA	
04073	9	N	Avenue Park Villas	4247 Clark Avenue	San Antonio	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	96	120	F	\$757,796	Fred Odanga	122	04107/ 04139	
Subtotal:										1,184	1,444		\$8,774,844				
Total:										1,548	1,848		\$11,260,767				
Applications Submitted in Region 9:			R⁶														
04007	9	A	Oaks Of Bandera	400 Block of Old San Antonio Highway	Bandera	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	76	F	\$473,144	Lucille Jones	119	NA	Competitive in Region
04260	9	A	Towne Park in Fredericksburg II	1100 Block of S. Adams	Fredericksburg	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	39	44	E	\$257,151	Mark Mayfield	118	NA	Competitive in Region
Subtotal:										115	120		\$730,295				
04008	9	N	Friendship Place	600-700 E. Friendship Lane	Fredericksburg	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	76	F	\$473,144	Lucille Jones	114	NA	
Subtotal:										76	76		\$473,144				
Total:										191	196		\$1,203,439				

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total				
18 Applications in Region						Region Total:			1,739	2,044	\$12,464,206				

Region: 10

Allocation Information for Region 10:	Total Credits Available for Region: \$1,729,075	Rural Allocation: \$723,114	Urban/Exurban Allocation: \$1,005,961
		5% Required for USDA \$86,453	15% Required for At-Risk: \$259,361

Applications Submitted in Region 10: U/E⁶

04290	10	A	L.U.L.A.C. Village Park	1417 Home Road	Corpus Christi	R	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	152	152	F	\$899,429	David Marquez	102	NA	At-Risk
Subtotal:										152	152		\$899,429				
04216	10	N	Thomas Ninke Senior Village	1900 Block of Lova Drive	Victoria	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	80	E	\$439,626	Debbie Gillespie	154	NA	
04071	10	N	Sea Breeze	7220 Staples	Corpus Christi	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	200	200	E	\$943,037	Richard Franco	128	NA	
Subtotal:										276	280		\$1,382,663				
Total:										428	432		\$2,282,092				

Applications Submitted in Region 10: R⁶

04302	10	A	Sierra Royale Apartments	601 Wright Street	Robstown	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	68	76	F	\$529,620	Rick Deyoe	141	NA	Competitive in Region
04082	10	A	Fenner Square	Burke at Campbell Street	Goliad	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	32	32	F	\$195,062	Gary Driggers	138	NA	
04291	10	A	Saltgrass Landing Apartments	1602 South Church Street	Rockport	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	55	56	F	\$95,218	James Brawner	90	NA	USDA
Subtotal:										155	164		\$819,900				
04050	10	N	San Diego Creek Apartments	1499 Easterling Drive	Alice	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	72	F	\$490,000	Doak Brown	139	NA	
04129	10	N	Pelican Landing Townhomes	2511-2699 Block of Highway 35	Rockport	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	61	76	F	\$504,173	Kimberly Herzog	136	N/A	
Subtotal:										125	148		\$994,173				
Total:										280	312		\$1,814,073				
8 Applications in Region						Region Total:			708	744	\$4,096,165						

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	2	Set-Asides ³	Units	4	5	Owner Contact	Final Score	1 Mile Conflict	Comment
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Region: 11

Allocation Information for Region 11:	Total Credits Available for Region: \$4,725,727	Rural Allocation: \$1,919,277	Urban/Exurban Allocation: \$2,806,450
	5% Required for USDA: \$236,286	15% Required for At-Risk: \$708,859	

Applications Submitted in Region 11: U/E⁶

04037	11	A	Las Canteras Apartments	400 Block of East Thomas Road	Pharr	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	100	100	F	\$577,000	William Skeen	158	NA	High Score Nonprofit
04036	11	A	Villa del Sol	700 East St. Charles Street	Brownsville	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	189	200	E	\$485,000	William Skeen	151	NA	Competitive in Region
04193	11	A	Providence at Edinburg	201 North 13th Ave	Edinburg	NC/AC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100	100	E	\$361,397	Saleem Jafar	140	NA	At-Risk
04191	11	A	Providence at Boca Chica	Intersection of Ash Street & Elm Street	Brownsville	ACQ	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	150	158	F	\$1,034,927	Saleem Jafar	128	NA	At-Risk
Subtotal:										539	558		\$2,458,324				

04014	11	N	La Villita Apartments II	2828 Rockwell Dr.	Brownsville	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64	72	F	\$453,311	Mark Musemeche	147	NA	
04032	11	N	Los Milagros	3600 Block of E. Mile 8 North	Weslaco	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	128	160	F	\$1,002,175	Rowan Smith	134	NA	
04013	11	N	Kingswood Village	521 South 27th Avenue	Edinburg	ACQ/R	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	80	80	F	\$352,618	Doug Gurkin	114	NA	
Subtotal:										272	312		\$1,808,104				
Total:										811	870		\$4,266,428				

Applications Submitted in Region 11: R⁶

04226	11	A	Arbor Cove	2805 Fordyce Avenue	Donna	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	108	120	F	\$1,152,552	Anita Kegley	145	NA	Competitive in Region
04146	11	A	Casa Korima	SW Corner - Mile 8 Rd. at Baseline Rd.	Mercedes	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	156	196	F	\$1,182,999	Robert Joy	143	NA	Competitive in Region
04287	11	A	Vista Hermosa Apartments	820 N. Bibb	Eagle Pass	ACQ/R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	20	20	F	\$63,097	Patrick Barbolla	104	NA	USDA
04275	11	A	Bahia Palms Apartments	1303 Pino Dr.	Laguna Vista	R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	64	64	F	\$123,922	Patrick Barbolla	96	NA	USDA
Subtotal:										348	400		\$2,522,570				
Total:										348	400		\$2,522,570				

11 Applications in Region

Region Total: 1,159 1,270 \$6,788,998

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act.	Set-Asides ³ Units			Pop.	Credits Rec.	Owner Contact	Final Score	1 Mile Conflict	Comment
							USDA	NP	AR	LI	Total				

Region: 12

Allocation Information for Region 12:	Total Credits Available for Region: \$1,120,138	Rural Allocation: \$377,861	Urban/Exurban Allocation: \$742,277
		5% Required for USDA \$56,006	15% Required for At-Risk: \$168,020

Applications Submitted in Region 12: U/E⁶

04120	12	A	Sedona Springs Village	920 W. University	Odessa	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	85	100	F	\$652,451	Ron Hance	147	NA	Competitive in Region
							Subtotal:			85	100		\$652,451				
04158	12	N	Windrock Apartments	Near Rankin Hwy. between Wolcott Ave & Stokes Ave.	Midland	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	100	F	\$642,689	Tim Smith	143	NA	
04143	12	N	Courtland Square Apartments	3500 W. 8th Street at W. Loop 338	Odessa	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	98	98	F	\$779,673	Bert Magill	142	NA	
04259	12	N	Villa del Arroyo Apartments	1200 Block of Elm Street	Midland	NC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	46	52	F	\$385,000	David Diaz	141	NA	
04163	12	N	Riverview Apartments	Corner of Rio Concho Drive & S. Irene St.	San Angelo	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	90	100	F	\$735,023	Tim Smith	141	NA	
							Subtotal:			314	350		\$2,542,385				
							Total:			399	450		\$3,194,836				

Applications Submitted in Region 12: R⁶

04250	12	A	Knollwood Heights Apartments	NE corner of MLK Blvd & West Mercy Dr.	Big Spring	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	63	64	F	\$457,678	Justin Zimmerman	117	NA	Competitive in Region
							Subtotal:			63	64		\$457,678				
							Total:			63	64		\$457,678				
6 Applications in Region							Region Total:			462	514		\$3,652,514				

Dev. #	Reg.	A ¹	Development Name	Development Address	Dev. City	Act. ²	Set-Asides ³ Units			Pop. ⁴	Credits Rec. ⁵	Owner Contact	Final Score	1 Mile Conflict	Comment
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Region: 13

Allocation Information for Region 13:	Total Credits Available for Region: \$1,931,031	Rural Allocation: \$288,481	Urban/Exurban Allocation: \$1,642,550
		5% Required for USDA \$96,551	15% Required for At-Risk: \$289,654

Applications Submitted in Region 13: U/E⁶

04001	13	A	Diana Palms	4700 Block of Diana Street	El Paso	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	34	36	0	\$211,474	Bobby Bowling IV	200	NA	2003 Forward Commitment
04196	13	A	Americas Palms	12300 Lorenzo Ruiz Drive	El Paso	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	112	112	F	\$635,064	Bobby Bowling IV	132	NA	Competitive in Region
										Subtotal:	146	148	\$846,538				
04070	13	N	Cedar Oak Townhomes	1440 Cedar Oak Dr.	El Paso	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	128	160	F	\$985,523	Ike Monty	101	NA	Not Financially Feasible/Excessive Capture Rate
										Subtotal:	128	160	\$985,523				
										Total:	274	308	\$1,832,061				

Applications Submitted in Region 13: R⁶

04197	13	A	Horizon Palms	West of Darrington Rd.	Horizon City	NC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	76	76	F	\$431,206	Bobby Bowling IV	132	NA	Competitive in Region
										Subtotal:	76	76	\$431,206				
										Total:	76	76	\$431,206				

4 Applications in Region

Region Total: 350 384 \$2,263,267

151 Total Applications 13,591 15,387 \$86,133,905

1. Award: A = Received an allocation on July 28, N = not recommended for an allocation
 2. Activity: ACQ = Acquisition, R = Rehabilitation, NC = New Construction
 3. Set-Asides: USDA=U.S. Department of Agriculture, NP = Nonprofit, AR = At-Risk
 4. Population: E = Elderly, F = Family, ET = Elderly Transitional, FT = Family Transitional
 5. Credit amounts reflected are those requested. Developments approved will be conditioned on a final underwriting amount and conditions. The credit amount underwritten may be less than the credits reflected on this list.
 6. Allocation: R = Rural Regional Allocation, U/E = Urban/ Exurban Regional Allocation

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

August 12, 2004

Action Items

Requests for extensions to close construction loans. The status of each development is indicated in the summary of the request.

Required Action

Approve or deny the requests for extensions associated with 2003 Housing Tax Credit commitments.

Background

Pertinent facts about the developments requesting extensions are given below. The requests were each accompanied by a mandatory \$2,500 extension request fee. Some requests were submitted to the Department late; and one request is for a second extension.

Heritage Pointe Apartments, HTC Development No. 03001

Summary of Request: This development received a forward commitment in 2002, closed the construction loan early and was approximately 50% complete by the June 11, 2004 deadline for submitting documentation of closing the construction loan. Although the owner had been in contact with the Department's Division of Portfolio Management and Compliance to complete the required construction plan review, the construction loan closing documentation was not submitted to the Department until July 1. Note that the closing itself did take place prior to the deadline; however the documents were submitted late.

Applicant:	Eagle's Point Housing Partners, Ltd.
General Partner:	NDG-Eagle Point, LLC, managing GP Victory Family Ministry, Co-GP
Principals/Interested Parties:	Robert Hoskins, owner of managing GP
Syndicator:	SunAmerica
Construction Lender:	Bank One
Permanent Lender:	Fannie Mae/Capri Capital
Other Funding:	NA
City/County:	Austin/Travis
Set-Aside:	General/Elderly
Type of Development:	New Construction
Units:	192 HTC and 48 market rate units
2003 Allocation:	\$1,200,000
Allocation per HTC Unit:	\$6,250
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Closing construction loan
Note on Time of Request:	Request was submitted late
Deadline Missed:	June 11, 2004
New Deadline Requested:	July 1 – the documentation was submitted on this date.
New Deadline Recommended:	July 1, 2004 – the date documentation was submitted.
Prior Extensions:	None
Reason for Request:	See summary above.

Staff Recommendation: **Approve an extension to the date that the requirement was fulfilled.**

NuRock Companies

3460 Preston Ridge Road
Suite 175
Alpharetta, GA 30005
(678) 297-3406 Fax (678) 297-3407

July 12, 2004

Mr. Ben Sheppard
Texas Department of Housing and Community Affairs
Multifamily Finance Production Division
507 Sabine St.
4th Floor Mail Room
Austin, TX 78701

RE: Eagles Point Apartments

Dear Mr. Sheppard,

In accordance with your instructions, please consider this letter our formal request for an extension regarding our HTC Progress Report - Construction Loan Closing.

I have enclosed our check in the amount of \$2,500.00 as the requested extension fee.

If you have any questions or need additional information, please feel free to call.

Sincerely,

James C. Foregger
Controller

Amarillo Gardens Apartments, HTC Development No. 03016

Summary of Request: Applicant submitted the construction loan closing documentation late and must request an extension to the date that the submission was made. Note that the closing itself did take place prior to the deadline; however the documents were submitted late.

Applicant:	Am Gardens, Ltd.
General Partner:	Alliance Housing Foundation (GP) Minerva Partners, Ltd. (Special LP) Baptist Community Services (Special LP) High Plains Christian Ministries (Special LP) American Housing Foundation (Consultant)
Principals/Interested Parties:	Gene Morrison, Executive Director
Syndicator:	Paramount Financial Group
Construction Lender:	American Housing Foundation
Permanent Lender:	Collateral Mortgage Capital, LLC
Other Funding:	NA
City/County:	Amarillo/Potter
Set-Aside:	At-Risk
Type of Development:	Rehabilitation
Units:	100 HTC units
2003 Allocation:	\$265,490
Allocation per HTC Unit:	\$2,655
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Closing construction loan
Note on Time of Request:	Request was submitted late
Deadline Missed:	June 11, 2004
New Deadline Requested:	July 1 – the documentation was submitted on this date.
New Deadline Recommended:	July 1, 2004 – the date documentation was submitted.
Prior Extensions:	None
Reason for Request:	See Summary above.
Staff Recommendation:	Approve an extension to the date that the requirement was fulfilled.

ALLIANCE HOUSING FOUNDATION

RECEIVED

JUN 28 2004

LIHTC

June 25, 2004

Mr. Ben Sheppard
Texas Department of Housing and Community Affairs
507 Sabine
Austin, Texas 78701

Re: Alliance Housing Foundation/AmGardens Alliance, Inc.
Amarillo Gardens Tax Credit project/TDHCA #03016

Dear Mr. Sheppard:

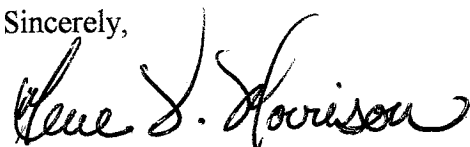
Pursuant to our telephone conversation, please find enclosed a check in the amount of \$2,500.00 (Two Thousand Five Hundred dollars) in payment of fee associated with request for extension of deadline for construction loan closing of this project.

We anticipate closing the construction loan before June 28, 2004. Alliance has purchased the property, solicited all necessary construction bids and assembled all the necessary project documentation. This data has been transmitted to the lender for processing.

Alliance appreciates your willingness to consider this extension request. The rehabilitation of this affordable housing means so much to the residents and the neighborhood. We fully intend to see this project through to completion in a timely manner. All appropriate documentation as required by the Department will be filed with you as requested.

Please call me if you have any questions at 512-784-2600.

Sincerely,



Gene V. Morrison
President

Wright Senior Apartments, HTC Development No. 03081

Summary of Request: Applicant submitted the construction loan closing documentation late and must request an extension to the date that the submission was made. Note that the closing itself did take place prior to the deadline; however the documents were submitted late.

Applicant:	Wright Senior Apartments, L.P.
General Partner:	Good Landing, Inc.
Principals/Interested Parties:	Hal Thorne, Dean Dauley
Syndicator:	Lend Lease Real Estate Investments
Construction Lender:	Malone Mortgage Company
Permanent Lender:	Malone Mortgage Company
Other Funding:	NA
City/County:	Grand Prairie/Dallas
Set-Aside:	General/Elderly
Type of Development:	New Construction
Units:	123 HTC and 31 market rate units
2003 Allocation:	\$756,742
Allocation per HTC Unit:	\$6,152
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Closing construction loan
Note on Time of Request:	Request was submitted late.
Current Deadline:	June 11, 2004
New Deadline Requested:	June 18 – the documentation was submitted on this date.
New Deadline Recommended:	June 18, 2004 – the date documentation was submitted.
Prior Extensions:	None
Reason for Request:	See summary above.

Staff Recommendation: **Approve an extension to the date that the requirement was fulfilled.**

WRIGHT SENIOR APARTMENTS, L.P.
Post Office Box 530591, Grand Prairie, Texas 75053-0591
Phone: 972/262-2608 Fax: 972/263-5220

June 17, 2004

RECEIVED
JUN 18 2004
LIHTC

VIA FEDERAL EXPRESS

Ben Sheppard
Multifamily Housing Specialist
TDHCA LIHTC Program
507 Sabine, Suite 300
Austin, Texas 78701

RE: TDHCA Number 03081; Wright Senior Apartments, Grand Prairie, Texas

Dear Mr. Sheppard:

I write in response to your voice mail message concerning our need to request an extension of the deadline to file the required HTC Progress Report-Construction Loan Closing and supporting documentation.

Wright Senior Apartments, L.P. hereby submits its request for an extension of the deadline in order to allow the filing of the enclosed HTC Progress Report-Construction Loan Closing and supporting documentation. Enclosed please find a cashier's check in the amount of \$2,500.00 made payable to the "TDHCA".

Please note that we are not asking for an extension to close the construction loan as we closed same well prior to the deadline. Please note that our failure to file the report in a timely manner was not intentional but simply an oversight. We hope that the TDHCA will waive the requirement for payment of the \$2,500.00 extension fee due to this fact.

With regard to the progress, enclosed you will find the completed HTC Progress Report-Construction Loan Closing and the following required documents:

1. Copy of the TDHCA Commitment Notice. Please note that, to my knowledge, we have not received a Determination Notice from the TDHCA.
2. Copy of the settlement statement which evidences the following:
 - (1) Initial draw of \$384,467.32 from the Malone Mortgage Company construction loan. A copy of the Equity Fund Agreement is attached also. Exhibit "B" to same reflects the estimated cash outflows for the construction loan.
 - (2) Initial advancement of \$4,806,448.00 from our syndicator, MMA Financial, L.L.C.

3. Copy of Malone Mortgage Company's Construction Loan Progress Report which evidences the amounts funded by Malone.
4. Copy of the executed Deed of Trust.
5. Post-Application General Contractor Certification Form.
6. Post-Application Architect Certification Form.
7. Copy of the Management Plan.
8. Copy of the Affirmative Marketing Plan.

With regard to syndication proceeds, please find enclosed the following:

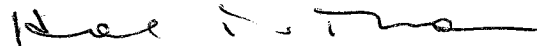
- * See closing statement referred to as Item 2 above which evidences partial funding of the first equity installment to the partnership.
- 1. Page 23 of the Wright Senior Apartments, L.P. Second Amended and Restated Agreement of Limited Partnership, Article V, entitled, "Capital Contributions of Investor Limited Partner", which sets out the equity installment schedule.
- 2. Receipt/Breakdown of First Installment of HTC Net Proceeds from MMA Financial.

In the event additional information is needed to evidence that funds have been advanced to the partnership, please contact me and I will promptly deliver same to you.

Also find enclosed evidence of fair housing training for architect and owner which is also due at this time. In addition to the evidence of owner's training provided herein, please note that I am registered to attend the Fair Housing Training seminar in Austin on August 17, 2004 being hosted by E&A Services, Inc.

Sincerely,

WRIGHT SENIOR APARTMENTS



HAL T. THORNE

RECEIVED ON:

June _____, 2004

BY: _____
Ben Sheppard
TDHCA Multifamily Housing Specialist

Summit Senior Village Apartments, HTC Development No. 03159

Summary of Request: Applicant requests a second extension of the deadline. Applicant stated that delays resulted from an amendment to the site plan and building plans approved by the Board on October 9, 2003. The amendment permitted the addition of 3 acres of land and redesign of the buildings and site plan based on a request by the City of Gainesville. The applicant obtained a carryover extension to purchase the additional land, perform floodplain remediation and pursue a letter of map revision from FEMA. In addition, interactions with HUD in connection with development financing caused delays. The HUD office has indicated that the new deadline for closing requested below should be sufficient.

Applicant:	MAEDC Gainesville Seniors, L.P.
General Partner:	MAEDC Gainesville GP, LLC
Principals/Interested Parties:	James French
Syndicator:	MMA Financial
Construction Lender:	Red Mortgage Capital Group
Permanent Lender:	Red Mortgage Capital Group
Other Funding:	NA
City/County:	Gainesville/Cooke
Set-Aside:	General/Elderly
Type of Development:	New Construction
Units:	68 HTC and 8 market rate units
2003 Allocation:	\$476,268
Allocation per HTC Unit:	\$7,004
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Closing construction loan
Note on Time of Request:	Request was submitted on time
1st Extended (Current) Deadline:	August 11, 2004
New Deadline Requested:	September 30, 2004
New Deadline Recommended:	September 30, 2004
Prior Extensions:	Construction loan closing extended from 6/11/04 to 8/11/04 Carryover extended from 11/1/03 to 12/15/03
Reason for Request:	See summary above.
Staff Recommendation:	Approve extension as requested.

SUMMIT SENIOR VILLAGE

July 9, 2004

Mr. Ben Sheppard
Texas Department of Housing and Community Affairs
507 Sabine Street, 6th Floor
Austin, Texas 78711

Re: Request for Construction Loan Closing Extension of LIHTC #03159, Summit Senior Village,
Gainesville, TX

Dear Ben:

Pursuant to the information provided in the 2003 HTC Development Timeline and Required HTC Progress Reports, the purpose of this letter is to request an extension to September 30, 2004 for executing the Construction Loan Closing for the above referenced development. An HTC Program Document and Payment Receipt, along with a check in the amount of \$2,500, are included with the letter.

The Summit Senior Village development team is working diligently to advance this development. The 10% test documentation delivered to the Department on June 28th shows a total of \$798,007 has been expended so far on this project. That amount is \$195,100 more than was required to meet that test.

The delay at this point stems from two events. The first is that Summit Senior Village previously requested a change in the land area and site plan. This request was recommended for approval by TDHCA Staff and was approved at the October 9th TDHCA Board meeting. The Project Owner then requested a carryover extension due to additional time required to address items outlined in the material change request (including but not limited to the purchase of additional land and the flood plain remediation and pursuit of the Conditional Letter of Map Revision from FEMA). Essentially, these requests have significantly improved the quality of the Summit Senior Village development, but have caused it to perform a consistent 60 days behind schedule.

The second event stems from the fact that the Project Owner has opted to utilize U.S. Department of Housing and Urban Development financing for the construction and permanent loans for this development. This financing tool benefits the financial feasibility of the development, but has created delays in closing the construction loan.

To verify the fact that this development is indeed moving forward at an appropriate pace, I have attached two letters to this request. The first letter is from Red Mortgage Capital Group. This is the entity currently processing the application for HUD financing. The second letter is from MMA Financial. MMA Financial is the tax credit syndicator. Both organizations indicate they are working toward closing the construction loan and that their estimated time frame will more than meet the requirements if we are awarded this extension.

This is the second Construction Loan Closing Extension Request filed by Summit Senior Village. While we understand the Board and staff's concerns about developments requiring extensions. The information provided by the financial institutions, along with the considerable funds that have been expended for this development, prove it is indeed moving forward and there is no danger of the credits being returned.

SUMMIT SENIOR VILLAGE

Thank you,for your assistance in this matter. We are available to answer any questions or provide you with any additional documentation concerning this request. Please contact me at (806) 383-8784 or (806) 570-7194.

Sincerely,

MAEDC Gainesville Seniors, L.P.



Kelly Hunt
Consultant to the General Partner

enclosures

cc: Monique Allen, Maple Avenue Economic Development



MMA Financial, LLC

101 Arch Street
 Boston, Massachusetts 02110-1106
 T 617. 439.3911 F 617. 439.9978
 www.MMAfin.com

A MuniMae Company

July 9, 2004

Ben Sheppard
 Texas Department of Housing and Community Affairs
 507 Sabine, Ste. 300
 Austin, Texas 78711

Dear Mr. Sheppard:

MMA Financial, LLC executed a proposal in November 2003 to invest approximately \$3,952,000 of equity with MAEDC Gainesville Seniors, LP ("the Partnership") to partially fund the development of Summit Senior Village (TDHCA #03159). In December 2003, MMA Financial, LLC made a loan to the Partnership in the principal amount of \$525,000 to pay for certain predevelopment costs prior to the closing of the construction loan and the initial funding of our equity.

We are aware the Partnership has experienced some delays in closing the construction loan. It is our understanding that the Partnership has selected Red Capital Group to provide an FHA insured construction / permanent loan. A commitment from Red Capital Group is expected in early September 2004. Subject to our customary due diligence and approval process, MMA Financial, LLC intends to fund our first installment of equity when the commitment is received the construction loan is funded.

Please feel free to contact me if you have any questions or comments.

Best regards,

Korbin F. Heiss
 Vice President

KFH/jae

BALTIMORE BOSTON CLEARWATER INTEGRITY. INNOVATION. SERVICE.
 SAN FRANCISCO ATLANTA CHICAGO DALLAS DETROIT SAN DIEGO
 BALTIMORE BOSTON CLEARWATER SAN FRANCISCO ATLANTA CHICAGO DALLAS DETROIT SAN DIEGO

JUL-09-2004 14:18

RED CAPITAL GROUP

P.02



Red Mortgage Capital, Inc.
Suite 1165
801 Cherry Street, Mail Unit #32
Fort Worth, Texas 76102

tel: 817.916.0060
fax: 817.916.0070
www.redcapitalgroup.com

A National City Company

July 9, 2004

Mr. Ben Sheppard
Texas Department of Housing
and Community Affairs
507 Sabine, Suite 300
Austin, Texas 78711

Re: Summit Senior Village
Gainesville, Texas 76240

Dear Mr. Sheppard:

Red Mortgage Capital, Inc. has been engaged by the developer of the above referenced transaction to process a mortgage insurance application pursuant to the FHA Section 221(d)(4) New Construction program through the HUD-Ft. Worth field office. We will be submitting the pre-application submission package to HUD-Ft. Worth on Monday, July 12, 2004. Based on discussions with the HUD-Ft. Worth multifamily production staff, we anticipate the issuance of a firm commitment on or about September 3, 2004 and closing on or about September 10, 2004.

Please contact me at (817) 916-0054 should you have any questions regarding this transaction.

Respectfully yours,

RED MORTGAGE CAPITAL, INC.

A handwritten signature in black ink that reads "Samuel J. Butler".

Samuel J. Butler
Senior Managing Director

Meadows Place Senior Village Apartments, HTC Development No. 03245

Summary of Request: Applicant submitted the construction loan closing documentation late and must request an extension to the date that the documentation was submitted. Note that the closing itself did take place prior to the deadline; however the documents were submitted late.

Applicant:	Meadows Place Village L.P.
General Partner:	Chaparral Group, Inc.
Principals/Interested Parties:	Rae Fairfield, Al Fairfield, Steve Fairfield
Syndicator:	MuniMae Midland, LLC
Construction Lender:	MMA Financial
Permanent Lender:	MMA Financial
Other Funding:	Covenant Community Capital Corporation
City/County:	Meadows Place/Fort Bend
Set-Aside:	General/Elderly
Type of Development:	New Construction
Units:	145 HTC and 37 market rate units
2003 Allocation:	\$675,605
Allocation per HTC Unit:	\$4,659
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Closing construction loan
Note on Time of Request:	Requested late
Current Deadline:	June 11, 2004
New Deadline Requested:	June 17 – the documentation was submitted on this date.
New Deadline Recommended:	June 17 – the date documentation was submitted.
Prior Extensions:	None
Reason for Request:	See summary above.

Staff Recommendation: **Approve an extension to the date that the requirement was fulfilled.**

THE CHAPARRAL GROUP

June 24, 2004

Ben Sheppard
TDHCA
507 Sabine
Suite 400
Austin, TX

**RE: Meadows Place Senior Village
TDHCA #03245**

Dear Mr. Sheppard:

This letter is to correspond with the letter that was sent to you via fax dated June 16, 2004. We hereby request an Extension for the submission of our LIHTC Progress Report. In our previous letter, we requested that we have a submission due date of June 21, 2004, however, we submitted our report on June 17, 2004 via overnight mail to you.

I had been out of the office due to a mandatory surgery on June 15, 2003. The weeks prior consisted of numerous testing to discover the scope of the surgery. This was after a mass had been discovered during a routine x-ray. This caused the oversight of our timely submission of our Progress Report. I had no way of filing an extension due to the unexpected medical conditions that took place.

I hereby request that this request be submitted to TDHCA for review and the \$2500.00 extension fee be waived.

Following is a copy of the doctor's excuse from Dr. Sherri S. Levin, M.D., P.A.

Should have any questions or comments regarding this matter, please feel free to contact me at 713.468.1500 x16 or at rfairfield@chaparralgroup.us.

Best wishes,



Rae Fairfield
President
The Chaparral Group

Rae
ext.

**Housing Tax Credit Program
Board Action Request
August 19, 2004**

Action Item

Request review and board determination of two (2) four percent (4%) tax credit applications with other issuers for tax exempt bond transaction.

Recommendation

Staff is recommending board approval of staff recommendation for the issuance of one (1) four percent (4%) Tax Credit Determination Notice with **another issuer** for the tax exempt bond transaction known as:

Development No.	Name	Location	Issuer	Total Units	LI Units	Total Development	Applicant Proposed Tax Exempt Bond Amount	Requested Credit Allocation	Recommended Credit Allocation
04435	Aventine Tarrant Parkway Apartments	Fort Worth	Tarrant County HFC	240	240	\$23,466,148	\$15,000,000	\$713,590	\$0
04439	Uvalde Ranch	Houston	Victory Street Public Facility Corp.	244	244	\$19,528,937	\$13,000,000	\$604,806	\$604,806

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

August 19, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Aventine Tarrant Parkway Apartments.

Summary of the Transaction

The application was received on April 20, 2004. The Issuer for this transaction is Tarrant County HFC. The development is to be located at the 5400 block of N. Tarrant Parkway in Fort Worth. The development will consist of 248 total units targeting families, with all affordable. The site is currently properly zoned for such a development. The Department has received no letters of support and no letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI **and** Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI **and** Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board deny the issuance of Housing Tax Credits for Aventine Tarrant Parkway Apartments.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Aventine Tarrant Parkway Apartments**

TDHCA#: 04435

DEVELOPMENT AND OWNER INFORMATION

Development Location: Fort Worth QCT: N DDA: N TTC: N
 Development Owner: Aventine Tarrant Parkway Apartments, LP
 General Partner(s): Aventine Tarrant Parkway Apartments I, LLC, 100%, Contact: John Mark Wolcott
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Tarrant County HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$751,233 Eligible Basis Amt: \$713,590 Equity/Gap Amt.: \$1,129,146

Annual Tax Credit Allocation Recommendation: \$ 0

Total Tax Credit Allocation Over Ten Years: \$

PROPERTY INFORMATION

Unit and Building Information

Total Units: 240 HTC Units: 240 % of HTC Units: 100
 Gross Square Footage: 251,035 Net Rentable Square Footage: 245,682
 Average Square Footage/Unit: 1017
 Number of Buildings: 18
 Currently Occupied: N

Development Cost

Total Cost: \$23,466,148 Total Cost/Net Rentable Sq. Ft.: \$95.51

Income and Expenses

Effective Gross Income:¹ \$2,062,247 Ttl. Expenses: \$982,570 Net Operating Inc.: \$1,079,677
 Estimated 1st Year DCR: 1.10

DEVELOPMENT TEAM

Consultant:	Not Utilized	Manager:	Alpha-Barnes Real Estate Services
Attorney:	J. Michale Pruitt	Architect:	Archon Corp.
Accountant:	To Be Determined	Engineer:	Hunter Associates Texas, Ltd.
Market Analyst:	Butler Burgher	Lender:	Newman Capital
Contractor:	G. G. MacDonald, Inc.	Syndicator:	Paramount Financial Group, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Jane Nelson, District 12 - NC
# in Opposition: 0	Rep. Bob E. Griggs, District 91 - NC
	Mayor Mike Moncrief - NC
	Reid Rector, Assistant City Manager, City of Fort Worth; Consistent with the local Consolidated Plan.

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

NOTE: The Development is not being recommended; however, if an allocation is granted the following conditions must be satisfied.

1. Per §50.12(c) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project Applications “must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).
2. Receipt, review, and acceptance of a site plan delineating the floodplain and, if necessary, a flood hazard mitigation plan to include, at a minimum, consideration and documentaion of floodplain reclamation sitework costs and building and tenant flood insurance costs prior to the initial closing on the property.
3. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

DEVELOPMENT'S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Robert Onion, Multifamily Finance Manager

Date

Brooke Boston, Director of Multifamily Finance Production Date

DEVELOPMENT'S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director

Date

Chairman of Executive Award and Review Advisory Committee

TDHCA Board of Director's Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____

Elizabeth Anderson, Chairman of the Board

Date

Applicant Evaluation

Project ID # **04435**

Name: **Aventine Tarrant Parkway**

City: **Fort Worth**

LIHTC 9% LIHTC 4% HOME BOND HTF SECO ESGP Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Members of the application did not receive the required Previous Participation Acknowledgement

National Previous Participation Certification Received: N/A Yes No

Noncompliance Reported on National Previous Participation Certification: Yes No

Portfolio Management and Compliance

Total # of Projects monitored: 8

Projects in Material Noncompliance

in noncompliance: 0

Projects zero to nine: 8
grouped ten to nineteen: 0
by score twenty to twenty-nine: 0

Yes No

monitored with a score less than thirty: 8

Projects not reported Yes
in application No

not yet monitored or pending review: 10

of projects not reported 0

Portfolio Monitoring

Single Audit

Portfolio Administration/Analysis

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Not applicable
Review pending
No unresolved issues
Issues found regarding late cert
Issues found regarding late audit
Unresolved issues found that
warrant disqualification
(Comments attached)

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewed by Jo En Taylor

Date 7/22/2004

Multifamily Finance Production

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer S. Roth
Date 7/20/2004

Single Family Finance Production

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Real Estate Analysis (Cost Certification and Workout)

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Community Affairs

No relationship
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Office of Colonia Initiatives

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Financial Administration

No delinquencies found
Delinquencies found

Reviewer Stephanie A. D'Couto
Date 7/20/2004

Executive Director: _____

Executed: _____

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: August 11, 2004

PROGRAM: 4% HTC

FILE NUMBER: 04435

DEVELOPMENT NAME

Aventine Tarrant Parkway Apartments

APPLICANT

Name:	Aventine Tarrant Parkway Apartments, L.P.	Type:	For-profit
Address:	2951 Fall Creek Road	City:	Kerrville
State:		State:	TX
Zip:	78028	Contact:	Granger MacDonald
Phone:	(830) 257-5323	Fax:	(830) 257-3168

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name:	Aventine Tarrant Parkway Apartments I, LLC	(%):	0.01	Title:	Managing General Partner
Name:	WOLCO Development, LLC	(%):	N/A	Title:	40% owner of MGP
Name:	Resolution Real Estate Services, LLC	(%):	N/A	Title:	30% owner of MGP
Name:	G.G. MacDonald, Inc.	(%):	N/A	Title:	30% owner of MGP
Name:	John Mark Wolcott	(%):	N/A	Title:	100% owner of WOLCO Development, LLC
Name:	J. Steve Ford	(%):	N/A	Title:	100% owner of Resolution Real Estate Services, LLC
Name:	G. Granger MacDonald	(%):	N/A	Title:	75% owner of G. Granger MacDonald, LLC
Name:	T. Justin MacDonald	(%):	N/A	Title:	25% owner of G. Granger MacDonald, LLC
Name:	Aventine Tarrant Parkway Builders, LLC	(%):	N/A	Title:	Developer

PROPERTY LOCATION

Location: 5400 block of N. Tarrant Parkway **QCT** **DDA**
City: Fort Worth **County:** Tarrant **Zip:** 76137

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$751,233 (revised)	N/A	N/A	N/A
Other Requested Terms:	Annual ten-year allocation of housing tax credits		
Proposed Use of Funds:	New construction	Property Type:	Multifamily
Special Purposes:	General population		

RECOMMENDATION

NOT RECOMMENDED DUE TO THE FOLLOWING:

- € Significant outstanding site and cost changes and the revised market study with the new primary market area designation were not provided 60 days prior to the Board meeting (10TAC§50.12(a)(2))

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

€ The original of record market study and revisions could not support less than 25% inclusive capture rate (10TAC§1.32 (g)(2))

CONDITIONS

SHOULD THE BOARD APPROVE A DETERMINATION LETTER FOR THIS DEVELOPMENT, THE BOARD MUST WAIVE ITS RULES FOR THE ISSUES LISTED ABOVE. ANY SUCH DETERMINATION OF CREDITS SHOULD NOT EXCEED \$713,590 AND SUCH AN AWARD SHOULD BE CONDITIONED UPON THE FOLLOWING:

1. Receipt, review, and acceptance of a site plan delineating the floodplain and, if necessary, a flood hazard mitigation plan to include, at a minimum, consideration and documentation of floodplain reclamation sitework costs and building and tenant flood insurance costs prior to the initial closing on the property;
2. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units:	<u>240</u>	# Rental Buildings:	<u>18</u>	# Common Area Bldgs:	<u>1</u>	# of Floors:	<u>2-3</u>	Age:	<u>0</u> yrs	Vacant:	<u>N/A</u>	at	/	/
Net Rentable SF:	<u>245,682</u>	Av Un SF:	<u>1,017</u>	Common Area SF:	<u>5,353</u>	Gross Bldg SF:	<u>251,035</u>							

STRUCTURAL MATERIALS

The structures will be wood frame on post-tensioned concrete slabs on grade. According to the plans provided in the application the exterior will be comprised of 50% brick veneer and 50% cement fiber siding. The interior wall surfaces will be drywall and the pitched roofs will be finished with composite shingles.

APPLIANCES AND INTERIOR FEATURES

The interior flooring will be a combination of carpeting & vinyl. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, microwave oven, tile tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, individual water heaters, individual heating and air conditioning, & high-speed internet access.

ON-SITE AMENITIES

A 5,353-square foot community building will include an activity room, management offices, fitness, maintenance, & laundry facilities, a kitchen, restrooms, a computer/business center, & a central mailroom. The community building, swimming pool, & equipped children's play area are to be located at the entrance to the property. In addition, perimeter fencing with limited access gates is planned for the site.

Uncovered Parking: 270 spaces **Carpports:** 0 spaces **Garages:** 248 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Aventine Tarrant Parkway Apartments is a relatively dense (17 units per acre) new construction development originally proposed to include 248 units of affordable housing located in far north Fort Worth, but restructured to include only 240 units. Despite a decrease in the number of units, the Applicant's request increased from \$670,755 annually in tax credits to \$751,233.

Reduction in the number of units resulted in need a for the Applicant to submit a revised rent schedule, operating expense schedule, development cost schedule, architectural plans, and market study. The last of these revised items was received by the Department on August 9, 2004, three days before the required web posting for consideration at the targeted Board meeting. The Applicant was asked if the application could be considered at the September 2004 Board meeting to allow time for submission of a second revision to the market study and time for re-analysis by the Underwriter. The Applicant's response indicated requirements of

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

the issuer of the mortgage revenue bonds mandates presentation of the application at the August 2004 Board meeting. Thus the significantly revised information was not provided within the QAP required 60 days prior to the Board approval and as such a waiver of this rule is required 10TAC §50.12(a)(2).

The development is comprised of 18 evenly distributed, two- and three-story, medium and large, garden style, walk-up residential buildings as follows:

- § Nine buildings with four one-bedroom and eight three-bedroom units;
- § Five buildings with eight one-bedroom and four two-bedroom units;
- § Two buildings with 16 two-bedroom units; and
- § Two buildings with 20 two-bedroom units.

Architectural Review: The building and unit plans are of good design, sufficient size and are comparable to other modern apartment developments. They appear to provide acceptable access and storage. The elevations reflect attractive buildings with simple fenestration.

SITE ISSUES					
SITE DESCRIPTION					
Size:	13.905	acres	605,702	square feet	Zoning/ Permitted Uses: C, Medium Density Multifamily
Flood Zone Designation:	Zone X & A		Status of Off-Sites:	Partially improved	

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is an irregularly-shaped parcel located in the north area of the city, approximately six miles from the central business district. The site is situated on the north side of North Tarrant County Parkway.

Adjacent Land Uses:

- € **North:** vacant land immediately adjacent and single-family residences beyond;
- € **South:** North Tarrant County Parkway immediately adjacent and vacant land and single-family residences beyond;
- € **East:** vacant land; and
- € **West:** vacant land immediately adjacent and Ray White Road beyond.

Site Access: Access to the property is from the east or west along North Tarrant County Parkway, from which the development is to have two entries. Access to Interstate Highway 35W is 2.5 miles west, which provides connections to all other major roads serving the Metroplex area.

Public Transportation: Public transportation is not available in the area.

Shopping & Services: The site is within two miles of grocery/pharmacies, neighborhood shopping centers, and a variety of other retail establishments and restaurants. Schools, churches, and hospitals and health care facilities are located within a short driving distance from the site.

Special Adverse Site Characteristics: The following issue has been identified as potentially bearing on the viability of the site for the proposed development:

- € **Floodplain:** A small portion of the northern area of the site lies within the 100-year floodplain (Zone A) of the unnamed creek which runs adjacent to the northern site boundary. Although no improvements have been sited in this area, four residential buildings are adjacent to this area and flooding above the 100-year base flood elevation would be likely to cause damage. A site plan with the floodplain clearly delineated was requested, but has yet to be submitted. Receipt, review, and acceptance of a site plan delineating the floodplain and, if necessary, a flood hazard mitigation plan to include, at a minimum, consideration and documentation of floodplain reclamation sitework costs and building and tenant flood insurance costs prior to the initial closing on the property is a condition of this report.

Site Inspection Findings: TDHCA staff performed a site inspection on May 19, 2004 and found the location to be acceptable for the proposed development. The inspector noted the site is located in good proximity to local amenities.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated February 25, 2004 was prepared by Alpha Testing, Inc. and contained the following findings and recommendations: “This assessment has revealed no evidence of recognized environmental conditions in connection with the site.” (p. 17)

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside, although as a Priority 1 private activity bond lottery development the Applicant has elected the 100% at 60% option.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$26,340	\$30,120	\$33,840	\$37,620	\$40,620	\$43,620

MARKET HIGHLIGHTS

A market feasibility study dated June 17, 2004 was prepared by Butler Burgher, Inc. (“Market Analyst”) and revised August 9, 2004 and August 11, 2004 highlighted the following findings:

Definition of Primary Market Area (PMA): “The subject’s [original] primary market area (PMA) is that area that lies north of Loop 820, west of Precinct Line Road, east of Blue Mound Road and south of SH 114, SH 170 and Westport Parkway, which includes portions of the Cities of Ft. Worth, Watauga, Keller, Haltom City, and Richland Hills” (Letter of Transmittal, revised). This area encompasses approximately 93.5 square miles and is equivalent to a circle with a radius of 5.5 miles. The August 11, 2004 revision shifts the western boundary of the primary market area east to IH-35 which reduces the primary market area to approximately 76 square miles or the equivalent of a circle with a radius of 4.9 miles (an 18% reduction in size). According to the Market Analyst the revised primary market area eliminates western portions of the market area that were in a different school district.

Population: The estimated 2004 population of the original PMA is 176,407 and is expected to increase by 20.9% to approximately 213,332 by 2009. Within the original primary market area there were estimated to be 60,429 households in 2004. The revised PMA has slightly lower population and households at 170,192 and 58,385 (a 4% reduction in population). One reason the population decrease is less than the territorial decrease in the revised PMA is that the area removed from the PMA is much less residential in character than the rest of the PMA, i.e. it is much more impacted by vacant land, industrial and commercial property along the IH-35 corridor.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand of 2,057 qualified households in the PMA, based on the current estimate of 60,429 households, the projected annual household growth rate of 4%, renter households estimated at 20.9% of the population, income-qualified households estimated at 19.3%, and an annual renter turnover rate of 76 % (p. 78). “The median household income for the PMA was \$72,000 with 19.33% being income qualified for the subject units, based on an income band of \$0 to \$39,120 for household income” (p. 2, revised) due to the Applicant’s stated intention to accept Section 8 vouchers, but the Analyst provided no information on the number of Section 8 vouchers that might be available to households earning below \$21,702, the affordability threshold for this development. Conversely, the Analyst may have understated the maximum income for a five-person household, which could be as high as \$40,620. As a net result, the Underwriter’s estimated demand is significantly lower than the Market Analyst’s. The Market Analyst revised the income band in the August 11, 2004 iteration to a minimum of \$10,000 and a maximum of \$39,120.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Original PMA Demand	Revised Demand	Original PMA Demand	Revised Demand
Household Growth (two years)	101	169	126	62
Resident Turnover	1,856	1,554	1,160	1,129
TOTAL ANNUAL DEMAND	1,957	1,723	1,286	1,191

Ref: p. 78

Inclusive Capture Rate: The Market Analyst originally calculated an inclusive capture rate of 12.05% based upon 2,057 units of demand and 248 unstabilized affordable housing units in the PMA (the subject) (p. 78). However, the Analyst did not include the 280-unit Ironwood Ranch Townhomes development (multifamily bond development #2002-075/4% HTC development #02440). This development was approved by TDHCA in October 2002 but construction was halted during foundation work by business problems with the original developer. Following a construction hiatus another developer has recently resumed work and therefore these units must be included in the inclusive capture rate calculation. Therefore, the Applicant was asked to submit a revised Market Study, which takes into consideration the units under construction.

The first revised Market Study states, “In an effort to determine the feasibility of adding the proposed subject units to meet the demand in the market, a capture rate analysis was performed. This calculation determines the percentage of the market that would be “captured” by adding the subject’s units with consideration given to projects currently under construction, in the planning stages or completed and not yet stabilized. To be feasible, the proposed project cannot capture more than 25% of the defined PMA. Our calculations revealed a capture rate of 25% for Aventine on Tarrant Parkway, emphasizing the demand for quality affordable housing in this area. The calculated capture rate represents a high end estimate as the subject’s PMA is a high growth area that has experienced the majority of its growth within the last five years. This growth is not reflected in the Claritas demographic information because Claritas provides a macro analysis of the demographic trends and does not capture the micro trends within the PMA. Additionally, the PMA percentage of renter occupied housing is below that of comparable stable suburban locations and will probably increase as the area matures. The majority of demand will come from new growth in the PMA, driven by immigration and the low-income status of many residents” (p. 4, revised). Using the Market Analyst’s figures from the first revised actually results in an inclusive capture rate of 25.28% which marginally exceeds the Department’s guidelines. The final revision shifts the market area boundary such that the one comparable no longer exists within the primary market area and, therefore, the inclusive capture rate drops to 14%.

The original Market Study did not provide solid support for an income band which includes households that cannot afford the proposed rents without spending more than 35% of their income. Therefore, the Market Analyst’s original demand calculation was overstated. The Underwriter originally calculated an inclusive capture rate at 40.4% based on the Underwriter’s estimate of demand for 1,286 affordable units and unstabilized and proposed Affordable units of 520. However, with the revisions to the final PMA the Underwriter’s inclusive capture rate is an acceptable 20.2% based on a revised demand of 1,191 and only the subject’s 240 unstabilized units of supply.

Local Housing Authority Waiting List Information: “...the Dallas Housing Authority, Fort Worth Housing Authority, and Tarrant County Housing Assistance Office administer public housing units and vouchers and all are generally full with lengthy waiting lists.” (p. 73)

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 1,423 units in the market area. (p. 82)

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (60%)	\$643	\$643	\$0	\$740	-\$97
2-Bedroom (60%)	\$770	\$770	\$0	\$890	-\$120
3-Bedroom (60%)	\$892	\$892	\$0	\$1,050	-\$158

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent = \$500, program max = \$600, differential = -\$100)

Primary Market Occupancy Rates: “Gross occupancy levels have fluctuated around 90%...and are forecast to remain essentially level in the next year as absorption slightly exceeds new supply.” (p. 73).

Absorption Projections: “An encumbered absorption level of 20 units/month after completion is reasonable for the subject, considering the demand in the market for newly-developed, affordable rental housing.” (p. 4)

Known Planned Development: “One new market apartment complex is forecast for completion in the coming year. It is located in the southern portion of the subject’s PMA.” (p.71) Notably the only unstabilized tax credit development within the primary market area is the Ironwood Ranch Townhomes however there are 5 developments funded within the past three years within 2 miles of the southern boundary of the primary market area.

Effect on Existing Housing Stock: “The addition of the subject units is not expected to impact the overall vacancy rate of the submarket since the subject is expected to quickly lease up to stabilization with occupancy in the mid-90%’s.” (p. 89).

Market Study Analysis/Conclusions: While the original market study and first revision of the study provided acceptable information they did not support the need for the proposed development based upon the Department’s inclusive capture rate guidelines. The August 11, 2004 iteration of the Market Study with a revised PMA does allow a conclusion that the capture rate for the proposed development is within the Department’s guidelines though the report itself was not provided within the 60 day time frame prior to the Board decision being made. Thus staff can not recommend the proposed transaction without Board approval of a waiver of its 60 day requirements under the QAP.

OPERATING PROFORMA ANALYSIS

Income: The Applicant’s rent projections are the maximum rents allowed under HTC program guidelines, and are achievable according to the Market Analyst. Estimates of vacancy and collection losses are in line with TDHCA underwriting guidelines. While the Applicant included income from pass-through water and sewer costs, the Underwriter adjusted operating expense associated with water and sewer to reflect the tenants’ responsibility for payment of this cost. Despite this difference, the Applicant’s effective gross income estimate is comparable to the Underwriter’s estimate.

Expenses: The Applicant’s total expense estimate of \$3,880 per unit is more than 5% lower than the Underwriter’s estimate of \$4,094 per unit for comparably-sized developments in this region. The Applicant’s budget shows several line item estimates that deviate significantly when compared to the database averages, particularly: general and administrative (\$51K lower), utilities (\$20K lower), water, sewer, and trash (\$15.8K higher), and property tax (\$29K higher). The difference in water, sewer and trash can be attributed to the Applicant’s decision to include the total cost associated with water and sewer offset by income in the form of payment from tenants to the Owner for this cost. The Underwriter discussed the total operating expense difference with the Applicant but was unable to reconcile them even with additional information provided by the Applicant.

Conclusion: The Applicant’s net operating income and total operating expense figures differ by more than 5% as compared to the Underwriter’s estimates; therefore, the Underwriter’s proforma is used to determine the Development’s debt service capacity. The underwriting analysis indicates the development cannot service the permanent loan at the proposed terms at an initial minimum debt coverage ratio of 1.10. The development’s annual debt service must be limited to no more than \$982,139 to achieve the Department’s minimum DCR guideline. The effect on the recommended financing structure will be discussed in more detail in the conclusion to the Financing Structure Analysis section of this report.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

ACQUISITION VALUATION INFORMATION			
ASSESSED VALUE			
Land: 66.065 ac	\$990,975	Assessment for the Year of:	2003
Per acre:	\$15,000	Valuation by:	Tarrant County Appraisal District
Total: Prorated 13.905 ac	\$208,500	Tax Rate:	3.208477
EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	Contract of sale		
Contract Expiration Date:	9/ 30/ 2004	Anticipated Closing Date:	8/ 20/ 2004
Acquisition Cost:	\$1,375,407	Other Terms/Conditions:	
Seller:	Hillwood Alliance Residential, L.P.	Related to Development Team Member:	No

CONSTRUCTION COST ESTIMATE EVALUATION
<p>Acquisition Value: The site cost of \$1,375,407 (\$2.27/SF, \$98,950/acre, or \$5,546/unit), although over six times the tax assessed value, is assumed to be reasonable since the acquisition is an arm's-length transaction.</p> <p>Sitework Cost: The Applicant's claimed sitework costs of \$7,385 per unit are within current Department guidelines.</p> <p>Direct Construction Cost: The Applicant's direct construction cost estimate is within 5% of the Underwriter's Marshall & Swift <i>Residential Cost Handbook</i>-derived estimate.</p> <p>Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$653,963 to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate.</p> <p>Fees: The Applicant's contractor general requirements, contractor general and administrative fees, and contractor profit exceed the 6%, 2%, and 6% maximums allowed by HTC guidelines by \$168,099 based on their own construction costs. Consequently the Applicant's eligible fees in these areas have been reduced by the same amount with the overage effectively moved to ineligible costs. The Underwriter included the \$70K housing consultant fee in developer fees, which exceed 15% of the Applicant's adjusted eligible basis by \$208,310 and therefore the eligible portion of the Applicant's developer fee must be reduced by the same amount.</p> <p>Conclusion: The Applicant's total development cost figure is within 5% of the Underwriter's estimate. Therefore, the Applicant's estimate, as adjusted by the Underwriter for overstated financing, contractor and developer fees, will be used to calculate eligible basis and determine the development's need for permanent funds. An eligible basis of \$20,101,120 results in tax credits of \$713,590, which will be compared to the Applicant's request and the tax credits calculated based on the development's gap in need for permanent funds.</p>

FINANCING STRUCTURE	
INTERIM TO PERMANENT BOND FINANCING	
Source: Newman Capital	Contact: _____
Tax-Exempt Amount: \$15,000,000	Interest Rate: Variable, BMA rate + 190 basis points, underwritten at 5.79
Additional Information: _____	
Amortization: 35 yrs	Term: 30 yrs
Annual Payment: \$1,002,285	Lien Priority: 1st
Commitment: <input type="checkbox"/> LOI <input type="checkbox"/> Firm <input checked="" type="checkbox"/> Conditional	Commitment Date: 5/ 25/ 2004
TAX CREDIT SYNDICATION	

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS

Source:	Paramount Financial Group, Inc.	Contact:	Dale Cook
Net Proceeds:	\$5,924,241	Net Syndication Rate (per \$1.00 of 10-yr HTC)	83¢
Commitment	<input type="checkbox"/> LOI <input type="checkbox"/> Firm <input checked="" type="checkbox"/> Conditional	Date:	6/ 18/ 2004
Additional Information: _____			

APPLICANT EQUITY

Amount:	\$1,460,531	Source:	Deferred Developer Fee
Amount:	\$884,828	Source:	Construction Period Income
Amount:	\$141,760	Source:	GIC Income

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by the Tarrant County Housing Finance Corporation and credit enhanced by FNMA with GMAC Commercial Mortgage serving as the DUS lender. The bonds will be sold as variable rate securities, with the borrower required to maintain a series of interest rate caps until maturity. The lender provided an underwriting interest rate of 5.79%, which was utilized in this analysis.

The underlying mortgage will be a variable rate structure based upon the BMA index (currently around 1% plus a spread of 1%) plus a stack of 1.51% (credit enhancement, servicing, liquidity, bond issuer, trustee, and remarketing) and the Fannie Mae required underwriting spread of 2%. Per Fannie Mae underwriting guidelines the typical underwriting spread is 2.5%. The inclusion of this additional spread would critically affect the bond amount, reducing it to a level at which the transaction would no longer be financially feasible. The underlying uncertainty surrounding any variable rate transaction is most acute in the lack of an ongoing escrow fee in the stack of fees for future interest rate caps. In the short run this cap could easily and should be funded outside of the stack as a result of the tremendous 350 basis point actual interest rate savings that will be achieved over the underwritten rate for this transaction. The additional actual cash flow that will be achieved as a result of this interest rate savings will also be available to repay the deferred developer fee at a rate much faster than the rate initially projected.

HTC Syndication: The tax credit syndication commitment is consistent with the terms reflected in the sources and uses of funds listed in the application.

Construction Period Income: The Applicant included construction period income due to operating and arbitrage interest income on bond proceeds invested in a guaranteed investment contract (GIC). These sources are regarded as developer risk and, therefore, are not considered a reliable source of permanent funds for this analysis.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,460,531 amount to 56% of the total fees.

Financing Conclusions: Based on the Applicant's estimate of eligible basis, as adjusted by the Underwriter, an HTC allocation should not exceed \$713,590 annually for ten years. This figure is less than both the Applicant's revised request and the tax credits calculated based on the development's gap in need for permanent funds. Due to the difference in estimated net operating income, the Underwriter's debt coverage ratio (DCR) of 1.08 is significantly less than the program minimum standard of 1.10. Therefore, the maximum debt service for this development is projected to be limited to \$982,139. This debt service limit can be achieved by redemption of bonds and/or a reduction in the interest rate and/or an extension of the term. Based on the fixed interest rate of 5.79% being used for sizing the loan (prescribed by the lender), the only alternative to provide DCR relief is a \$283,857 reduction in the debt.

To compensate for this reduction in loan funds and the reduction in anticipated syndication proceeds the Applicant's deferred developer fee would need to be increased to \$3,220,238, which equals 67% of the total requested developer and related general contractor fees but 73% of the total available eligible fees. Based on the Underwriter's proforma, deferred fees in this amount are not repayable within ten years of stabilized operation, but may be repayable within 15 years.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

**DEVELOPMENT TEAM
IDENTITIES of INTEREST**

The Applicant, Developer, and General Contractor are all related entities. These are common relationships for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- € The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- € G.G. MacDonald, Inc., 30% owner of the General Partner, submitted an unaudited financial statement as of September 30, 2004 reporting total assets of \$11.2M and consisting of \$40K in cash, \$2.5M in receivables, \$8.6M in construction in progress, \$166K in machinery, equipment, and fixtures, and (\$79K) in investments. Liabilities totaled \$11M, resulting in a net worth of \$137K.
- € Resolution Real Estate Services, 30% owner of the General Partner, submitted an unaudited financial statement as of December 15, 2003 reporting total assets of \$898K and consisting of \$140K in cash, \$700K in receivables, \$30K in stocks and securities, and \$28K in machinery and equipment. Liabilities totaled \$95K, resulting in a net worth of \$803K.
- € WOLCO Development, LLC, 40% owner of the General Partner, is a to-be-formed entity and therefore has no material statements.
- € The principals of the General Partner, J. Steve Ford, G. Granger and T. Justin MacDonald, and John Mark Wolcott, submitted unaudited financial statements and are anticipated to be guarantors of the development.

Background & Experience:

- € The Applicant and General Partner are new entities formed for the purpose of developing the project.
- € Multifamily Production Finance Staff have verified that the contractor has met the Department's experience requirements and Portfolio Management and Compliance staff will ensure that the proposed owners have an acceptable record of previous participation.

SUMMARY OF SALIENT RISKS AND ISSUES

- € The Applicant's operating expenses and net operating income are more than 5% outside of the Underwriter's verifiable range(s).
- € Significant inconsistencies in the application could affect the financial feasibility of the development.
- € Significant environmental/locational risk exist regarding floodplain.
- € The recommended amount of deferred developer fee cannot be repaid within ten years, and any amount unpaid past ten years would be removed from eligible basis.
- € The significant financing structure changes being proposed have not been reviewed/accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

Underwriter:	_____	Date:	August 11, 2004
	<i>Jim Anderson</i>		
Underwriter:	_____	Date:	August 11, 2004
	<i>Lisa Vecchietti</i>		
Director of Real Estate Analysis:	_____	Date:	August 11, 2004
	<i>Tom Gouris</i>		

MULTIFAMILY COMPARATIVE ANALYSIS

Aventine Tarrant Parkway Apartments, Fort Worth, 4% HTC #04435

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Utilities	Wtr, Swr, Trsh
TC 60%	20	1	1	736	\$705	\$633	\$12,660	\$0.86	\$62.00	\$20.00
TC 60%	56	1	1	853	705	\$633	35,448	0.74	62.00	20.00
TC 60%	60	2	2	983	846	758	45,480	0.77	76.00	22.00
TC 60%	12	2	2	1,013	846	758	9,096	0.75	76.00	22.00
TC 60%	20	2	2	1,085	846	758	15,160	0.70	76.00	22.00
TC 60%	36	3	2	1,190	978	877	31,572	0.74	86.00	25.00
TC 60%	36	3	2	1,320	978	877	31,572	0.66	86.00	25.00
TOTAL:	240		AVERAGE:	1,024	\$841	\$754	\$180,988	\$0.74	\$74.57	\$22.27

INCOME				TOTAL Net Rentable Sq Ft: 245,684		TDHCA	APPLICANT	Comptroller's Region 3		
POTENTIAL GROSS RENT						\$2,171,856	\$2,171,856	IREM Region Fort Worth		
Secondary Income		Per Unit Per Month:	\$20.00			57,600	57,600	\$20.00	Per Unit Per Month	
Other Support Income: water income						0	51,840	\$18.00	Per Unit Per Month	
POTENTIAL GROSS INCOME						\$2,229,456	\$2,281,296			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%			(167,209)	(171,096)	-7.50%	of Potential Gross Rent	
Employee or Other Non-Rental Units or Concessions						0	0			
EFFECTIVE GROSS INCOME						\$2,062,247	\$2,110,200			
EXPENSES				% OF EGI	PER UNIT	PER SQ FT		PER SQ FT	PER UNIT	% OF EGI
General & Administrative		5.80%	\$499	0.49		\$119,656	\$68,200	\$0.28	\$284	3.23%
Management		4.08%	351	0.34		84,128	83,875	0.34	349	3.97%
Payroll & Payroll Tax		10.43%	896	0.88		214,996	210,900	0.86	879	9.99%
Repairs & Maintenance		5.87%	504	0.49		121,000	127,940	0.52	533	6.06%
Utilities		2.66%	228	0.22		54,762	34,300	0.14	143	1.63%
Water, Sewer, & Trash		1.83%	158	0.15		37,809	66,900	0.27	279	3.17%
Property Insurance		2.98%	256	0.25		61,421	52,127	0.21	217	2.47%
Property Tax	3.208477	10.27%	882	0.86		211,759	210,000	0.85	875	9.95%
Reserve for Replacements		2.33%	200	0.20		48,000	48,000	0.20	200	2.27%
Other: spt svcs, compl fees, sec		1.41%	121	0.12		29,040	29,040	0.12	121	1.38%
TOTAL EXPENSES		47.65%	\$4,094	\$4.00		\$982,570	\$931,282	\$3.79	\$3,880	44.13%
NET OPERATING INC		52.35%	\$4,499	\$4.39		\$1,079,676	\$1,178,918	\$4.80	\$4,912	55.87%
DEBT SERVICE										
First Lien Mortgage		48.54%	\$4,171	\$4.07		\$1,001,083	\$1,002,285	\$4.08	\$4,176	47.50%
Construction Period Income & GIC E		0.00%	\$0	\$0.00		0	0	\$0.00	\$0	0.00%
Additional Financing		0.00%	\$0	\$0.00		0	0	\$0.00	\$0	0.00%
NET CASH FLOW		3.81%	\$327	\$0.32		\$78,593	\$176,633	\$0.72	\$736	8.37%
AGGREGATE DEBT COVERAGE RATIO						1.08	1.18			
RECOMMENDED DEBT COVERAGE RATIO						1.10				

CONSTRUCTION COST				TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF TOTAL	
Description	Factor	% of TOTAL	PER UNIT	PER SQ FT					
Acquisition Cost (site or bldg)		5.79%	\$5,731	\$5.60	\$1,375,407	\$1,375,407	\$5.60	\$5,731	5.86%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		7.46%	7,385	7.21	1,772,500	1,772,500	7.21	7,385	7.55%
Direct Construction		47.40%	46,929	45.84	11,263,075	10,944,924	44.55	45,604	46.64%
Contingency	4.31%	2.37%	2,343	2.29	562,246	562,246	2.29	2,343	2.40%
General Req'ts	6.00%	3.29%	3,259	3.18	782,135	897,945	3.65	3,741	3.83%
Contractor's G & A	2.00%	1.10%	1,086	1.06	260,712	262,648	1.07	1,094	1.12%
Contractor's Profit	6.00%	3.29%	3,259	3.18	782,135	787,945	3.21	3,283	3.36%
Indirect Construction		3.23%	3,196	3.12	767,000	767,000	3.12	3,196	3.27%
Ineligible Costs		5.95%	5,888	5.75	1,413,213	1,413,213	5.75	5,888	6.02%
Developer's G & A	2.00%	1.50%	1,487	1.45	356,839	368,026	1.50	1,533	1.57%
Developer's Profit	13.00%	9.76%	9,664	9.44	2,319,450	2,462,169	10.02	10,259	10.49%
Interim Financing		6.95%	6,884	6.72	1,652,125	1,652,125	6.72	6,884	7.04%
Reserves		1.92%	1,898	1.85	455,622	200,000	0.81	833	0.85%
TOTAL COST		100.00%	\$99,010	\$96.72	\$23,762,457	\$23,466,148	\$95.51	\$97,776	100.00%
Recap-Hard Construction Costs		64.90%	\$64,262	\$62.77	\$15,422,802	\$15,228,208	\$61.98	\$63,451	64.89%

SOURCES OF FUNDS				TDHCA	APPLICANT	RECOMMENDED	
First Lien Mortgage	63.12%	\$62,500	\$61.05	\$15,000,000	\$15,000,000	\$14,716,143	Developer Fee Available
Construction Period Income & GIC E	4.32%	\$4,277	\$4.18	1,026,588	1,026,588	0	\$2,621,885
HTC Syndication Proceeds	25.16%	\$24,913	\$24.34	5,979,029	5,979,029	5,529,767	% of Dev. Fee Deferred
Deferred Developer Fees	6.15%	\$6,086	\$5.94	1,460,531	1,460,531	3,220,238	123%
Additional (excess) Funds Required	1.25%	\$1,235	\$1.21	296,309	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				\$23,762,457	\$23,466,148	\$23,466,148	\$3,943,951

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Aventine Tarrant Parkway Apartments, Fort Worth, 4% HTC #04435

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$43.67	\$10,729,272
Adjustments				
Exterior Wall Finish	4.00%		\$1.75	\$429,171
Elderly/9-Ft. Ceilings			0.00	0
Breezeways			0.00	0
Subfloor			(1.02)	(249,369)
Floor Cover			2.00	491,368
Exterior Stairs	\$1,475	32	0.19	47,200
Plumbing	\$605	516	1.27	312,180
Built-In Appliances	\$1,650	240	1.61	396,000
Interior Stairs	\$900	140	0.51	126,000
Floor Insulation			0.00	0
Heating/Cooling			1.53	375,897
Sprinkler System	\$1.60	245,684	1.60	393,094
Comm &/or Aux Bldgs	\$59.58	5,353	1.30	318,934
Garages	\$18.18	84,735	6.27	1,540,482
SUBTOTAL			60.69	14,910,229
Current Cost Multiplier	1.03		1.82	447,307
Local Multiplier	0.90		(6.07)	(1,491,023)
TOTAL DIRECT CONSTRUCTION COSTS			\$56.44	\$13,866,513
Plans, specs, survy, bld prmt	3.90%		(\$2.20)	(\$540,794)
Interim Construction Interest	3.38%		(1.90)	(467,995)
Contractor's OH & Profit	11.50%		(6.49)	(1,594,649)
NET DIRECT CONSTRUCTION COSTS			\$45.84	\$11,263,075

PAYMENT COMPUTATION

Primary	\$15,000,000	Term	420
Int Rate	5.7900%	DCR	1.08
Secondary	\$1,026,588	Term	
Int Rate	0.00%	Subtotal DCR	1.08
Additional	\$5,979,029	Term	
Int Rate		Aggregate DCR	1.08

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$982,139
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$97,537

Primary	\$14,716,143	Term	420
Int Rate	5.7900%	DCR	1.10
Secondary	\$1,026,588	Term	0
Int Rate	0.00%	Subtotal DCR	1.10
Additional	\$5,979,029	Term	0
Int Rate	0.00%	Aggregate DCR	1.10

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$2,171,856	\$2,237,012	\$2,304,122	\$2,373,246	\$2,444,443	\$2,833,779	\$3,285,127	\$3,808,363	\$5,118,121
Secondary Income	57,600	59,328	61,108	62,941	64,829	75,155	87,125	101,002	135,738
Other Support Income: water inc	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,229,456	2,296,340	2,365,230	2,436,187	2,509,272	2,908,934	3,372,252	3,909,365	5,253,859
Vacancy & Collection Loss	(167,209)	(172,225)	(177,392)	(182,714)	(188,195)	(218,170)	(252,919)	(293,202)	(394,039)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$2,062,247	\$2,124,114	\$2,187,838	\$2,253,473	\$2,321,077	\$2,690,764	\$3,119,333	\$3,616,162	\$4,859,820
EXPENSES at 4.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
General & Administrative	\$119,656	\$124,442	\$129,420	\$134,597	\$139,981	\$170,308	\$207,206	\$252,097	\$373,166
Management	84,128	86,651	89,251	91,929	94,686	109,767	127,251	147,518	198,252
Payroll & Payroll Tax	214,996	223,596	232,540	241,841	251,515	306,006	372,303	452,964	670,497
Repairs & Maintenance	121,000	125,840	130,874	136,108	141,553	172,221	209,533	254,929	377,357
Utilities	54,762	56,952	59,230	61,600	64,064	77,943	94,830	115,375	170,783
Water, Sewer & Trash	37,809	39,321	40,894	42,530	44,231	53,813	65,472	79,657	117,912
Insurance	61,421	63,878	66,433	69,090	71,854	87,421	106,361	129,405	191,551
Property Tax	211,759	220,230	229,039	238,201	247,729	301,400	366,699	446,145	660,404
Reserve for Replacements	48,000	49,920	51,917	53,993	56,153	68,319	83,120	101,129	149,695
Other	29,040	30,202	31,410	32,666	33,973	41,333	50,288	61,183	90,566
TOTAL EXPENSES	\$982,570	\$1,021,032	\$1,061,007	\$1,102,554	\$1,145,737	\$1,388,532	\$1,683,063	\$2,040,402	\$3,000,182
NET OPERATING INCOME	\$1,079,676	\$1,103,082	\$1,126,831	\$1,150,918	\$1,175,340	\$1,302,233	\$1,436,271	\$1,575,761	\$1,859,638
DEBT SERVICE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
First Lien Financing	\$982,139	\$982,139	\$982,139	\$982,139	\$982,139	\$982,139	\$982,139	\$982,139	\$982,139
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$97,537	\$120,943	\$144,692	\$168,779	\$193,201	\$320,094	\$454,132	\$593,622	\$877,499
DEBT COVERAGE RATIO	1.10	1.12	1.15	1.17	1.20	1.33	1.46	1.60	1.89

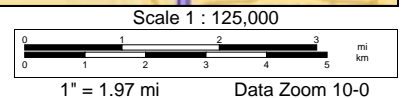
LIHTC Allocation Calculation - Aventine Tarrant Parkway Apartments, Fort Worth, 4% HTC #04435

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,375,407	\$1,375,407		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,772,500	\$1,772,500	\$1,772,500	\$1,772,500
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$10,944,924	\$11,263,075	\$10,944,924	\$11,263,075
(4) Contractor Fees & General Requirements				
Contractor overhead	\$262,648	\$260,712	\$254,348	\$260,712
Contractor profit	\$787,945	\$782,135	\$763,045	\$782,135
General requirements	\$897,945	\$782,135	\$763,045	\$782,135
(5) Contingencies				
	\$562,246	\$562,246	\$562,246	\$562,246
(6) Eligible Indirect Fees				
	\$767,000	\$767,000	\$767,000	\$767,000
(7) Eligible Financing Fees				
	\$1,652,125	\$1,652,125	\$1,652,125	\$1,652,125
(8) All Ineligible Costs				
	\$1,413,213	\$1,413,213		
(9) Developer Fees			\$2,621,885	
Developer overhead	\$368,026	\$356,839		\$356,839
Developer fee	\$2,462,169	\$2,319,450		\$2,319,450
(10) Development Reserves				
	\$200,000	\$455,622		
TOTAL DEVELOPMENT COSTS	\$23,466,148	\$23,762,457	\$20,101,120	\$20,518,216

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$20,101,120	\$20,518,216
High Cost Area Adjustment			100%	100%
TOTAL ADJUSTED BASIS			\$20,101,120	\$20,518,216
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$20,101,120	\$20,518,216
Applicable Percentage			3.55%	3.55%
TOTAL AMOUNT OF TAX CREDITS			\$713,590	\$728,397

Syndication Proceeds	0.7749	\$5,529,767	\$5,644,509
Total Credits (Eligible Basis Method)		\$713,590	\$728,397
Syndication Proceeds		\$5,529,767	\$5,644,509
Requested Credits		\$751,233	
Syndication Proceeds		\$5,821,473	
Gap of Syndication Proceeds Needed		\$8,750,005	
Credit Amount		\$1,129,146	

AVENTINE TARRANT PARKWAY



MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

August 19, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Uvalde Ranch.

Summary of the Transaction

The application was received on May 11, 2004. The Issuer for this transaction is the Victory Street Public Facility Corporation. The development is to be located at 5300 S. Lake Houston Parkway in Houston. The development will consist of 244 total units targeting families, with all affordable. The site is currently properly zoned for such a development. The Department has received one letter of support from an elected official, Gordon Quan, Houston City Council Member at Large Position 2 and no letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI **and** Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI **and** Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board approve the issuance of Housing Tax Credits for Uvalde Ranch.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Uvalde Ranch Apartments**

TDHCA#: 04439

DEVELOPMENT AND OWNER INFORMATION

Development Location: Houston QCT: N DDA: N TTC: N
 Development Owner: Uvalde Ranch, Ltd.
 General Partner(s): Tx Uvalde Ranch GP, LLC, 100%, Contact: Ernie Etuk
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Victory Street Public Facility Corp.
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$604,806 Eligible Basis Amt: \$604,806 Equity/Gap Amt.: \$792,178

Annual Tax Credit Allocation Recommendation: \$604,806

Total Tax Credit Allocation Over Ten Years: \$ 6,048,060

PROPERTY INFORMATION

Unit and Building Information

Total Units: 244 HTC Units: 244 % of HTC Units: 100
 Gross Square Footage: 221,382 Net Rentable Square Footage: 216,936
 Average Square Footage/Unit: 889
 Number of Buildings: 8
 Currently Occupied: N

Development Cost

Total Cost: \$19,528,937 Total Cost/Net Rentable Sq. Ft.: \$90.02

Income and Expenses

Effective Gross Income:¹ \$1,855,464 Ttl. Expenses: \$831,562 Net Operating Inc.: \$1,023,902
 Estimated 1st Year DCR: 1.10

DEVELOPMENT TEAM

Consultant: Not Utilized Manager: Investors Management Group, LLC
 Attorney: Coats, Rose, Yale, Ryman & Lee PC Architect: JRM Architects, Inc.
 Accountant: Reznick, Fedder & Silverman Engineer: Brown & Gay Engineers, Inc.
 Market Analyst: O'Connor & Associates Lender: Newman & Associates
 Contractor: Hettig Construction Corp. Syndicator: JER Hudson Housing Capital, LLC.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. John Whitmire, District 15 - NC
# in Opposition: 0	Rep. Harold V. Dutton, District 142 - NC
	Mayor Bill White - NC
	Daisy A. Stiner, Director of Housing & Community Development, City of Houston;
	Consistent with the local Consolidated Plan.
	Gordon Quan, Houston City Council Member at Large Position 2 - - S

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

Applicant Evaluation

Project ID # **04439**

Name: **Uvalde Ranch**

City: **Houston**

LIHTC 9% LIHTC 4% HOME BOND HTF SECO ESGP Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Members of the application did not receive the required Previous Participation Acknowledgement

National Previous Participation Certification Received: N/A Yes No

Noncompliance Reported on National Previous Participation Certification: Yes No

Portfolio Management and Compliance

Total # of Projects monitored: 12

Projects in Material Noncompliance

in noncompliance: 0

Projects zero to nine: 12

Yes No

Projects not reported Yes

grouped ten to nineteen: 0

monitored with a score less than thirty: 12

in application No

by score twenty to twenty-nine: 0

not yet monitored or pending review: 7

of projects not reported 0

Portfolio Monitoring

Single Audit

Portfolio Administration/Analysis

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Not applicable
 Review pending
 No unresolved issues
 Issues found regarding late cert
 Issues found regarding late audit
 Unresolved issues found that warrant disqualification (Comments attached)

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Reviewed by Jo En Taylor

Date 7/22/2004

Multifamily Finance Production

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Reviewer S. Roth
 Date 7/20/2004

Single Family Finance Production

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Reviewer _____
 Date _____

Real Estate Analysis (Cost Certification and Workout)

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Reviewer _____
 Date _____

Community Affairs

No relationship
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Reviewer _____
 Date _____

Office of Colonia Initiatives

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification (Comments attached)

Reviewer _____
 Date _____

Financial Administration

No delinquencies found
 Delinquencies found

Reviewer Stephanie A. D'Couto
 Date 7/20/2004

Executive Director: _____

Executed: _____

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: August 10, 2004

PROGRAM: 4% HTC

FILE NUMBER: 04439

DEVELOPMENT NAME

Uvalde Ranch Apartments

APPLICANT

Name:	<u>Uvalde Ranch, Ltd.</u>	Type:	<u>For-profit</u>
Address:	<u>5325 Katy Freeway, Suite One</u>	City:	<u>Houston</u> State: <u>TX</u>
Zip:	<u>77007</u>	Contact:	<u>W. Barry Kahn</u>
		Phone:	<u>(713) 871-0063</u> Fax: <u>(713) 871-1916</u>

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name:	<u>TX Uvalde Ranch GP, LLC</u>	(%):	<u>0.1</u>	Title:	<u>Managing General Partner</u>
Name:	<u>APV Redevelopment Corporation</u>	(%):	<u>N/A</u>	Title:	<u>100% Owner of MGP & Non-Profit</u>
Name:	<u>Hettig Development</u>	(%):	<u>N/A</u>	Title:	<u>Developer</u>
Name:	<u>APV Development Corporation</u>	(%):	<u>N/A</u>	Title:	<u>Co-Developer</u>
Name:	<u>John E. Hettig</u>	(%):	<u>N/A</u>	Title:	<u>50% Owner of Developer</u>
Name:	<u>W. Barry Kahn</u>	(%):	<u>N/A</u>	Title:	<u>50% Owner of Developer</u>

PROPERTY LOCATION

Location: 5300 South Lake Houston Parkway **QCT** **DDA**
City: Houston **County:** Harris **Zip:** 77013

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
<u>\$604,806</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Other Requested Terms: <u>1) Annual ten-year allocation of housing tax credits</u>			
Proposed Use of Funds: <u>New construction</u>		Property Type: <u>Multifamily</u>	
Special Purpose (s): <u>General population</u>			

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$604,806 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of plans that would elevate a small portion of the parking lot that falls in the shaded flood zone X to be no more than six inches below the flood plain base line prior to cost certification.
2. Receipt, review, and acceptance of tax exemption for the subject property.
3. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

This development was submitted and not underwritten in the 2003 tax credit cycle as file #03171.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units: 244 **# Rental Buildings:** 8 **# Common Area Bldgs:** 1 **# of Floors:** 4 **Age:** N/A yrs

Net Rentable SF: 216,936 **Av Un SF:** 889 **Common Area SF:** 4,446 **Gross Bldg SF:** 221,382

STRUCTURAL MATERIALS

The structure will be wood frame on a post-tensioned concrete foundation. According to the plans provided in the application the exterior will be comprised as follows: 1% stone veneer/94% cement fiber siding, and 5% stucco. The interior wall surfaces will be drywall and the pitched roof will be finished with composite shingles.

APPLIANCES AND INTERIOR FEATURES

The interior flooring will be a combination of carpeting & vinyl tile. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, microwave oven, tile tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, individual water heaters in the three story buildings and central boiler water heating system in the four story building, individual heating and air conditioning, & 9-foot ceilings.

ON-SITE AMENITIES

A 1,996-square foot community building will include an activity room, management offices, fitness, maintenance, a kitchen, restrooms, a computer center, & a central mailroom. The community building, swimming pool, and equipped children's play area are located at the entrance of the property. In addition, perimeter fencing with limited access gates are planned for the site. Integrated with the residential buildings are 2,450-square feet of laundry rooms, game rooms and lobbies.

Uncovered Parking: 373 spaces **Carports:** 0 spaces **Garages:** 60 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Uvalde Ranch Apartments is a relatively dense (13.37 units per acre) new construction development of 244 units of affordable housing located in northeast Houston. The development is comprised of 244 evenly distributed large garden style walk-up and elevator served residential buildings as follows:

- 1 Building Type A with 76 one-bedroom/one-bath units;
- 4 Building Type B with 24 two- bedroom/two-bath units;
- 3 Building Type C with 24 three-bedroom/two-bath units;

Architectural Review: The building and unit plans are of good design, sufficient size and are comparable to other modern apartment developments. They appear to provide acceptable access and storage. The elevations reflect attractive buildings with nice fenestration.

SITE ISSUES

SITE DESCRIPTION

Size: 17.95 acres 781,902 square feet **Zoning/ Permitted Uses:** No zoning - Houston

Flood Zone Designation: Zone X **Status of Off-Sites:** Partially improved

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is an irregularly-shaped parcel located in the northeast area of Houston, approximately six miles from the central business district. The site is situated on the north side of Wallisville Road, the south side of South Lake Houston Parkway, and the west side of Greens Bayou, Houston, Harris County, Texas.

Adjacent Land Uses:

- **North:** South Lake Houston Parkway immediately adjacent;
- **South:** Wallisville Road immediately adjacent and a convenience store/gas station, a food distribution warehouse, and single-family residential development beyond;

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

- **East:** Greens Bayou immediately adjacent; and
- **West:** Vacant land immediately adjacent;

Site Access: “The central portion of the defined neighborhood is accessible from the Houston Central Business District by proceeding east along Interstate Highway 10 approximately seven miles to the central portion of the defined neighborhood.” (p. 24 Market Study)

Public Transportation: “The neighborhood is well-located within the Metropolitan Area’s transportation infrastructure.” (p. 24 Market Study)

Shopping & Services: “The neighborhood is a viable, heterogeneous area in the eastern portion of the Houston MSA. Land uses in the neighborhood consist of a variety of commercial, and residential land uses, including, but not limited to, single-family residential subdivisions, multifamily, retail, and service.” (p. 24 Market Study)

Special Adverse Site Characteristics:

- **Floodplain:** “According to Flood Insurance Rate Map #48201C715-J dated November 6, 1996, the majority of the subject site is located in unshaded Zone X, an area outside the 100-Year and 500-Year Flood Plains. The eastern portion (approximately 3.5 acres according to the developer) is located along the banks of Greens Bayou, within Zone AE, and area within the 100-year flood plain.....The small portion that is located along Greens Bayou will be used as green space.” (p. 23 Market Study)

Receipt, review, and acceptance of plans that would elevate a small portion of the parking lot that falls in the shaded flood zone X to be no more than six inches below the flood plain base line prior to cost certification.

Site Inspection Findings: TDHCA staff performed a site inspection on May 27, 2004 and found the location to be acceptable for the proposed development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated June 1, 2004 was prepared by Phase Engineering, Inc. and contained the following findings and recommendations:

Findings:

- **Floodplain:** “The FEMA, Harris County, Flood Insurance Rate Map No. 482010715J, November 6, 1996 shows that the east portion of the subject site along Greens Bayou lies in Zone X500 and Zone A and Zone AE Flood way.” (p. 7)

Recommendations: “This assessment has revealed no evidence of recognized environmental conditions in connection with the property.” (p. 17)

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside although as a Priority 1 private activity bond lottery development the Applicant has elected the 50% at 50% / 50% at 60% option.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$25,620	\$29,280	\$32,940	\$36,600	\$39,540	\$42,480

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

MARKET HIGHLIGHTS

A market feasibility study dated May 20, 2004 was prepared by Patrick O'Connor & Associates ("Market Analyst") and highlighted the following findings:

Definition of Primary Market Area (PMA): "The subject's primary market area includes the following zip codes: 77012, 77013, 77015, 77029, 77049, 77503, 77506, 77530, and 77547." (p. 18). This area encompasses approximately 141.55 square miles and is equivalent to a circle with a radius of 6.7 miles.

Population: The estimated 2004 population of the PMA was 239,229 and is expected to increase by 4% to approximately 249,672 by 2009. Within the primary market area there were estimated to be 72,390 households in 2004.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand of 6,334 qualified households in the PMA, based on the current estimate of 72,390 households, the projected annual growth rate of 4%, renter households estimated at 44% of the population, income-qualified households estimated at 36%, and an annual renter turnover rate of 55 %. (p. 70). The Market Analyst used an income band of \$18,206 to \$38,640.

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	79	1%	79	1%
Resident Turnover	5,637	89%	6,307	99%
Other Sources: 10 yrs pent-up demand	619	10%	0	0%
TOTAL ANNUAL DEMAND	6,335	100%	6,386	100%

Ref: p. 70

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 3.85% based upon 6,335 units of demand and 244 unstabilized affordable housing in the PMA (including the subject) (p. 72). The Underwriter calculated an inclusive capture rate of 7.6% based upon a revised supply of unstabilized comparable affordable units of 484 divided by a revised demand of 6,386.

Local Housing Authority Waiting List Information: "The waiting list for Section 8 vouchers was closed in 1994, when the list had grown to more than 26,000 households. The waiting list has been reopened at times, but is currently closed. The most recently-published waiting list totals 18,526 families. This indicates a strong demand for new rental units in the subject's defined market area." (p. 44).

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 1,112 units in the market area. (p. 47).

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (50%)	\$531	\$505	+\$26	\$675	-\$144
1-Bedroom (60%)	\$646	\$620	+\$26	\$675	-\$29
2-Bedroom (50%) 935 sq ft	\$605	\$601	+\$4	\$795	-\$190
2-Bedroom (60%) 935 sq ft	\$742	\$738	+\$4	\$795	-\$53
2-Bedroom (50%) 949 sq ft	\$605	\$601	+\$4	\$795	-\$190
2-Bedroom (60%) 949 sq ft	\$742	\$738	+\$4	\$795	-\$53
2-Bedroom (50%) 963 sq ft	\$605	\$601	+\$4	\$795	-\$190
2-Bedroom (60%) 963 sq ft	\$742	\$738	+\$4	\$795	-\$53
3-Bedroom (50%) 1,060 sq ft	\$696	\$689	+\$7	\$895	-\$199
3-Bedroom (60%) 1,060 sq ft	\$854	\$847	+\$7	\$895	-\$41
3-Bedroom (50%) 1,074 sq ft	\$696	\$689	+\$7	\$895	-\$199
3-Bedroom (60%) 1,074 sq ft	\$854	\$847	+\$7	\$895	-\$41

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent = \$500, program max = \$600, differential = -\$100)

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

Primary Market Occupancy Rates: “The occupancy of the comparable rentals included in this study range from 85% to 99%, with a median occupancy of 93.60%. The average occupancy for apartments in the subject’s primary market area was reported at 90.97% in the most recent O’Connor & Associates Apartment Database survey.....Average occupancy in the primary market area has remained relatively stable since September 1999.” (p.40).

Absorption Projections: “Considering the strong absorption history of similar properties and the lack of available quality affordable units in this market, we project that the subject property will lease an average of 25-30 units per month until achieving stabilized occupancy. We anticipate that the subject property will achieve stabilized occupancy within eight to ten months following completion.” (p. 79).

Effect on Existing Housing Stock: “Based on the high occupancy levels of the existing properties in the market, along with the strong recent absorption history, we project that the subject property will have minimal sustained negative impact upon the existing apartment market. Any negative impact from the subject property should be of reasonable scope and limited duration.” (p. 79).

Market Study Analysis/Conclusions: The Underwriter found the market study to be acceptable.

OPERATING PROFORMA ANALYSIS

Income: The Applicant’s net rent projections are higher than the maximum rents allowed under HTC guidelines, due to the fact that the Applicant’s tenant paid utility expenses were too low based on an outdated December 2003 Utility Allowance Schedule versus a current April 2004 version. Estimates of collection losses are in line with TDHCA underwriting guidelines. Other income from the rental of sixty garages at a rate of \$40 per month per unit were undocumented; therefore, the \$28,800 income was not considered, but since the secondary income was only shown at \$10 per unit per month this was increased to \$19.84 per unit per month and still was within TDHCA underwriting guidelines thus yielding the Applicant basically the same gross income as requested. As a result of these differences the Applicant’s effective gross income estimate is \$31,787 greater compared to the Underwriter’s estimate.

Expenses: The Applicant’s total expense estimate of \$3,200 per unit is within 6% of the Underwriter’s database-derived estimate of \$3,408 per unit for comparably-sized developments. The Applicant’s budget shows one line item estimate, however, that deviate significantly when compared to the database averages, particularly general and administrative (\$49K lower). The Underwriter discussed this difference with the Applicant but was unable to reconcile it even with additional information provided by the Applicant.

Conclusion: The Applicant’s estimated income and total estimated operating expense is inconsistent with the Underwriter’s expectations and the Applicant’s net operating income (NOI) estimate is not within 5% of the Underwriter’s estimate. Therefore, the Underwriter’s NOI will be used to evaluate debt service capacity. Due primarily to the difference in general & administrative expenses, the Underwriter’s estimated debt coverage ratio (DCR) of 1.08 is less than the program minimum standard of 1.10. Therefore, the maximum debt service for this project should be limited to \$930,034 by a reduction of the loan amount.

ACQUISITION VALUATION INFORMATION

ASSESSED VALUE

Land: (17.95) acres	\$280,700	Assessment for the Year of:	2004
Building:	\$N/A	Valuation by:	Harris County Appraisal District
Total Assessed Value:	\$280,700	Tax Rate:	Tax Exempt

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control:	Earnest money contract						
Contract Expiration Date:	10/	5/	2004	Anticipated Closing Date:	10/	1/	2004
Acquisition Cost:	\$871,200			Other Terms/Conditions:	\$25,000 earnest money		
Seller:	Houck Realty Company Shareholder’s Liquidation Trust				Related to Development Team Member:	No	

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

CONSTRUCTION COST ESTIMATE EVALUATION

Acquisition Value: The site cost of \$885,000 (\$1.13/SF, \$49,304/acre, or \$3,627/unit), although significantly higher than the tax assessed value of \$280,700, is assumed to be reasonable since the acquisition is an arm's-length transaction.

Sitework Cost: The Applicant's claimed sitework costs of \$5,290 per unit are within the Department's allowable guidelines for multifamily developments without requiring additional justifying documentation.

Direct Construction Cost: The Applicant's costs are more than 5% different than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate after all of the Applicant's additional justifications were considered. This would suggest that the Applicant's direct construction costs are overstated.

Fees: The Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines

Conclusion: The Applicant's total development cost estimate is within 5% of the Underwriter's verifiable estimate and is therefore generally acceptable. Since the Underwriter has been able to verify the Applicant's projected costs to a reasonable margin, the Applicant's total cost breakdown is used to calculate eligible basis and determine the HTC allocation. As a result, an eligible basis of \$17,036,784 is used to determine a credit allocation of \$604,806 from this method. The resulting syndication proceeds will be used to compare to the Applicant's request and to the gap of need using the Applicant's costs to determine the recommended credit amount.

FINANCING STRUCTURE

INTERIM TO PERMANENT BOND FINANCING

Source: Newman & Associates **Contact:** Jerry Wright
Tax-Exempt Amount: \$13,300,000 **Interest Rate:** 6.65%
Additional Information: _____
Amortization: 40 yrs **Term:** 30 yrs **Commitment:** LOI Firm Conditional
Annual Payment: \$951,496 **Lien Priority:** 1st **Commitment Date** 6/ 3/ 2004

TAX CREDIT SYNDICATION

Source: JER Hudson Housing Capital, LLC **Contact:** Sam Ganeshan
Net Proceeds: \$4,984,659 **Net Syndication Rate (per \$1.00 of 10-yr HTC)** 82.5¢
Commitment LOI Firm Conditional **Date:** 6/ 11/ 2004
Additional Information: _____

APPLICANT EQUITY

Amount: \$1,244,278 **Source:** Deferred Developer Fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by Victory Street Public Facility Corporation and purchased by Newman Capital. The permanent financing commitment is consistent with the terms reflected in the sources and uses of funds listed in the application.

HTC Syndication: The tax credit syndication commitment is consistent with the terms reflected in the sources and uses of funds listed in the application.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,244,278 amount to 56% of the total fees.

Financing Conclusions: Based on the Applicant's estimate of eligible basis, the HTC allocation should not exceed \$604,806 annually for ten years, resulting in syndication proceeds of approximately \$4,984,658. Based on the underwriting analysis, the Applicant's deferred developer fee will be increased to \$1,544,278,

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

which represents approximately 70% of the eligible fee and which should be repayable from cash flow within ten years. Should the Applicant's final direct construction cost exceed the cost estimate used to determine credits in this analysis, additional deferred developer's fee may be available to fund those development cost overruns. Due to the difference in estimated net operating income, the Underwriter's debt coverage ratio (DCR) of 1.08 is less than the program minimum standard of 1.10. Therefore, the maximum debt service for this development should not exceed \$930,034 by a reduction of the permanent loan amount. To compensate for the reduction in loan funds the Applicant's deferred developer fee will be increased to \$1,544,278, which amounts to approximately 70% of the total fee and which should be repayable in approximately ten years.

DEVELOPMENT TEAM

IDENTITIES of INTEREST

The Applicant, Developer, General Contractor, and Property Manager firms are all related entities. These are common relationships for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- The 100% Owner of the General Partner, APV Redevelopment Corporation, submitted an unaudited financial statement as of December 31, 2003 reporting total assets of \$1.2M and consisting of \$991K in receivables, and \$230K in partnership interests. No liabilities were shown resulting in a net worth of \$1.2M.
- The principals of the General Partner, John E. Hettig and W. Barry Kahn, submitted unaudited financial statements as of April 30, 2004 and April 1, 2004 respectively and are anticipated to be guarantors of the development.

Background & Experience:

- The Applicant and General Partner are new entities formed for the purpose of developing the project.
- The 100% Owner of the General Partner APV Redevelopment Corporation has completed seven HTC/affordable housing developments totaling 1,276 units since 1997.
- W. Barry Kahn and John Hettig principals of the General Partner have completed seven HTC/affordable housing developments totaling 964 units since 1996.

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's operating expenses and operating proforma are more than 5% outside of the Underwriter's verifiable ranges.
- The Applicant's direct construction costs differ from the Underwriter's *Marshall and Swift*-based estimate by more than 5%.
- The anticipated ad valorem property tax exemption may not be received or may be reduced, which could affect the financial feasibility of the development.
- The significant financing structure changes being proposed have not been reviewed or accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

Underwriter:

Carl Hoover

Date: August 10, 2004

Director of Real Estate Analysis:

Tom Gouris

Date: August 10, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Uvalde Ranch Apartments, Houston, 4% HTC, #04439

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC 50%	38	1	1	650	\$571	\$505	\$19,190	\$0.78	\$66.00	\$13.31
TC 60%	38	1	1	650	686	620	23,560	0.95	66.00	13.31
TC 50%	16	2	2	935	686	601	9,616	0.64	85.00	13.31
TC 60%	16	2	2	935	823	738	11,808	0.79	85.00	13.31
TC 50%	24	2	2	949	686	601	14,424	0.63	85.00	13.31
TC 60%	24	2	2	949	823	738	17,712	0.78	85.00	13.31
TC 50%	8	2	2	963	686	601	4,808	0.62	85.00	13.31
TC 60%	8	2	2	963	823	738	5,904	0.77	85.00	13.31
TC 50%	24	3	2	1,060	793	689	16,536	0.65	104.00	13.31
TC 60%	24	3	2	1,060	951	847	20,328	0.80	104.00	13.31
TC 50%	12	3	2	1,074	793	689	8,268	0.64	104.00	13.31
TC 60%	12	3	2	1,074	951	847	10,164	0.79	104.00	13.31
TOTAL:	244		AVERAGE:	889	\$750	\$665	\$162,318	\$0.75	\$84.69	\$13.31

INCOME	Total Net Rentable Sq Ft:	216,936							Comptroller's Region	6
POTENTIAL GROSS RENT									IREM Region	Houston
Secondary Income	Per Unit Per Month:	\$19.84						\$19.84	Per Unit Per Month	
Other Support Income:										
POTENTIAL GROSS INCOME										
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%						-7.50%	of Potential Gross Rent	
Employee or Other Non-Rental Units or Concessions										
EFFECTIVE GROSS INCOME										

EXPENSES	% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative	5.41%	\$411	0.46	\$100,309	\$51,252	\$0.24	\$210	2.72%
Management	5.00%	380	0.43	92,773	92,136	0.42	378	4.88%
Payroll & Payroll Tax	12.53%	953	1.07	232,550	231,492	1.07	949	12.27%
Repairs & Maintenance	5.98%	455	0.51	110,985	117,660	0.54	482	6.23%
Utilities	2.56%	194	0.22	47,409	47,520	0.22	195	2.52%
Water, Sewer, & Trash	4.40%	335	0.38	81,668	60,732	0.28	249	3.22%
Property Insurance	3.37%	256	0.29	62,491	76,560	0.35	314	4.06%
Property Tax	0	0	0.00	0	0	0.00	0	0.00%
Reserve for Replacements	2.63%	200	0.22	48,800	48,804	0.22	200	2.59%
Other Expenses: Compl. Fees, Sec	2.94%	224	0.25	54,576	54,576	0.25	224	2.89%
TOTAL EXPENSES	44.82%	\$3,408	\$3.83	\$831,562	\$780,732	\$3.60	\$3,200	41.37%
NET OPERATING INC	55.18%	\$4,196	\$4.72	\$1,023,903	\$1,106,520	\$5.10	\$4,535	58.63%

DEBT SERVICE				TDHCA	APPLICANT			
Newman Capital	51.28%	\$3,900	\$4.39	\$951,496	\$951,496	\$4.39	\$3,900	50.42%
Additional Financing	0.00%	\$0	\$0.00	0	0	\$0.00	\$0	0.00%
Additional Financing	0.00%	\$0	\$0.00	0	0	\$0.00	\$0	0.00%
NET CASH FLOW	3.90%	\$297	\$0.33	\$72,407	\$155,024	\$0.71	\$635	8.21%

AGGREGATE DEBT COVERAGE RATIO	1.08	1.16
RECOMMENDED DEBT COVERAGE RATIO	1.10	

CONSTRUCTION COST	Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)			4.71%	\$3,627	\$4.08	\$885,000	\$885,000	\$4.08	\$3,627	4.53%
Off-Sites			0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework			6.86%	5,290	5.95	1,290,725	1,290,725	5.95	5,290	6.61%
Direct Construction			47.86%	36,878	41.48	8,998,192	9,587,665	44.20	39,294	49.09%
Contingency	4.71%		2.58%	1,988	2.24	485,000	485,000	2.24	1,988	2.48%
General Req'ts	6.00%		3.28%	2,530	2.85	617,335	652,704	3.01	2,675	3.34%
Contractor's G & A	2.00%		1.09%	843	0.95	205,778	217,568	1.00	892	1.11%
Contractor's Profit	6.00%		3.28%	2,530	2.85	617,335	652,704	3.01	2,675	3.34%
Indirect Construction			2.02%	1,553	1.75	379,000	379,000	1.75	1,553	1.94%
Ineligible Costs			6.69%	5,152	5.80	1,257,152	1,257,152	5.80	5,152	6.44%
Developer's G & A	2.00%		1.50%	1,159	1.30	282,852	0	0.00	0	0.00%
Developer's Profit	13.00%		9.78%	7,535	8.48	1,838,537	2,222,189	10.24	9,107	11.38%
Interim Financing			8.24%	6,349	7.14	1,549,230	1,549,230	7.14	6,349	7.93%
Reserves			2.11%	1,626	1.83	396,727	350,000	1.61	1,434	1.79%
TOTAL COST			100.00%	\$77,061	\$86.67	\$18,802,864	\$19,528,937	\$90.02	\$80,037	100.00%
Recap-Hard Construction Costs			64.96%	\$50,059	\$56.30	\$12,214,365	\$12,886,366	\$59.40	\$52,813	65.99%

SOURCES OF FUNDS				TDHCA	APPLICANT	RECOMMENDED	
Newman Capital	70.73%	\$54,508	\$61.31	\$13,300,000	\$13,300,000	\$13,000,000	Developer Fee Available
Additional Financing	0.00%	\$0	\$0.00	0	0	0	\$2,222,189
HTC Syndication Proceeds	26.51%	\$20,429	\$22.98	4,984,659	4,984,659	4,984,659	% of Dev. Fee Deferred
Deferred Developer Fees	6.62%	\$5,100	\$5.74	1,244,278	1,244,278	1,544,278	69.5%
Additional (excess) Funds Required	-3.86%	(\$2,976)	(\$3.35)	(726,073)	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				\$18,802,864	\$19,528,937	\$19,528,937	\$3,914,609.20

MULTIFAMILY COMPARATIVE ANALYSIS (continued)
Uvalde Ranch Apartments, Houston, 4% HTC, #04439

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
 Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$44.03	\$9,551,692
Adjustments				
Exterior Wall Finish	1.02%		\$0.45	\$97,427
Elderly/9-Ft. Ceilings	3.00%		1.32	286,551
Roofing			0.00	0
Subfloor			(0.68)	(146,793)
Floor Cover			2.00	433,872
Porches/Balconies	\$18.00	10774	0.89	193,932
Plumbing	\$605	0	0.00	0
Built-In Appliances	\$1,650	244	1.86	402,600
Stairs/Fireplaces	\$1,700	62	0.49	105,400
Floor Insulation			0.00	0
Heating/Cooling			1.53	331,912
Garages/Carports	\$27.92	12,000	1.54	335,040
Comm &/or Aux Bldgs	\$60.46	4,446	1.24	268,810
Other: Elevator	\$51,500	1	0.24	51,500
SUBTOTAL			54.91	11,911,942
Current Cost Multiplier	1.03		1.65	357,358
Local Multiplier	0.90		(5.49)	(1,191,194)
TOTAL DIRECT CONSTRUCTION COSTS			\$51.07	\$11,078,106
Plans, specs, survy, bld prm	3.90%		(\$1.99)	(\$432,046)
Interim Construction Interest	3.38%		(1.72)	(373,886)
Contractor's OH & Profit	11.50%		(5.87)	(1,273,982)
NET DIRECT CONSTRUCTION COSTS			\$41.48	\$8,998,192

PAYMENT COMPUTATION

Primary	\$13,300,000	Term	480
Int Rate	6.65%	DCR	1.08

Secondary	\$0	Term	
Int Rate	0.00%	Subtotal DCR	1.08

Additional	\$4,984,659	Term	
Int Rate		Aggregate DCR	1.08

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$930,034
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$93,869

Primary	\$13,000,000	Term	480
Int Rate	6.65%	DCR	1.10

Secondary	\$0	Term	0
Int Rate	0.00%	Subtotal DCR	1.10

Additional	\$4,984,659	Term	0
Int Rate	0.00%	Aggregate DCR	1.10

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,947,816	\$2,006,250	\$2,066,438	\$2,128,431	\$2,192,284	\$2,541,458	\$2,946,246	\$3,415,507	\$4,590,156
Secondary Income	58,092	59,834	61,629	63,478	65,383	75,796	87,869	101,864	136,896
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,005,908	2,066,085	2,128,067	2,191,909	2,257,667	2,617,254	3,034,115	3,517,371	4,727,052
Vacancy & Collection Loss	(150,443)	(154,956)	(159,605)	(164,393)	(169,325)	(196,294)	(227,559)	(263,803)	(354,529)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,855,464	\$1,911,128	\$1,968,462	\$2,027,516	\$2,088,342	\$2,420,960	\$2,806,556	\$3,253,568	\$4,372,524
EXPENSES at 4.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
General & Administrative	\$100,309	\$104,321	\$108,494	\$112,834	\$117,347	\$142,771	\$173,702	\$211,335	\$312,828
Management	92,773	95,556	98,423	101,376	104,417	121,048	140,328	162,678	218,626
Payroll & Payroll Tax	232,550	241,852	251,526	261,587	272,050	330,991	402,701	489,947	725,241
Repairs & Maintenance	110,985	115,425	120,042	124,843	129,837	157,967	192,191	233,829	346,125
Utilities	47,409	49,305	51,278	53,329	55,462	67,478	82,097	99,884	147,852
Water, Sewer & Trash	81,668	84,935	88,333	91,866	95,541	116,240	141,423	172,063	254,696
Insurance	62,491	64,991	67,591	70,294	73,106	88,945	108,215	131,660	194,888
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	48,800	50,752	52,782	54,893	57,089	69,458	84,506	102,814	152,190
Other	54,576	56,759	59,029	61,391	63,846	77,679	94,508	114,983	170,204
TOTAL EXPENSES	\$831,562	\$863,896	\$897,497	\$932,412	\$968,695	\$1,172,574	\$1,419,670	\$1,719,194	\$2,522,649
NET OPERATING INCOME	\$1,023,903	\$1,047,232	\$1,070,966	\$1,095,104	\$1,119,647	\$1,248,386	\$1,386,886	\$1,534,374	\$1,849,874
DEBT SERVICE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
First Lien Financing	\$930,034	\$930,034	\$930,034	\$930,034	\$930,034	\$930,034	\$930,034	\$930,034	\$930,034
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$93,869	\$117,198	\$140,932	\$165,070	\$189,613	\$318,352	\$456,853	\$604,341	\$919,840
DEBT COVERAGE RATIO	1.10	1.13	1.15	1.18	1.20	1.34	1.49	1.65	1.99

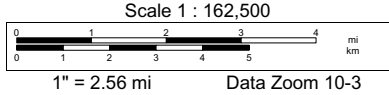
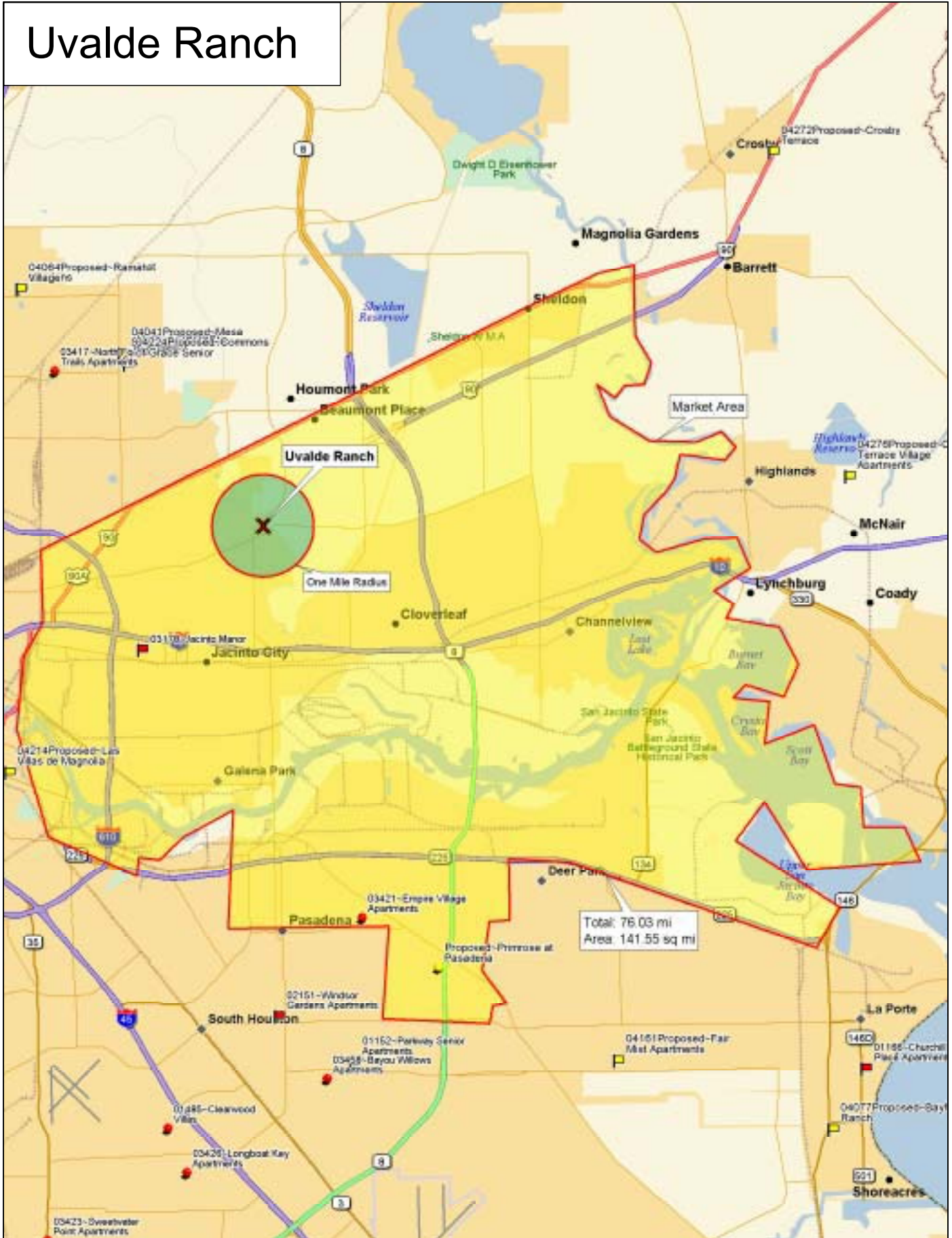
LIHTC Allocation Calculation - Uvalde Ranch Apartments, Houston, 4% HTC, #04439

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$885,000	\$885,000		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,290,725	\$1,290,725	\$1,290,725	\$1,290,725
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$9,587,665	\$8,998,192	\$9,587,665	\$8,998,192
(4) Contractor Fees & General Requirements				
Contractor overhead	\$217,568	\$205,778	\$217,568	\$205,778
Contractor profit	\$652,704	\$617,335	\$652,703	\$617,335
General requirements	\$652,704	\$617,335	\$652,703	\$617,335
(5) Contingencies				
	\$485,000	\$485,000	\$485,000	\$485,000
(6) Eligible Indirect Fees				
	\$379,000	\$379,000	\$379,000	\$379,000
(7) Eligible Financing Fees				
	\$1,549,230	\$1,549,230	\$1,549,230	\$1,549,230
(8) All Ineligible Costs				
	\$1,257,152	\$1,257,152		
(9) Developer Fees				
Developer overhead		\$282,852		\$282,852
Developer fee	\$2,222,189	\$1,838,537	\$2,222,189	\$1,838,537
(10) Development Reserves				
	\$350,000	\$396,727		
TOTAL DEVELOPMENT COSTS	\$19,528,937	\$18,802,864	\$17,036,784	\$16,263,985

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$17,036,784	\$16,263,985
High Cost Area Adjustment			100%	100%
TOTAL ADJUSTED BASIS			\$17,036,784	\$16,263,985
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$17,036,784	\$16,263,985
Applicable Percentage			3.55%	3.55%
TOTAL AMOUNT OF TAX CREDITS			\$604,806	\$577,371

Syndication Proceeds	0.8242	\$4,984,658	\$4,758,551
Total Credits (Eligible Basis Method)		\$604,806	\$577,371
Syndication Proceeds		\$4,984,658	\$4,758,551
Requested Credits		\$604,806	
Syndication Proceeds		\$4,984,660	
Gap of Syndication Proceeds Needed		\$6,528,937	
Credit Amount		\$792,178	

Uvalde Ranch



**PROGRAMS COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1100 Congress Avenue, State Capitol Extension Auditorium, Austin, Texas 78701
Thursday, August 19, 2004 9:30 a.m.**

A G E N D A

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**
Chair

C. Kent Conine
Committee

PUBLIC COMMENT

The Programs Committee of the Board of the Texas Department of Housing and Community Affairs will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Committee.

The Programs Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

Item 1 Presentation, Discussion and Possible Approval of Minutes of Programs Committee Meeting of June 10, 2004

C. Kent Conine

Item 2 Update and Discussion on Section 8 Program

Edwina Carrington

Item 3 Presentation and Discussion of 30-90 Day Rule Relating to the Weatherization Assistance Program (WAP), Comprehensive Energy Assistance Program (CEAP) and Community Services Block Grant (CSBG)

Edwina Carrington

EXECUTIVE SESSION

If permitted by law, the Committee may discuss any item listed on this agenda in Executive Session

C. Kent Conine

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

C. Kent Conine

ADJOURN

C. Kent Conine

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

PROGRAMS COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1100 Congress, State Capitol Extension Auditorium, Austin, Texas 78701
June 10, 2004 9:00 am

Summary of Minutes

CALL TO ORDER

CERTIFICATION OF QUORUM

The Programs Committee Meeting of the Board of the Texas Department of Housing and Community Affairs of June 10, 2004 was called to order by Chairman C. Kent Conine at 9:15 a.m. It was held at the State Capitol Extension Auditorium, 1100 Congress, Austin, Texas 78701. Roll Call certified a quorum was present.

Members present:

C. Kent Conine, Chairman

Vidal Gonzalez, Member

Elizabeth Anderson, Member (joined the meeting in progress)

PUBLIC COMMENT

Public comments were requested to be given during the presentation of agenda items.

ACTION ITEMS

(1) Presentation, Discussion and Possible Approval of Minutes of Programs Committee Meeting of May 12, 2004

Motion made by Vidal Gonzalez and seconded by C. Kent Conine to approve the minutes of the May 12, 2004 Programs Committee Meeting for pages 1, 2, 3 and 4 and to exclude pages 10, 11, and 12.

Passed Unanimously

(2) Discussion of Update on Issues Raised at the May Committee Meeting Including HOME Funding Timelines, HOME Over-Subscription Rate For Current Cycle, Community Development Block Grant Housing Information Update and HOME Consolidated Plan Amendment Language

Ms. Carrington stated there are several long term projects that staff is working on for future Programs Committee meetings. Staff provided the subscription rate for the 2004 HOME applications; the funding cycle timelines along with information needed to amend the Consolidated Plan language. Three areas to amend in this Plan include language of the American Dream Down Payment Initiative; net proceeds language; and use of HOME deobligated funds. This amended language has been submitted to HUD. Information was also provided on the Office of Rural Community Affairs funding programs. .

Ms. Carrington stated on the subscription rate that staff released a NOFA on January 30, 2004 with about \$24,412,000 available. There was \$2,250,000 set aside for persons with disabilities. Staff accepted 265 applications for eligible HOME single family activities. On the multi-family side, the funds are on an open cycle. On the single family area, of the 265 applications received, 247 are subject to the regional allocation formula and the percentages outlined in the 2004 Consolidated Plan. Of this amount, 45% goes to owner occupied; 35% goes to homebuyer assistance; and 20% goes to tenant based rental assistance.

She further stated the funding cycle timeline reflects the progress of development of the Consolidated Plan. The draft of this Plan will be presented to the Board in September and the public comment period will be from September to October. Staff will bring the final Consolidated Plan back for final approval by the Board in December.

Eric Pike, Director of Single Family Finance Production, stated staff has had discussions regarding open cycles. He did not feel that open cycles will work for the general HOME funding cycle because of the regional allocation formula and just the nature of the HOME Program. It would be extremely challenging to have an open cycle for those funds.

Mr. Conine asked that during the public hearing process that staff should pose questions on an open cycle and see what responses are given by the public which could be used in the future. Staff will report back on the public comments received at a future meeting. He also asked when the draft Consolidated Plan and rules are presented that the presentation from staff on the feedback be on how the department can make it a little more user friendly.

Ms. Brenda Hull presented the ORCA Housing Program update and stated that the ORCA Executive Committee did approve the action plan and the 4% Housing Rehab and Housing Infrastructure Programs have been eliminated.

Mr. Conine asked that this Committee be kept informed on the ORCA funds that are going into rural Texas and the staff to give a report on this at a future meeting.

Md. Carrington stated that ORCA will be submitting this information to the Department.

(3) Report from Texas Interagency Council for the Homeless

Mr. Eddie Fariss, Director of Community Affairs stated that there are several people in attendance who will be providing information on this item. He is a member of the Texas Council for the Homeless for the community affairs side and JoAnn dePenning from the department represents the housing side. The Texas Interagency Council for the Homeless was created by the 70th Legislature in 1989 and he has been a member since that time. The Legislation was originally created and introduced by Senator Parker from the Metroplex area. Texas was one of the first states to formally pass Legislation creating an Interagency Council for the Homeless. The Council was first housed at the Health and Human Services Commission but moved to the Texas Department of Housing and Community Affairs and now is part of the department's enabling legislation.

There are 14 state agencies represented on the Council. There is no funding for the Council and no staff assigned to the Council. One significant change that occurred in the past Legislative Session was the Interagency Council now serves as an Advisory Committee to the Board of the Texas Department of Housing and Community Affairs. The main reason for this agenda item at this meeting is to discuss the process that they have been going through to develop the State Plan to End Chronic Homelessness. This group meets every quarter and more frequently when there are projects to do.

Greg Gibson, Texas Interagency Council for the Homeless, Austin, Texas

Mr. Gibson stated that TDHCA has been supportive of this Council over the years in terms of the expertise that it has in this area, in terms of staff support and getting information out. The Council has had many collaborative projects. It is a forum for the exchange of what a difference that state government can do if you empower folks at the local level to come together as a community. They have had projects in South Texas and funds were put into the poorest areas and made a difference in the lives of people with disabilities, ones who had extreme housing instability and people that have crisis poverty and chronic disability.

They have been sharing information on the TDHCA programs and how the department disperses funds and make claims in that business process. They step forward to help social workers get the needed skills.

They also have the Texas Homeless Network. Through this network they have 29 homeless coalitions and some act as administrative service organizations. This group did an action plan to address persons

who are chronically homeless. This small group of the homeless population uses about 50-80% of the funds. He stated he felt there will always be homeless people, people with crisis poverty, and chronic disability but they can minimize the impact of that when it occurs.

Mike Doyle, Governor Perry's Appointee to the Texas Interagency Council for the Homeless, Austin, Texas

Mr. Doyle stated he is the Governor's appointee to this council and also serves as the Texas liaison to the United States Interagency Council on the Homeless. He stated that the council hopes to have the plan signed by the Governor by the end of the summer. Their planning and surveys and census noted that 27% of the homeless population are chronically homeless and chronic homelessness means that they have had four episodes of homelessness lasting at least one day over the last three years. That is the population that this chronic homelessness initiative is targeting. Their study revealed that this 27% used up about 90% of the resources so if these people can be moved into the mainstream services, move them into social security disability and food stamps and those kind of mainstream services that are administered through Health and Human Services that they can free up \$500 million from HUD to do housing. TDHCA is the lead agency on the administrative side of handling meetings and Eddie Fariss has always been the Chair or Co-Chair of the Council. Without TDHCA and MHMR, the only other agency that has ever provided any amount of resources was early in the first phases of this council when the Texas Education Agency gave them about \$5,000.

Mr. Conine asked for a copy of the minutes of the last few meetings of this Council.

Mr. Doyle also stated that they estimate about 10,000 prisoners will be released in Tarrant County this year. This affects the population as there is no coordinated effort to help these people once they are out of jail or out of a public institution and if there is no discharge planning, these people become homeless about 60-70% of the time.

Mr. Conine asked if the council could advocate in their agencies to obtain funds under their normal budgeting process to help with these problems. He wanted to know statistically over the last two years what the Texas Interagency Council did. He asked for a report that would show over the last two fiscal years where this Council was at that time, where it has progressed to now and where they would like to go. He also stated that by providing some historical information now that this would be a good measuring stick of what will happen in the future.

Mr. Eddie Fariss stated they can have this report by the next Programs Committee.

(4) Update and Discussion on Section 8 Program

Ms. Carrington stated staff provided the history of the Section 8 program, the initial funding by Congress, the various name changes, and the various changes in the program at the federal level along with the movement of the administration of the Section 8 program through the various Texas state agencies. The program has grown from an initial hundred certificates in 1997 to over 2,000 certificates that are administered in three different HUD offices in the State which are Ft. Worth, Houston and San Antonio for 33 counties and 63 cities through Texas.

The Project Access Program has 35 Section 8 housing choice vouchers from HUD. The Family Self Sufficiency Program has been discussed when the Board considered and reviewed this program for Brazoria County. She also advised that Brazoria County has applied to HUD and they have been designated as a public housing authority through HUD.

The Section 8 program year is different from the federal and state years as it runs from July 1 to June 30. Staff also provided the history of housing payments and administrative fees received from HUD.

The Department receives communication from HUD almost on a daily basis and also receives information from NAHRO related to the administration's proposed changes in the Housing Choice

Voucher program and what the impact would be on the Department in the way of administrative fees and also in the number of families that might be served.

John Henneberger, Co-Director, Texas Low Income Housing Information Service, Austin, Texas

Mr. Henneberger urged the Programs Committee to begin to give some thought to the impact of the changes which are being proposed to the Section 8 program by Secretary Jackson. The staff's memo mentions that the budget reductions which are anticipated to take place will be about \$1.1 billion reduction on a \$13.3 billion program. The memo also indicates that it anticipates not having to cut program beneficiaries and not having to cut services. If these cuts go through, the Department faces three problems which are:

1. It can reduce the number of tenants that it assists. If funds are reduced, the number of tenants assist are reduced.
2. They can be required to pay a higher portion of their rent or one can choose to put new slots in Section 8.
3. TDHCA can choose to fill those slots with people with a higher income level who will require fewer subsidies.

All of these options have severe consequences to TDHCA. If you increase the rent burden, the amount of rent which is going to be charged to the tenants above the current one-third of their income for rent and utilities, will make the tenants become rent-burdened. Rents will continue to increase in the Section 8 program. The number of very poor Texas households who are eligible for and need these certificates has continued to increase every year. This causes a fairly severe problem. This is not a problem of just 2,000 Section 8 certificates that TDHCA operates but is also a problem for the Housing Tax Credit Program, The extremely low income people who are able to acquire a unit in the housing tax credit program have to rely on Section 8 certificates. If one has to pay a higher amount of rent this will have a direct and significant impact on the economic viability of the housing tax credit program. This will also have a significant impact on the ability of the State in the way that it is meeting the needs of the lower income population.

He urged the Board to consider what it is that Texas will do to respond to these budget cutbacks and changes, how they will position the tax credit program in order to carry even a greater amount of burden with the reduction of the Section 8 certificates, or where they can find alternative revenues to make up for the federal budget cuts that are coming down the line.

Mr. Conine asked that staff report back to the committee on the pros and cons of considering a move of Section 8 vouchers to the local public housing authorities. He also wanted to know if the local market or the rural market would be better served in those local communities around the State if those vouchers that TDHCA administers could be reallocated out of the HUD offices. What other carryover impacts would that create?

Ms. Anderson stated it would be very helpful to have a report that analyzes the impacts of the existing participation in Section 8. She would also like to see in the report some staff outreach to the PHAs proximate to those counties to see if they would be interested in taking that set of vouchers and still using them in those counties, perhaps through those same local operators.

Mr. Conine would like to know the breakdown of what Section 8 is providing in regards to whether one-bedrooms out number two bedrooms or the mix of units, etc. He would like to see a map on which counties are not served by the 140,000 vouchers that come into Texas. He stated the job of the state agency is to cover the rest of the state that is not a pj so there could be a gap in where Section 8 vouchers are being used.

EXECUTIVE SESSION

If permitted by law, the Committee may discuss any item listed on this agenda in Executive Session

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

There was no Executive Session held.

ADJOURN

Mr. Conine adjourned the meeting at 10:50 a.m.

Respectfully submitted,

Delores Groneck
Board Secretary

Dg/p/pcminjun

COMMUNITY AFFAIRS DIVISION
PROGRAMS COMMITTEE DISCUSSION ITEM
August 19, 2004

Discussion Item

Housing Assistance (Section 8) Program (HAP)

Required Action

Further Discussion of Section 8 Program

Background

During the June 10, 2004, Programs Committee meeting, staff presented an overview of the Section 8 program. The Programs Committee asked that staff return to a future Programs Committee meeting to provide additional information regarding the Section 8 Program including the impact of eliminating the program within the Department.

THE STATEWIDE HOUSING ASSISTANCE PAYMENTS PROGRAM (SECTION 8)

CONSOLIDATION OF HUD ANNUAL CONTRIBUTIONS CONTRACTS

- HUD approved the Department’s request for consolidation of the three Annual Contribution Contracts (ACCs) effective July 1, 2004.
- The approval is based on the reasons set out in the Board of Director’s Resolution. The consolidation will facilitate the Department better serving the State’s low-income population by providing housing assistance in areas where the need is greatest, while still providing service throughout the three public housing office jurisdictions (Fort Worth, Houston, and San Antonio).

REALLOCATION OF VOUCHERS TO LOCAL HOUSING AUTHORITIES

- The Section 8 Program is presently administered in 37 counties and 63 cities throughout Texas. Program staff conducted outreach to the PHAs proximate to the counties and cities presently served by TDHCA. PHAs in thirty (30) proximate counties are willing to take the vouchers and continue implementation of the program in the same geographic service areas.
- PHAs proximate to the other seven (7) counties are not willing to take the vouchers and continue servicing the areas.
- The Section 8 Program is presently allocated 2,100 vouchers, which includes 35 vouchers for Project Access. A total of 1,706 vouchers can be given to local PHAs.

San Antonio Jurisdiction:

TDHCA – Admin Vouchers	No. of vouchers	Contiguous PHA
Aransas County (Rockport)	20	Aransas Pass HA (5.5 miles)
Atascosa County (Lytle)	12	Alamo Area COG
Burnet County (Bertram & Marble Falls)	29	Marble Falls HA
Caldwell County (Lockhart, Luling)	30	San Marcos HA
Guadalupe County (Marion)	5	Alamo Area COG
Hidalgo County (Alton)	7	Mission HA (4.9 miles)
Jim Wells County (County)	2	Alice HA
Kerr County (Kerrville)	10	Alamo Area COG
Lee County (Giddings & Lexington)	29	Smithville HA (24.4 miles)
Live Oak County (George West)	8	Beeville HA (24.1 miles)
Llano County (Llano)	10	Llano HA
Medina County (Hondo & Natalia)	85	Alamo Area COG
Nueces County (County)	2	Robstown HA

Houston Jurisdiction:

TDHCA – Admin Vouchers	No. of vouchers	Contiguous PHA
Austin County (Sealy)	14	Rosenberg HA (28.5 miles)
Brazoria County (Alvin, Angleton, Brazoria, Clute, West Columbia)	576	Brazoria County PHA
Chambers County	33	Liberty County HA (25.1)
Colorado County	35	LaGrange HA (26.4 miles)
Ft. Bend County (Needville)	22	Rosenberg HA (11.3 miles)
Galveston County (County)	201	Galveston HA (21.2 miles)
Robertson County (Hearne)	58	Brazos Valley COG
Waller County (Hempstead, Prairie View)	99	<i>PHA would not agree</i>
Wharton County (El Campo, Wharton)	101	Bay City HA (31.1 miles)

Fort Worth Jurisdiction:

TDHCA – Admin Vouchers	No. of vouchers	Contiguous PHA
Bosque County (County)	18	Waco HA (35.5 miles)
Comanche County (County)	52	Brownwood HA (27.2 miles)
Crockett County (Ozona)	25	<i>PHA would not agree</i>
Denton County (Pilot Point, Sanger)	27	Denton HA (12.3)
Ellis County (Ennis, Italy, Waxahachie)	203	Corsicana, Lancaster & Ferris HAs
Erath County (Dublin)	48	Dublin HA
Falls County (Marlin, Rosebud)	69	<i>PHA would not agree</i>
Freestone County (Fairfield, Teague)	17	<i>PHA would not agree</i>
Johnson County (Alvarado, Keene)	88	<i>PHA would not agree</i>
Limestone County (Kosse)	10	<i>PHA would not agree</i>
Mason County (Mason)	8	Llano HA (33.9 miles)
Mc Lennan County (McGregor)	36	Waco HA (18.3 miles)
Menard County (Menard)	7	Brady HA (33.8 miles)
Navarro County (Blooming Grove, Kerens)	18	Blooming Grove, Kerens Has
Schleicher County (El Dorado)	12	<i>PHA would not agree</i>

REGIONAL COUNCILS CERTIFIED AS PHA

Regional Council	No. of Section 8 Counties
Alamo Area Council of Governments	11
Ark-Tex Council of Governments	11
Brazos Valley Council of Governments	7
Central Texas Council of Governments	7
Deep East Texas Council of Governments	12
Texoma Council of Governments	2

STATE PUBLIC HOUSING AUTHORITIES

Thirty (30) states and the District of Columbia have a state Public Housing Authority administering Section 8 vouchers in part or all of the state.

COMMUNITY ACTION AGENCIES CERTIFIED AS PHA

Panhandle Community Services is the only Community Action Agency certified as PHA serving 26 counties.

TDHCA SECTION 8 VOUCHER BEDROOM BREAKDOWN REPORT

The bedroom breakdown report on active contracts as of July 31, 2004 is as follows:

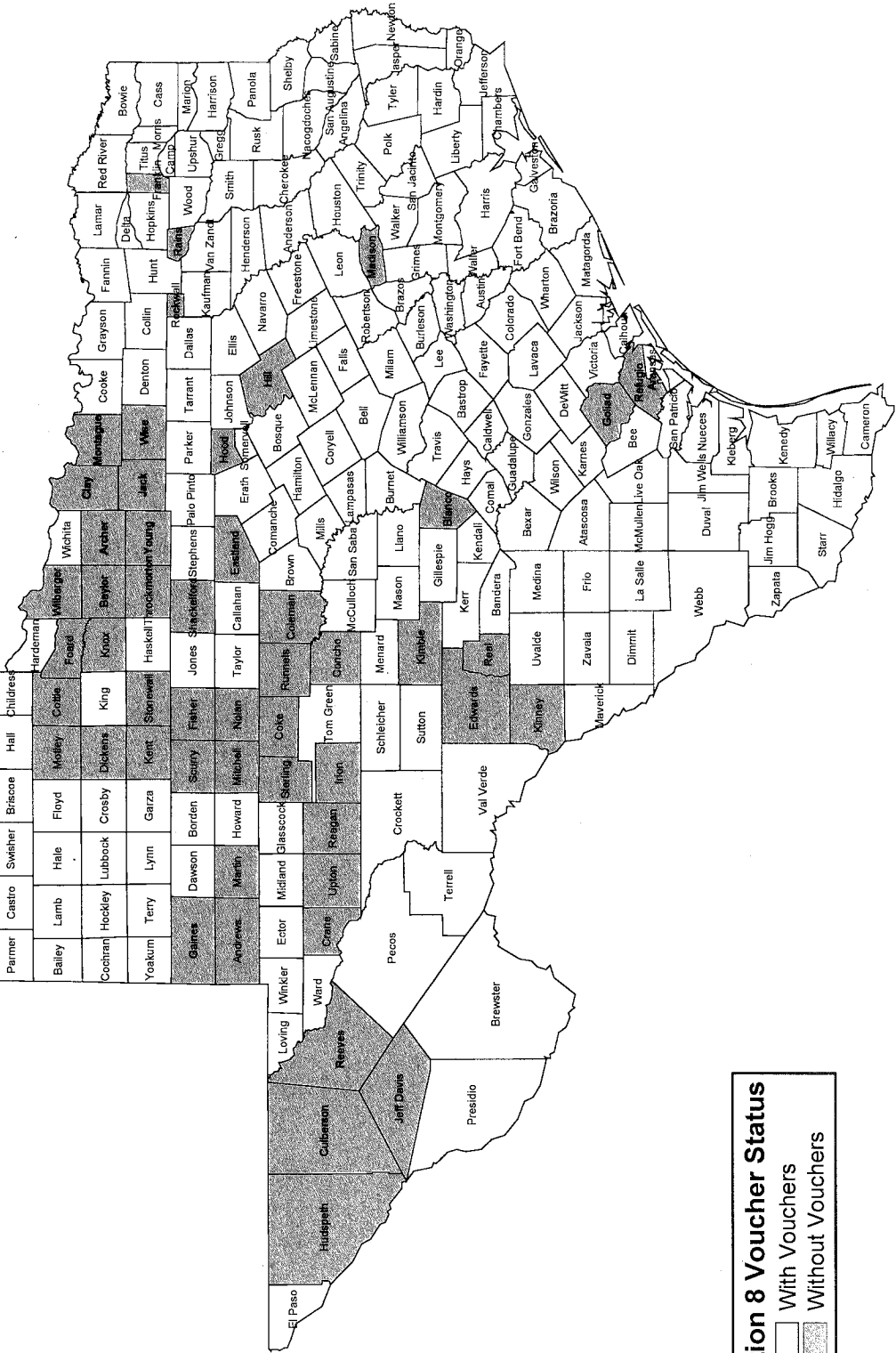
0 Bedroom	2
1 Bedroom	361
2 Bedroom	721
3 Bedroom	616
4 Bedroom	54
5 Bedroom	2
TOTAL	1756

COUNTIES NOT SERVED SECTION 8 VOUCHERS

Based on staff research, there are no Section 8 vouchers in fifty-one (51) Texas counties. Below is a listing of the counties not served, followed by a map depicting the status of Section 8 vouchers in all 254 Texas counties.

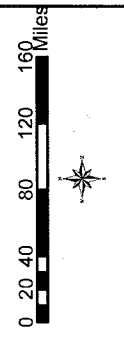
- | | | | |
|-----|------------|-----|--------------|
| 1. | ANDREWS | 26. | KENT |
| 2. | ARCHER | 27. | KIMBLE |
| 3. | BAYLOR | 28. | KINNEY |
| 4. | BLANCO | 29. | KNOX |
| 5. | CLAY | 30. | MADISON |
| 6. | COKE | 31. | MARTIN |
| 7. | COLEMAN | 32. | MITCHELL |
| 8. | CONCHO | 36. | RAINS |
| 12. | DICKENS | 37. | REAGAN |
| 13. | EASTLAND | 38. | REAL |
| 14. | EDWARDS | 39. | REEVES |
| 15. | FISHER | 40. | REFUGIO |
| 16. | FOARD | 41. | ROCKWALL |
| 17. | FRANKLIN | 42. | RUNNELS |
| 18. | GAINES | 43. | SCURRY |
| 19. | GOLIAD | 44. | SHACKELFORD |
| 20. | HILL | 45. | STERLING |
| 21. | HOOD | 46. | STONEWALL |
| 22. | HUDSPETH | 47. | THROCKMORTON |
| 23. | IRION | 48. | UPTON |
| 24. | JACK | 49. | WILBARGER |
| 25. | JEFF DAVIS | 50. | WISE |
| | | 51. | YOUNG |

Dallam	Sherman	Hansford	Ochiltree	Lipscomb
Hartley	Moore	Hutchinson	Roberts	Hemphill
Oldham	Potter	Carson	Gray	Wheeler
Deaf Smith	Randall	Armstrong	Donley	Collingsworth
Parmer	Castro	Swisher	Brazos	Hall
Bailey	Lamb	Hale	Floyd	Mohr
Cochran	Hockley	Lubbock	Crosby	Dickens
Yoakum	Terry	Lynn	Garza	Kent
Gaines	Dawson	Borden	Scurry	Fisher
Andrew	Martin	Howard	Michalek	Ngan
Ector	Midland	Classcock	Sterling	Coke
Winkler	Ward	Crain	Upton	Reagan
Loving	Winkler	Ward	Crain	Upton
Ward	Crain	Upton	Reagan	Iron
Reeves	Culberson	Jeff Davis	Presidio	Brewster
Hudspeth	Culberson	Jeff Davis	Presidio	Brewster
El Paso	Hudspeth	Culberson	Jeff Davis	Presidio



Section 8 Voucher Status

- With Vouchers
- Without Vouchers



Texas Department of Housing and Community Affairs
Section 8 Voucher Status by County

TDHCA
 Center for Housing Research, Planning, and
 Communications
 June 2004
 Source: TDHCA

IMPACT OF ELIMINATING THE SECTION 8 PROGRAM

- **Eliminating the Department's Section 8 Program will negatively affect the Department's ability to meet the Rider 3 requirements. Eliminating the Section 8 Program will reduce the Department's housing expenditures for very low- and extremely low-income person by over \$5 million dollars.**
- **Eliminating the Section 8 Program will eliminate approximately \$913,000 in administrative fees earned.**
- **Eliminating the Section 8 Program reduces the Department's indirect cost support.**
- **Transferring vouchers to proximate PHAs does not guarantee that the vouchers will remain in the communities that originally applied for and received those vouchers. Communities apply to HUD for Section 8 vouchers. HUD does not allocate vouchers to communities or states on a pro-rata basis.**
- **Eliminating the Section 8 Program will affect the Department's ability to administer the Project ACCESS vouchers. This project provides vouchers to disabled persons interested in moving from nursing facilities into the community.**
- **If Congress implements a Section 8 Program block grant as proposed last year, the State will need a state PHA to administer the funds.**



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office, Region VI
Office of Public Housing
801 Cherry Street
Post Office Box 2905
Fort Worth, Texas 76113-2905

July 2, 2004

Edwina Carrington, Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711

Dear Ms. Carrington:

SUBJECT: Consolidation of ACCs for TX901, 902, and 903
Texas Department of Housing and Community Affairs
Housing Choice Voucher Program

I am happy to advise you that your request for consolidation of the three Annual Contributions Contracts (ACCs) for the Texas Department of Housing and Community Affairs is hereby approved. This consolidation was effective July 1, 2004, the first day of your new fiscal year.

This approval is being based on the reasons set out in the Board of Director's Resolution 03-086 and will hopefully facilitate the Agency's better serving the State's low-income population by enabling your Agency to provide housing assistance in areas where the need is greatest, while still providing service throughout the three public housing office jurisdictions (Fort Worth, Houston, and San Antonio).

Your Agency's primary point of contact for routine, day-to-day Section 8 issues will be Robin Barton, Public Housing Revitalization Specialist, Fort Worth Office of Public Housing, 817-978-5706, e-mail Robin.L.Barton@hud.gov. Pat Aikens will continue to furnish support on your FSS issues and concerns. Her number remains 817-978-5715.

Should you have any questions on the consolidation, please contact Jenna Lewis, Acting Director, Technical Division, at 817-978-5727, or me at 817-978-5716. We wish you the best during your transition.

Sincerely,

A handwritten signature in black ink, appearing to read "Roman Palomares".

Roman Palomares
Acting Director
Office of Public Housing

COMMUNITY AFFAIRS DIVISION
PROGRAMS COMMITTEE DISCUSSION ITEM
August 19, 2004

Discussion Item

Determining Applicant Income Eligibility for the Weatherization Assistance Program (WAP), the Comprehensive Energy Assistance Program (CEAP), and the Community Services Block Grant (CSBG)

Required Action

Board will discuss current policy

Background

Chapter 1-B of the State Auditor's Report, dated June 2003, Selected Assistance Programs at the Department of Housing And Community Affairs, stated that "Weaknesses in the Process that Three Programs Use to Determine Income Eligibility Increase the Risk that Ineligible Applicants Could Receive Program Services."

Though the SAO Report acknowledged that "the process that the WAP, CEAP, and CSBG subgrantees use to determine income eligibility for services is an allowable process under federal regulations," the Report stated that "The process that the WAP, CEAP, and CSBG subgrantees use to determine income eligibility for services is an allowable process under federal regulations. However, it does not ensure that only qualified individuals receive services."

"For each of these three programs, the Department's policy allows subgrantees to estimate an applicant's annual household income by annualizing a part of a year's income. Most (subgrantees) have chosen to obtain documentation for an applicant's 30-day income and multiply by 12 to estimate annual income. However, by using only 30 days of income, the Department allows applicants to receive services even if their annual household incomes exceed the program's income eligibility threshold. Annualizing 30 days of income could exclude applicants from receiving services even if their annual household incomes are less than the program's income eligibility thresholds."

"Using employer reported income information that the Texas Workforce Commission collects, we found that 10 percent of the applicants that we tested received program services even though their annual household incomes (according to the Workforce Commission's data) exceeded the program's income eligibility threshold."

The SAO Report recommended that "For the WAP, CEAP, and CSBG programs, the Department should obtain information for the household income for a period that is longer than 30 days to determine an applicant's income eligibility. The period selected should provide reasonable assurance that the Department is not providing services to people whose household income levels exceed the income eligibility threshold."




WWW.TDHCA.STATE.TX.US

GENERAL POLICY ISSUANCE #2004-3.3

.....
RICK PERRY
Governor

TO: Community Services Block Grant (CSBG),
Comprehensive Energy Assistance Program (CEAP) and
Weatherization Assistance Program (WAP) Subrecipients

EDWINA P. CARRINGTON
Executive Director

FROM: E.E. Fariss, Director 
Community Affairs Division

BOARD MEMBERS
Michael E. Jones, *Chair*
Elizabeth Anderson
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Norberto Salinas

DATE: November 20, 2003
SUBJ/TITLE: Eligibility/Determining Client Eligibility

BACKGROUND

GENERAL POLICY ISSUANCE #04-3.2 is rescinded.

Household income is a primary factor in determining applicant eligibility and subrecipients are required to annualize household income when making this determination. The Texas Department of Housing and Community Affairs (the Department) issued **GENERAL POLICY ISSUANCE #2000-3.1** to identify the types of income that must be included when calculating household income. In addition, the U. S. Department of Health and Human Services annually updates the poverty income guidelines used to determine eligibility for these programs. Previously, subrecipients could select a period upon which to determine eligibility, usually household income from the previous 30-, 60- or 90-days, and consistently apply that time period to all applicants.

ACTION REQUIRED:

Effective January 1, 2004, all CSBG, CEAP, and WAP subrecipients must base annualized eligibility determinations on household income from the **90 day period prior to the date of application for assistance**. Each Subrecipient must document income from all sources for all household members **for the 90 day period prior** to the date of application and multiply by four (4) to annualize income.

If proof of income is unavailable, the applicant must complete and sign a Declaration of Income Statement (attached).

The Department recognizes the difficulty some migrant or seasonal farm workers may have in documenting monthly income. Subrecipients receiving Department funds specifically for this target population may consider using documentation of actual income from the previous 12 months (i.e. W-2 statement or income tax forms) to determine eligibility rather than annualizing income. Migrant farm worker and seasonal farm worker are defined in **CSBG POLICY ISSUANCE #2003-3.4**.

INQUIRIES:

If you have any questions, please contact your assigned program officer.

EFFECTIVE DATE:

January 1, 2004.

507 SABINE - SUITE 400 ■ P.O. BOX 13941 ■ AUSTIN, TEXAS 78711-3941 ■ (512) 475-3800

Texas Department of Housing and Community Affairs

**DECLARATION OF INCOME STATEMENT
(DECLARACION DE INGRESOS)**

I, _____, do hereby declare that:
(Yo) (*Applicant's Name/Nombre del Solicitante*) (*declaro que:*)

- I have no documented proof of income;
(*No tengo prueba para documentar mis ingresos*)
- I am applying for assistance from _____ :
(*Yo deseo aplicar para asistencia al:*) (*Agency Name*)
- My household consists of _____ number of persons; and
(*En mi hogar radican (¿cuántas?) personas, y*)
- My household income has been annualized according to
(*Todos los ingresos de mi hogar han sido calculados para el año que viene según*
pre-established procedure and it is \$_____.
la póliza pre-establecida por la agencia y llegan a (¿cuántos dólares?)

I certify that the above information is true and correct to the best of my knowledge and belief.
(*Yo certifico que la información proveída es verdadera y correcta según mi saber y creencia.*)

I understand that the information will be verified to the extent possible; and that I may be
(*Comprendo que la información será verificada todo lo posible; y que puedo ser*

subject to prosecution for providing false or fraudulent information.
(*enjuiciado por haber dado información falsa ó fraudulenta.*)

(*Applicant Signature/Firma del Solicitante*)

(*Date/Fecha*)

(*Street Address/Dirección*)

(*City/Ciudad*)

(*County/Condado*)

(*Zip/Código Postal*)

(*Agency Representative's Signature*)

weatherize each multi-family dwelling and (2) what percentage of the work on each dwelling has been finished. Using this information, the Department should track the amount of program funds that have been spent to weatherize multi-family and single-family dwellings.

Chapter 1-B

Weaknesses in the Process that Three Programs Use to Determine Income Eligibility Increase the Risk that Ineligible Applicants Could Receive Program Services

The process that the WAP, CEAP, and CSBG subgrantees use to determine income eligibility for services is an allowable process under federal regulations. However, it does not ensure that only qualified individuals receive services.

For each of these three programs, the Department's policy allows subgrantees to estimate an applicant's annual household income by annualizing a part of a year's income. Most programs have chosen to obtain documentation for an applicant's 30-day income and multiply that amount by 12 to estimate annual income. However, by using only 30 days of income, the Department allows applicants to receive services even if their annual household incomes exceed the program's income eligibility thresholds. Annualizing 30 days of income also could exclude applicants from receiving services even if their annual household incomes are less than the program's income eligibility thresholds.

Using employer-reported income information that the Texas Workforce Commission (Commission) collects, we found that 10 percent of the applicants we tested received program services even though their annual household incomes (according to the Commission's data) exceeded the program's income eligibility thresholds.

Recommendation

For the WAP, CEAP, and CSBG programs, the Department should obtain information for household income for a period that is longer than 30 days to determine an applicant's income eligibility. The period selected should provide reasonable assurance that the Department is not providing services to people whose household income levels exceed the income eligibility threshold.

Chapter 1-C

The Department Does Not Ensure that WAP Subgrantees Provide Allowable, Cost-Effective Services

The Department does not ensure that WAP subgrantees provide allowable services (regardless of whether the weatherized dwelling is a single- or multi-family dwelling). The following examples illustrate how subgrantees have provided unallowable or potentially unallowable WAP services:

- One subgrantee provided weatherization services to an applicant even though the subgrantee had determined that the applicant's household was not income-

Department Action Taken

In response to the SAO recommendation, the Department developed Community Affairs Division General Policy Issuance #2004-3.3, dated November 20, 2003, with an effective date of January 1, 2004. General Policy Issuance #2004-3.3 states that “Effective January 1, 2004, all CSBG, CEAP, and WAP subrecipients must base annualized eligibility determinations on household income for the 90 day period prior to the date of application for assistance. Each subrecipient must document income from all sources for all household members for the 90 day period prior to the date of application and multiply by four to annualize income. If proof of income is not available, the applicant must complete and sign a Declaration of Income Statement (attached).”

The Issuance waives the 90 day requirement for migrant or seasonal farm workers applying for assistance from a subrecipient that receives funds specifically to serve that population.

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
August 19, 2004

Action Items

Request approval of fourteen Housing Trust Fund Capacity Building awards.

Required Action

Approve Capacity Building award recommendations.

Background and Recommendations

On May 7, 2004, the Department published a Notice of Funding Available (NOFA) in the amount of \$400,000 for the Housing Trust Fund Capacity Building Program. The ultimate goal and purpose of the Capacity Building Program is to provide funding to nonprofit housing providers for the hiring of staff, technical assistance providers, consultants and the cost of certification programs, which will have a direct impact on the applicant's ability to increase the production of, and increase access to, affordable housing in their community. Eligible activities listed under the NOFA were limited to the following list.

- € Hiring of staff or a consultant to develop an Architectural Barrier Removal/Universal Design program for persons with disabilities.
- € Hiring of staff or a consultant to assist the organization with the development of a comprehensive strategic plan to improve internal operations, increase production, and strengthen organizational sustainability.
- € Hiring of staff or a consultant to provide construction management services for a proposed low income housing development.
- € Hiring of staff or a consultant to improve the energy efficiency of an existing housing plan, or introduce alternative building methods that will increase production and lower housing costs.
- € Hiring of staff or a consultant to develop a new line of affordable housing services or production in which the organization has not previously been involved.
- € Hiring of a technical assistance provider, or covering the cost of a certification program for staff that will have a direct impact on the organization's ability to produce affordable housing.

The capacity building awards will be made as grants. All funds will be disbursed on a quarterly or one time basis in a manner to be determined after the time of award. Funds will not be disbursed until the Applicant has submitted a letter certifying the hiring of a staff person or consultant, and a resume of the person or consultant hired. Applicants will also be required to file quarterly progress reports with TDHCA, attend at least two approved affordable housing training sessions and attend a final conference to provide feedback and input for the future of the Capacity Building program. If it is determined that the goals stated in the application were not satisfied, the organization will not be eligible for funds in the following year. Of the applications that were submitted, eight of the applicants received

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Capacity Building funds in a prior year; of those eight, six applicants received funds in 2003 and two applicants received funds in 2002 (but not 2003). None of the applicants received funds in both 2002 and 2003.

Sixteen applications were submitted in response to the NOFA by the June 9, 2004 deadline. The information in the following pages describes the content of each of these applications. The Multifamily Finance Production Division staff reviewed the applications utilizing the scoring criteria outlined in the NOFA and the 2004 Capacity Building Application Submission Procedures Manual. Scoring criteria included proven community support for the organization's purpose, affordable housing needs score for the targeted community, service to rural communities and persons with special needs, targeting of very low income individuals or families, and the applicant's proven commitment to produce affordable housing. Two of the sixteen applications were determined to be ineligible as further described in the following summary.

The wide variety of scores given to applicants was directly caused by three particular scoring categories. These categories included evidence of the organization's commitment to rural communities, persons with special needs and targeting of very low-income individuals or families. The NOFA and application submission manual clearly expressed the applicants need to show a commitment to these populations through both a resolution from the board of directors **and** a statement from the organizations governing documents, i.e. Articles of Incorporation or By-laws. While many organizations requested points under one or more of these categories, the majority of organizations could not clear show that these target populations were explicitly included in their governing documents. While other scoring items did have an impact on the final outcome, these three items were by far the most heavily weighted.

Staff is recommending funding in the amount of \$410,650 to the fourteen highest scoring proposals. This is \$10,650 more in awards than the amount indicated as available in the NOFA, however the additional \$10,650 is available from Housing Trust Fund loan repayments. In accordance with the NOFA, the highest scoring application in each of the thirteen Uniform State Service regions is being recommended. There were no applications submitted for regions 4, 8 and 9 and the only applications submitted for regions 5 and 10 are ineligible; therefore, the balance of the available funding is being recommended for the next highest scoring applications, regardless of region. This results in recommending all fourteen eligible applications for funding.

Since the NOFA stated that the awards would be approximately \$30,000 per organization, the recommended grant amount for Habitat for Humanity of Denton County has been reduced to \$30,000 from their requested amount of \$34,500.

A review by the Portfolio Management and Compliance Division has ensured that no applicants have instances of material non-compliance.

2004 HTF CAPACITY BUILDING AWARD RECOMMENDATIONS

Application Number	Organization	Region	City	Area of Assistance	Amount Requested	Amount Recommended	Points Requested	Points Awarded
04911	South Plains Community Action Association, Inc.	1	Levelland	Technical Assistance Consultant	\$30,000.00	\$30,000.00	78	78
04903	Habitat for Humanity of Wichita Falls, Inc.	2	Wichita Falls	Director of Marketing and Research	\$30,000.00	\$30,000.00	57	27
04913	Ability Resources Incorporated	3	Fort Worth	Technical Assistance Consultant	\$30,000.00	\$30,000.00	59	59
04912	Denton Affordable Housing Corporation	3	Denton	Special Projects Coordinator/Certification	\$30,000.00	\$30,000.00	68	48
04909	Affordable Housing of Parker County, Inc.	3	Springtown	Technical Assistance Consultant/Certification	\$30,000.00	\$30,000.00	39	39
04916	Habitat for Humanity of Denton County	3	Denton	Construction Manager	\$34,500.00	\$30,000.00	58	28
04907	Montgomery County Women's Center	6	The Woodlands	Technical Assistance Consultant	\$30,000.00	\$30,000.00	60	29
04906	United Cerebral Palsy of Texas	7	Austin	Integrated Housing Development Associate	\$30,000.00	\$30,000.00	55	40
04914	Austin Revitalization Authority	7	Austin	Technical Assistance Consultant/Certification	\$25,150.00	\$25,150.00	45	30
04902	FUTURO Communities, Inc.	11	Uvalde	Technical Assistance Consultant	\$25,500.00	\$25,500.00	77	73
04910	Midland Community Development Corporation	12	Midland	Construction Manager	\$30,000.00	\$30,000.00	50	40
04904	Alianza Para El Desarrollo Comunitario, Inc.	13	San Elizario	Housing Program Coordinator	\$30,000.00	\$30,000.00	83	78
04901	Opportunity Center for the Homeless	13	El Paso	Housing Program Coordinator	\$30,000.00	\$30,000.00	62	47
04905	The Marvellous Light Corporation	13	El Paso	Technical Assistance Consultants	\$30,000.00	\$30,000.00	60	42
Total					\$415,150.00	\$410,650.00		

Ineligible/Terminated Applications:

04908	South East Texas Economic Development District	5	Beaumont		\$30,000.00	\$0	N/A	N/A
04915	Accessible Communities Inc.	10	Corpus Christi		\$29,480.00	\$0	N/A	N/A

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	South Plains Community Action Association, Inc.
Application Number:	04911
Contact:	W.D. Powell, Jr. 411 Austin St. Levelland, Texas 79336 (806) 894-6104
Region:	1
Area of Assistance:	Technical Assistance Consultant
Score:	78
Prior Award History:	None
Requested Amount:	\$30,000
Recommended Amount:	\$30,000
Summary of Application:	
<p>South Plains Community Action Association, Inc. is requesting funds to hire a consultant to assist the organization with the development of a comprehensive strategic plan to improve internal operations, increase production and strengthen organizational sustainability. In developing this plan, the consultant will review and assess local affordable housing plans developed by rural communities and create a database containing all information gathered from the research. The consultant will also provide training to current staff on the various affordable housing programs available for use in addressing affordable housing needs.</p>	

Applicant:	Habitat for Humanity of Wichita Falls, Inc.
Application Number:	04903
Contact:	Dan Gray 1206 Lamar Wichita Falls, Texas 76301 (940) 716-9300
Region:	2
Area of Assistance:	Director of Marketing and Research
Score:	27
Prior Award History:	Awarded Capacity Building Funds in 2003.
Requested Amount:	\$30,000
Recommended Amount:	\$30,000
Summary of Application:	
<p>Habitat for Humanity of Wichita Falls is applying for funds to continue to pay for staff salary and associated costs for a Director of Marketing and Research (DMR), a position funded with a 2003 Capacity Building grant. The duties of the DMR include expanding Habitat's current house sponsorship program and recruiting new sponsors, incorporating the fundraising plan into the strategic plan, performing research and grant writing activities and producing quarterly newsletters and public service announcements. As a result of this position, Habitat will be able to raise additional funds that will be used towards the creation of eight houses this year.</p>	

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Ability Resources, Inc.
Application Number:	04913
Contact:	Jesse Seawell 6040 Camp Bowie Blvd., #31 Fort Worth, Texas 76116 (817) 377-1046
Region:	3
Area of Assistance:	Technical Assistance Consultant
Score:	59
Prior Award History:	Awarded Capacity Building Funds in 2003.
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Ability Resources, Inc. (ARI) is applying for funds to continue the work of the Technical Assistance Consultant hired with 2003 Capacity Building Funds. The consultant assisted ARI in the predevelopment phase of Willow Bend Creek Apartments, a 22-unit HUD Section 811 development. Construction is anticipated to commence in three months. The consultant will guide ARI through the construction progress and complete the final closing on all funding sources. The consultant will be responsible for monitoring contractor progress and ensuring requests for payment accurately reflect work completed. The consultant will obtain a certificate of occupancy for the development and work on attaining a ninety-percent rate of occupancy.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Denton Affordable Housing Corporation
Application Number:	04912
Contact:	Jane Burda Provo 604 North Bell Avenue Denton, TX 76209 (940) 484-7048
Region:	3
Area of Assistance:	Special Projects Coordinator/Certification Program
Score:	48
Prior Award History:	Awarded Capacity Building Funds in 2003.
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Denton Affordable Housing Corporation (DAHC) is applying for funds to continue to pay for staff salary and associated costs for the Special Projects Coordinator (SPC), a position funded with a 2003 Capacity Building grant. The SPC will be able to directly implement and apply the information and knowledge gained from the “Green Building and Residential Energy Efficiency Workshops” designed and delivered throughout the region through the first Capacity Building grant. Specifically, The SPC will work with the architect to incorporate green and energy efficient building techniques and materials as well as barrier-free accessibility features into the design of the ten-unit project to be developed in the fall of 2004. The SPC will also assist with the construction management and oversight of a 14-unit single family development.

In addition to funding the SPC position, a portion of the grant will cover the costs associated with two staff members obtaining certification in Multifamily Residential Development by completing the National Development Council’s *Multifamily Housing Development and Finance Course*. This training and certification will enhance DAHC’s ability to develop and secure financing for the construction of affordable multifamily housing.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Affordable Housing of Parker County, Inc.
Application Number:	04909
Contact:	Al Swan P.O. Box 39 Springtown, Texas 76082 (817) 220-5585
Region:	3
Area of Assistance:	Technical Assistance Consultant/Certification Program
Score:	39
Prior Award History:	Awarded Capacity Building in 2002
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Affordable Housing of Parker County (AHPC) is applying for funds to pay for salary costs associated with hiring a technical assistance consultant and costs associated with certifying two employees in green building techniques. The technical assistance consultant will research available alternative housing construction methods, compare anticipated energy savings against construction costs and incorporate building methods/materials into the housing designs. The consultant will generate a report comparing the various alternative building methods researched. Additionally, the consultant will assist AHPC in seeking tax exempt financing for the proposed developments. Specifically, the consultant will meet with banks, prepare financial budgets and pro formas, and secure financing for both interim construction and permanent financing.

The capacity building funds will also pay for two employees of AHPC to be trained and certified in green building techniques and Leadership in Energy and Environmental Design through courses offered by the U.S. Green Building Council. Having trained, certified staff available to AHPC will facilitate effective, energy efficient, building designs for future developments.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Habitat for Humanity of Denton County
Application Number:	04916
Contact:	LeeAnn Heath P.O. Box 425 Denton, Texas 76202 (940) 484-5006
Region:	3
Area of Assistance:	Construction Manager
Score:	28
Prior Award History:	Awarded Capacity Building Funds in 2002
Requested Amount:	\$34,500
Recommended Amount:	\$30,000

Summary of Application:

Habitat for Humanity of Denton County (HHDC) is requesting funds to pay for salary and associated costs for hiring a Construction Manager. HHDC is currently building eight homes a year; however, they are striving to build 18 homes a year for the next five years. A full time Construction Manager is needed to ensure that HHDC has the appropriate capacity to achieve this goal. The Construction Manager will perform the following duties:

- § Provide an overall plan for construction for the year. Communicate this plan with the Building Committee and the Executive Director on a weekly basis.
- § Conduct pre-construction meetings and keep in regular contact with house sponsors and house leaders to assure correct information exchange regarding materials and tools available.
- § Develop cost analysis of each home constructed and explore ways to reduce costs without compromising quality and efficiency.
- § Obtain and secure in-kind donations.
- § Ensure that all necessary policies, procedures and training systems are in place.
- § Work with the Real Estate Committee to purchase appropriate lots for construction and to work with the private sector builders in securing acreage for a subdivision.
- § Assure that all site preparations are completed in time for scheduled construction start dates.

Since the NOFA stated that the awards would be approximately \$30,000 per organization, the recommended award amount has been reduced to \$30,000 from the requested amount of \$34,500.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Montgomery County Women's Center
Application Number:	04907
Contact:	Nancy Harrington P.O. Box 8669 The Woodlands, Texas 77387-8669 (281) 2924155
Region:	6
Area of Assistance:	Technical Assistance Consultant
Score:	29
Prior Award History:	None
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Montgomery County Women's Center (MCWC) is requesting funds to hire a consultant to evaluate the feasibility of acquiring or constructing a 20-30 unit apartment complex to be used for transitional housing for homeless victims of family violence who have been residing in the Shelter for Battered Women and Children. The consultant will conduct a feasibility study, make recommendations on site selection and identify potential funding for the project. The consultant will also provide training to the board and staff members on issues related to construction and operation of a low-income housing program. It is expected that at the end of the year, MCWM will be prepared to acquire a site, begin construction and seek funding for ongoing operating costs.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	United Cerebral Palsy of Texas
Application Number:	04906
Contact:	Jean Langendorf 5555 N. Lamar Blvd., Suite L139 Austin, Texas 78751 (512) 472-8696
Region:	7
Area of Assistance:	Integrated Housing Development Associate
Score:	40
Prior Award History:	Awarded Capacity Building Funds in 2003.
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

United Cerebral Palsy of Texas (“UCP”) is requesting funds to continue the Integrated Housing Development Associate (“IHDA”) position, which was funded under the 2003 Capacity Building Program. As a result of this position, UCP will submit two competitive applications for fund reservation under HUD’s Section 811 Supportive Housing for Persons with Disabilities program in July 2004. One of the developments is a scattered-site condominium development in Austin, and the other is a scattered-site, single-family development in El Paso. If UCP is awarded Section 811 funds, the IHDA will start the lengthy process of preparing an Application for Firm Commitment. This process includes establishing a single-asset nonprofit owner corporation, hiring an experienced development team, overseeing the design and programming process, managing the predevelopment process (including site surveying, environmental studies and site appraisal), establishing financial accounting procedures, and working with the development team to ensure that the project is within HUD’s budgetary and regulatory guidelines. The IHDA will then assist UCP in the oversight of the construction process, including the preparation of construction draws and cost certification procedures.

In the event that neither UCP Section 811 application is approved by HUD, the IDHA will work with staff and board members to resubmit applications for funding in the spring of 2005. This may require securing different sites, partnering with other local nonprofit organizations and securing additional leveraging. The IHDA will file a Freedom of Information Act request for the rating and ranking information for all Section 811 applications submitted to the Fort Worth and San Antonio HUD offices and provide a detailed analysis of the strengths and weaknesses of the applications.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Austin Revitalization Authority
Application Number:	04914
Contact:	Byron Marshall 1105 Navasota Street Austin, Texas 78702 (512) 469-1705
Region:	7
Area of Assistance:	Technical Assistance Consultant/Certification Program
Score:	30
Prior Award History:	None
Requested Amount:	\$25,150
Recommended Amount:	\$25,150

Summary of Application:

Austin Revitalization Authority (ARA) is requesting capacity building funds to hire a consultant who will develop a comprehensive plan to improve internal operations, increase housing production and strengthen organizational sustainability. ARA will use as the Atlanta Neighborhood Development Partnership (ANDP) as a model. ANDP has a structure similar to ARA and has been involved in the creation of 7,800 units of affordable housing. The consultant will perform the following duties:

- § Assess organizational strengths, weaknesses and opportunities.
- § Analyze operations and the operating environment of the organization and make recommendations for improvements that will facilitate increased housing production.
- § Help ARA create partnerships that will lead to increased housing production.
- § Create a comprehensive fundraising plan, suggesting techniques as well as sources of funds.
- § Provide a road map for creating a pool of funds that could be used to finance affordable housing.
- § Provide examples of mixed-income and mixed-use projects and outline how ARA could replicate similar development in East Austin.
- § Assess how and when ARA should provide technical assistance or loans to other CDCs to facilitate affordable housing.

In addition to hiring this consultant, ARA will send staff to training in housing finance, construction management and asset management. The addition of these skills will enable staff to analyze market trends and assemble funding packages, decreasing the need for outside consultants.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	FUTURO Communities, Inc.
Application Number:	04902
Contact:	Tammye Trevino 330 E. Main Uvalde, Texas (830) 278-6817
Region:	11
Area of Assistance:	Technical Assistance Consultant
Score:	73
Prior Award History:	None
Requested Amount:	\$25,500
Recommended Amount:	\$25,500

Summary of Application:

FUTURO Communities, Inc. is requesting funds to hire a consulting firm experienced in the architectural planning and on site construction of earthen block housing. The consultant will:

- § Assist FUTURO in preparing an application for self-help housing utilizing earthen block construction.
- § Train Board of Directors and FUTURO staff in earthen block construction specifications.
- § Arrange on site review of housing developments in El Paso which have utilized earthen block building materials.
- § Prepare building specifications including project design, layout and operations requirements.
- § Train construction foreman in earthen block crafting technology and building methods.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Midland Community Development Corporation
Application Number:	04910
Contact:	David Diaz 208 S. Marienfield Midland, Texas 79701 (432) 682-2520
Region:	12
Area of Assistance:	Construction Manager
Score:	40
Prior Award History:	None
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Midland Community Development Corporation is requesting funding to hire a Construction Manager. The Construction Manager will oversee and administer all activities associated with the construction and maintenance of all housing developments. The Construction Manager will also provide inspection services to determine the scope and nature of the proposed project and develop all construction policies and procedures in accordance with local and state laws. The Construction Manager will help Midland CDC achieve its goal of developing 20 new homes annually. Additionally, the City of Midland Community Development Department has offered the services of its own Program Specialist/Housing Inspector as a resource and advisor for the proposed Construction Manager.

Applicant:	Alianza Para El Desarrollo Comunitario, Inc.
Application Number:	04904
Contact:	Daniel Solis 825 Bob Neill San Elizario, Texas 79849 (915) 851-8334
Region:	13
Area of Assistance:	Housing Program Coordinator
Score:	78
Prior Award History:	None
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Alianza Para El Desarrollo Comunitario, Inc. is applying for funds to pay for staff salary and related costs for a Housing Program Coordinator (HPC). The HPC will create a 5-year Housing Program Strategic Plan. Upon approval of the strategic plan, the HPC will be responsible for the acquisition of funds and the management of housing developments on the programmatic and fiscal sides. With the addition of this position, Alianza expects to build 10-20 homes within one year.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Applicant:	Opportunity Center for the Homeless
Application Number:	04901
Contact:	Raymond Tullius, Jr. PO Box 63 El Paso, Texas 79941-0063 (915) 577-0357
Region:	13
Area of Assistance:	Housing Program Coordinator
Score:	47
Prior Award History:	None
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Opportunity Center for the Homeless is applying for funds to pay for staff salary and associated costs for a Housing Program Coordinator (HPC). The HPC will develop a long term housing plan for the Center. The plan will include the review and recommendations of policy and procedural changes for the currently operated housing programs and the research and development of a long term affordable housing strategy for the center. Currently the Center is in the final phases of the pre-development of a Women's Center consisting of twelve single room occupancy units and ten transitional units with construction to begin in late summer 2004. The HPC will monitor the development of this center, including coordinating with the architect and contractor, working on the creation of residency guidelines and assisting in the management of the facility.

Applicant:	Marvelous Light Corporation
Application Number:	04905
Contact:	James Millender 1401 Geronimo Dr. El Paso, Texas 79905 (915) 772-5995
Region:	13
Area of Assistance:	Technical Assistance Consultants
Score:	42
Prior Award History:	Awarded Capacity Building Funds in 2003.
Requested Amount:	\$30,000
Recommended Amount:	\$30,000

Summary of Application:

Marvelous Light Corporation is applying for funds to continue the work of the two Technical Assistance Consultants (TAC) funded with 2003 Capacity Building funds. The first TAC will continue to provide construction management oversight services, prepare grant funding applications and negotiate construction contracts. The second TAC will prepare grant applications and construction loan requests, coordinate acquisition of land for housing developments and coordinate supportive service activities.

2004 HOUSING TRUST FUND CAPACITY BUILDING APPLICATION SUMMARY

Ineligible Applicants:

Applicant:	South East Texas Economic Development District
Application Number:	04908
Contact:	Candy Anderson 2210 Eastex Freeway Beaumont, Texas 77703 (409) 899-8444
Region:	5
Prior Award History:	None
Requested Amount:	\$30,000
Recommended Amount:	\$0

Summary of Application:

This application is ineligible because the Applicant is not exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code and their articles of incorporation do not specifically state that the development of affordable housing is one of the entity's purposes.

Applicant:	Accessible Communities, Inc.
Application Number:	04915
Contact:	Judy Telge 1537 Seventh Street Corpus Christi, Texas 78404 (361) 883-8461
Region:	10
Prior Award History:	Awarded Capacity Building Funds in 2003.
Requested Amount:	\$29,480
Recommended Amount:	0

Summary of Application:

This application is not eligible because the applicant is proposing to use the funds to provide consulting services to another organization which does not meet the eligibility requirements.

SINGLE FAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST AUGUST 19, 2004

Action Items

Request approval of one hundred three (103) 2004 Single Family Home Investment Partnerships Program (HOME) Award Recommendations, for total awards in the amount of \$31,095,503.

Required Action

Approve the 2004 Single Family HOME Investment Partnerships Program Award Recommendations.

Breakdown and Recommendations

Summary

The 2004 Single Family HOME Program funding cycle made available approximately \$22 million, of which approximately \$1.7 million was set aside for Persons with Disabilities. According to 10 TAC 53.62(c)(2), the Department may reassign funds following the Deobligation Policy adopted by the Board on January 14, 2002. Given that the Department is not in receipt of any successful appeals, disaster relief, special needs, or colonias projects, an additional \$6.9 million of deobligated funds is being recommended, as well. The application deadline was April 16, 2004. A total of 266 Single Family HOME applications were received for funding for the following Activities: Homebuyer Assistance (HBA), Owner Occupied Housing Assistance (OCC) and Tenant Based Rental Assistance (TBRA). Applications requesting funds under the Persons with Disabilities (PWD) Set Aside can provide assistance through the three Activities mentioned above, but compete on a statewide basis with other PWD Set Aside applications. Listed below is a summary of the total number of applications received, the dollar amount requested and the dollar amount being recommended for funding for Single Family HOME Activities.

Breakdown of 2004 HOME Applications

Total Requested			Total Recommended		
HBA	\$9,109,000	38 Applications	HBA	\$4,516,996	23 Applications
OCC	\$78,697,141	191 Applications	OCC	\$21,013,072	61 Applications
TBRA	\$5,465,966	18 Applications	TBRA	\$3,802,382	14 Applications
PWD	\$6,735,057	19 Applications	PWD	\$1,763,053	5 Applications
	\$100,007,164	266 Applications		\$31,095,503	103 Applications

Funding Recommendation Methodology

The Single Family HOME funds allow for the application of three different types of activities – HBA, OCC and TBRA. Recommendations are being made based on the highest scoring applicants. Award amounts may not exceed \$500,000 per activity, per Applicant. Also, the Department is making recommendations for the 5% Persons with Disabilities Set Aside.

Compliance with the Regional Allocation Formula was maintained as a priority throughout the scoring process in the preparation of the funding recommendations. Applicants were allowed to apply for funding either in an Urban/Exurban or Rural Area Type per Uniform State Service Region. Funds were awarded regionally, first by activity, then by Urban/Exurban or Rural Area Type. In regions where an insufficient number of applicants

existed under an activity, recommendations are being made to fund applicants in the same region for the activity with the most eligible applications.

In accordance with Section 2306.111 of the Government Code, the Department may allocate no less than ninety-five percent (95%) of the HOME Program funds to applicants that serve households in a non-participating jurisdiction (non-PJ). Current state law requires the Department to allocate five percent (5%) of the HOME Program funds to applicants serving persons with disabilities. HOME Program funds under this five percent (5%) set aside may be used to serve households in participating jurisdictions (PJs) as long as one-hundred percent (100%) of the households served have a disabled individual. A PJ application competes for funds under the five percent (5%) Persons with Disabilities Set Aside. These funds are not subject to the Regional Allocation Formula. Eligible activities under this set aside include HBA, OCC & TBRA. Since funds can be awarded under this set aside to applicants serving PJs, the set aside is subject to the ninety-five percent (95%) rule.

Additional Considerations

The State HOME rules include a minimum score requirement based on 60% of the total score established for the respective activity (HBA, OCC, TBRA) to be considered for a funding recommendation. This requirement equates to 82 points for OCC and TBRA and 85 points for HBA. Applicants that did not pass the minimum score requirement were not eligible for recommendations.

In some of the Uniform State Service Regions, tie scores occurred. In these instances, we used a pro-rata percentage to determine the recommended funding amount based on the dollar amount of funds requested. The number of units assisted was adjusted accordingly for those Applicants with tie scores and for those receiving partial funding recommendations. The unit requirement was based on the initial funds requested and the initial number of units they proposed to assist. When a balance of funds remained, the Applicant is required to assist an additional unit for the HBA and TBRA activity. For the OCC activity, an additional unit was only required if the remaining balance exceeded \$10,000.

Applications recommended for funding were submitted to the Portfolio Management and Compliance Division for review and approval and entry into the Developer Evaluation System.

Attached is the:

- Uniform State Service Regions Map
- List of recommendations by region
- 2004 HOME Funding Plan
- Funding Recommendations Spreadsheets

Recommendation

Staff requests approval of the 2004 Single Family HOME Program funding recommendations for the activities and program set-asides as detailed on the attached List of Recommendations and regional spreadsheets. Staff also recommends and requests approval of 4% administrative funds for all applicants based on the amount of project dollars recommended.

2004 Single Family HOME Recommendations by Region

App. Number	Applicant	Region	Urban/Exurban or Rural	Serving	Activity	Project Funds Requested	Score	Project Funds Rec'd	Units Rec'd
2004-0137	City of Lorenzo	1	Rural	General	HBA	\$100,000.00	85.00	\$100,000.00	10
2004-0045	City of Abernathy	1	Rural	Special Needs	OCC	\$495,000.00	125.50	\$495,000.00	9
2004-0199	South Plains Comm. Action Assoc., Inc.	1	Rural	Special Needs	OCC	\$500,000.00	125.00	\$444,279.00	9
2004-0210	City of Crosbyton	1	Rural	Special Needs	OCC	\$250,000.00	131.00	\$250,000.00	5
2004-0225	City of Ropesville	1	Rural	Special Needs	OCC	\$500,000.00	131.00	\$500,000.00	10
2004-0145	City of De Leon	2	Rural	Special Needs	OCC	\$495,000.00	125.00	\$231,623.00	5
2004-0150	City of Ranger	2	Rural	Special Needs	OCC	\$495,000.00	127.00	\$495,000.00	9
2004-0173	City of Cisco	2	Rural	Special Needs	OCC	\$500,000.00	133.00	\$500,000.00	9
2004-0095	Central Texas MHMR	2	Rural	Special Needs	TBRA	\$240,000.00	109.25	\$240,000.00	20
2004-0007	City of McKinney	3	Urban/Exurban	General	HBA	\$150,000.00	103.00	\$150,000.00	30
2004-0072	City of Bonham	3	Rural	General	HBA	\$100,000.00	85.00	\$100,000.00	10
2004-0083	Habitat for Humanity of N. Central TX	3	Urban/Exurban	General	HBA	\$100,000.00	105.67	\$100,000.00	20
2004-0005	City of Alvarado	3	Rural	Special Needs	OCC	\$434,000.00	134.00	\$434,000.00	10
2004-0041	City of Commerce	3	Rural	Special Needs	OCC	\$495,000.00	128.00	\$240,569.00	5
2004-0043	City of Mesquite	3	Urban/Exurban	General	OCC	\$500,000.00	121.00	\$500,000.00	20
2004-0044	Cornerstone CDC	3	Urban/Exurban	Special Needs	OCC	\$10,000.00	97.14	\$10,000.00	1
2004-0059	City of Terrell	3	Rural	Special Needs	OCC	\$500,000.00	130.00	\$500,000.00	9
2004-0102	City of Lewisville	3	Urban/Exurban	Special Needs	OCC	\$416,000.00	123.00	\$416,000.00	8
2004-0139	City of Boyd	3	Rural	Special Needs	OCC	\$495,000.00	128.00	\$240,569.00	5
2004-0162	City of Josephine	3	Rural	Special Needs	OCC	\$495,000.00	129.00	\$495,000.00	9
2004-0170	City of Wolfe City	3	Rural	Special Needs	OCC	\$495,000.00	129.00	\$495,000.00	9
2004-0198	City of Bridgeport	3	Rural	General	OCC	\$275,000.00	129.00	\$275,000.00	5
2004-0208	City of Whitesboro	3	Rural	Special Needs	OCC	\$495,000.00	129.00	\$495,000.00	9
2004-0179	Affordable Hsing of Parker County, Inc.	3	Rural	General	TBRA	\$131,160.00	116.50	\$131,160.00	30
2004-0222	Texas Neighborhood Services	3	Urban/Exurban	General	TBRA	\$492,216.00	94.50	\$492,216.00	47
2004-0180	Harrison County Housing Fin. Corp.	4	Urban/Exurban	General	HBA	\$100,000.00	95.00	\$100,000.00	10
2004-0216	City of Jacksonville	4	Rural	General	HBA	\$250,000.00	111.00	\$250,000.00	25
2004-0033	City of Wake Village	4	Urban/Exurban	Special Needs	OCC	\$275,000.00	125.00	\$275,000.00	5
2004-0077	City of Roxton	4	Rural	Special Needs	OCC	\$385,000.00	130.00	\$385,000.00	7
2004-0078	City of Trinidad	4	Rural	Special Needs	OCC	\$495,000.00	128.00	\$495,000.00	9
2004-0082	City of Cooper	4	Rural	Special Needs	OCC	\$495,000.00	125.00	\$275,928.00	5
2004-0132	City of Texarkana	4	Urban/Exurban	General	OCC	\$500,000.00	115.00	\$81,389.00	2
2004-0142	City of Caney City	4	Rural	Special Needs	OCC	\$495,000.00	125.00	\$275,928.00	5
2004-0147	City of Waskom	4	Rural	Special Needs	OCC	\$495,000.00	130.00	\$495,000.00	9
2004-0213	City of Jacksonville	4	Rural	Special Needs	OCC	\$300,000.00	126.00	\$300,000.00	6
2004-0085	Special Health Resources for Texas, Inc.	4	Rural	Special Needs	TBRA	\$500,000.00	123.07	\$500,000.00	48
2004-0194	Affordable Caring Housing, Inc.	4	Rural	General	TBRA	\$268,992.00	118.50	\$233,311.00	35

2004 Single Family HOME Recommendations by Region

App. Number	Applicant	Region	Urban/Exurban or Rural	Serving	Activity	Project Funds Requested	Score	Project Funds Rec'd	Units Rec'd
2004-0074	Alpha Concepts, Inc.	5	Rural	General	HBA	\$350,000.00	87.80	\$350,000.00	29
2004-0254	Faith Temple COGIC - Silsbee, Inc.	5	Rural	General	HBA	\$75,000.00	87.00	\$75,000.00	10
2004-0143	City of Corrigan	5	Rural	Special Needs	OCC	\$495,000.00	129.00	\$335,343.00	6
2004-0144	Corrigan Housing Authority	5	Rural	Special Needs	OCC	\$495,000.00	129.00	\$335,342.00	6
2004-0223	City of Nacogdoches	5	Rural	Special Needs	OCC	\$500,000.00	132.00	\$500,000.00	10
2004-0266	Buckner Children & Family Services, Inc.	5	Rural	Special Needs	TBRA	\$425,000.00	126.00	\$398,921.00	38
2004-0003	Spindletop MHMR	5	Both	PWD	TBRA	\$163,700.00	126.33	\$163,700.00	25
2004-0001	Dayton Housing Authority	6	Rural	General	HBA	\$30,000.00	99.00	\$30,000.00	8
2004-0104	Southeast Texas Housing Finance Corp.	6	Rural	General	HBA	\$250,000.00	97.00	\$250,000.00	30
2004-0183	Southeast Texas Housing Finance Corp.	6	Urban/Exurban	General	HBA	\$250,000.00	96.00	\$250,000.00	50
2004-0105	City of Huntsville	6	Rural	Special Needs	OCC	\$500,000.00	129.00	\$500,000.00	12
2004-0118	City of La Marque	6	Urban/Exurban	Special Needs	OCC	\$500,000.00	131.00	\$411,511.00	8
2004-0121	City of Cleveland	6	Rural	Special Needs	OCC	\$500,000.00	128.00	\$496,378.00	9
2004-0107	City of Wharton	6	Rural	PWD	OCC	\$495,000.00	119.00	\$347,657.00	7
2004-0120	City of Dayton	6	Rural	PWD	OCC	\$500,000.00	129.00	\$500,000.00	9
2004-0195	Affordable Caring Housing, Inc.	6	Rural	General	TBRA	\$174,048.00	118.00	\$174,048.00	20
2004-0204	San Marcos Reinvestment Corp.	7	Urban/Exurban	General	HBA	\$100,000.00	85.00	\$100,000.00	20
2004-0275	United Cerebral Palsy	7	Both	PWD	HBA	\$500,000.00	N/A	\$500,000.00	20
2004-0161	City of Jonestown	7	Rural	Special Needs	OCC	\$495,000.00	126.00	\$408,167.00	8
2004-0166	City of Martindale	7	Rural	Special Needs	OCC	\$495,000.00	126.00	\$408,167.00	8
2004-0174	City of Thrall	7	Rural	Special Needs	OCC	\$275,000.00	130.00	\$275,000.00	5
2004-0176	City of San Marcos	7	Urban/Exurban	Special Needs	OCC	\$500,000.00	129.00	\$453,868.00	8
2004-0214	City of Granger	7	Rural	Special Needs	OCC	\$220,000.00	126.00	\$181,407.00	4
2004-0112	Combined Community Action, Inc.	7	Rural	General	TBRA	\$80,000.00	86.66	\$80,000.00	6
2004-0030	Temple Housing Residential Corp.	8	Rural	General	HBA	\$60,000.00	94.00	\$60,000.00	8
2004-0031	Temple Housing Residential Corp.	8	Urban/Exurban	General	HBA	\$365,000.00	93.00	\$236,640.00	32
2004-0184	City of Hamilton	8	Rural	General	HBA	\$162,000.00	91.00	\$162,000.00	15
2004-0064	City of Bellmead	8	Urban/Exurban	Special Needs	OCC	\$500,000.00	128.00	\$51,992.00	1
2004-0065	City of Lacy Lakeview	8	Urban/Exurban	Special Needs	OCC	\$220,000.00	133.00	\$220,000.00	4
2004-0164	City of Lometa	8	Rural	Special Needs	OCC	\$495,000.00	128.00	\$495,000.00	9
2004-0229	City of Temple	8	Urban/Exurban	Special Needs	OCC	\$500,000.00	128.00	\$51,991.00	1
2004-0008	Temple Housing Authority	8	Urban/Exurban	General	TBRA	\$189,000.00	112.00	\$189,000.00	15

2004 Single Family HOME Recommendations by Region

App. Number	Applicant	Region	Urban/Exurban or Rural	Serving	Activity	Project Funds Requested	Score	Project Funds Rec'd	Units Rec'd
2004-0002	City of New Braunfels	9	Urban/Exurban	General	OCC	\$100,000.00	112.00	\$18,809.00	4
2004-0156	City of Dilley	9	Rural	Special Needs	OCC	\$495,000.00	122.00	\$159,375.00	3
2004-0157	Housing Authority of City of Dilley	9	Rural	Special Needs	OCC	\$495,000.00	122.00	\$159,375.00	3
2004-0242	Frio County	9	Rural	Special Needs	OCC	\$500,000.00	126.00	\$500,000.00	10
2004-0248	City of Pearsall	9	Rural	Special Needs	OCC	\$500,000.00	125.00	\$500,000.00	10
2004-0006	Comal County Housing Authority	9	Urban/Exurban	Special Needs	TBRA	\$400,000.00	125.00	\$334,390.00	34
2004-0070	Catholic Charities	10	Rural	General	HBA	\$500,000.00	90.50	\$500,000.00	50
2004-0181	Housing Authority of the City of Beeville	10	Rural	General	HBA	\$150,000.00	131.00	\$150,000.00	15
2004-0160	Institute of Rural Dev.	10	Urban/Exurban	Special Needs	OCC	\$495,000.00	109.33	\$234,425.00	5
2004-0169	City of Premont	10	Rural	Special Needs	OCC	\$495,000.00	125.00	\$214,171.00	4
2004-0177	City of Hallettsville	10	Rural	Special Needs	OCC	\$500,000.00	129.00	\$500,000.00	9
2004-0234	Community Action Corp. of S. TX	10	Rural	Special Needs	OCC	\$448,000.00	126.50	\$448,000.00	20
2004-0109	City of Mathis	10	Rural	PWD	OCC	\$495,000.00	119.00	\$347,656.00	7
2004-0097	Latino Education Project (LEP)	10	Rural	Special Needs	TBRA	\$300,000.00	115.00	\$300,000.00	30
2004-0086	City of San Benito	11	Urban/Exurban	General	HBA	\$400,000.00	122.00	\$167,516.00	17
2004-0136	CDC of Brownsville	11	Rural	General	HBA	\$500,000.00	104.00	\$500,000.00	50
2004-0263	Southern Rio Services, Inc.	11	Rural	General	HBA	\$350,000.00	102.00	\$350,000.00	35
2004-0264	Community Colonias Organization, Inc.	11	Rural	General	HBA	\$500,000.00	93.00	\$122,050.00	13
2004-0237	Community Colonias Organization, Inc.	11	Rural	Special Needs	OCC	\$245,000.00	122.00	\$245,000.00	35
2004-0244	City of Santa Rosa	11	Rural	Special Needs	OCC	\$500,000.00	120.00	\$500,000.00	10
2004-0245	Zapata County	11	Rural	Special Needs	OCC	\$500,000.00	126.00	\$500,000.00	10
2004-0253	Town of Combes	11	Urban/Exurban	Special Needs	OCC	\$500,000.00	108.00	\$220,156.00	5
2004-0197	Willacy County Housing Authority	11	Rural	Special Needs	TBRA	\$200,000.00	124.00	\$200,000.00	20
2004-0241	Edinburg Housing Authority	11	Urban/Exurban	General	TBRA	\$500,000.00	103.00	\$451,180.00	42
2004-0068	City of Midland	12	Urban/Exurban	General	HBA	\$75,000.00	93.00	\$75,000.00	10
2004-0069	City of Midland	12	Urban/Exurban	General	OCC	\$240,000.00	93.00	\$240,000.00	10
2004-0158	City of Grandfalls	12	Rural	Special Needs	OCC	\$495,000.00	126.00	\$495,000.00	9
2004-0219	City of Junction	12	Rural	Special Needs	OCC	\$250,000.00	125.00	\$112,565.00	3
2004-0220	City of Lamesa	12	Rural	Special Needs	OCC	\$250,000.00	125.00	\$112,564.00	3
2004-0251	City of Balmorhea	12	Rural	Special Needs	OCC	\$500,000.00	130.00	\$500,000.00	10
2004-0236	Buckner Children & Family Services, Inc.	12	Rural	Special Needs	TBRA	\$78,156.00	107.00	\$78,156.00	5
2004-0099	Sparks Housing Dev. Corp.	13	Rural	Special Needs	HBA	\$450,000.00	106.00	\$338,790.00	34
2004-0247	Town of Anthony	13	Urban/Exurban	Special Needs	OCC	\$500,000.00	125.00	\$180,333.00	4
2004-0252	City of Presidio	13	Rural	Special Needs	OCC	\$500,000.00	125.00	\$448,848.00	9
2004-0155	El Paso Community MHMR	13	Both	PWD	TBRA	\$404,040.00	130.00	\$404,040.00	35

**SINGLE FAMILY FINANCE PRODUCTION
2004 HOME Program Funding Plan**

I. ALLOCATION

Total estimated HOME Allocation for PY 2004	\$ 45,261,052
less Administration Funds (10%)	\$ 4,526,105
less CHDO Project Funds Set Aside (15% of Allocation)	\$ 6,789,158 ¹
less CHDO Operating Expenses Set Aside (5% of CHDO Set Aside)	\$ 339,458
less Set Aside for Persons with Disabilities (5% of Allocation)	\$ 2,263,053 ²
less Set Aside for Olmstead Populations	\$ 2,000,000
less Set Aside for Contract for Deed Conversions	\$ 2,000,000
less Set Aside for Rental Housing Preservation Program	\$ 2,000,000
less Set Aside for Rental Housing Development Program	\$ 3,000,000
add available Non-CHDO deobligated funds	<u>\$ 6,989,172</u>
Remaining Project Funds subject to Regional Allocation Formula	\$ 29,332,451

¹ \$1,000,000 will be reserved from this set aside for the Colonia Model Subdivision Program. If sufficient applications are not received for this activity, the remaining funds will be used for other CHDO eligible activities.

² \$500,000 will be reserved from this set aside for the Texas Home of Your Own Program.

II. ACTIVITY PROJECTS (Project Funds Available) *

Owner -Occupied Housing Assistance (45%)	\$ 13,199,603
Homebuyer Assistance (35%)	\$ 10,266,358
Tenant Based Rental Assistance (20%)	\$ 5,866,490
	\$ 29,332,451

**SINGLE FAMILY FINANCE PRODUCTION
2004 HOME Program Funding Plan**

III. REGIONAL ALLOCATION FORMULA ANALYSIS *

Region	% Overall Regional Funding Distribution	Owner-Occupied Housing Assistance (OCC)			Homebuyer Assistance (HBA)			Tenant Based Rental Assistance (TBRA)			Overall Regional Funding	Funding Available to Urban / Exurban Areas	% of Funding Available to Urban/Exurban Areas	Funding Available to Rural Areas	% of Funding Available to Rural Areas
		Owner-Occupied Housing Asst. (OCC)	Urban/Exurban	Rural	Total Funds Available for HBA	Urban/Exurban	Rural	Total Funds Available for TBRA	Urban/Exurban	Rural					
1	6.1	\$ 805,176	\$ -	\$ 805,176	\$ 626,248	\$ -	\$ 626,248	\$ 357,856	\$ -	\$ 357,856	\$ 1,789,279	\$ -	0.0	\$ 1,789,279	100.0
2	5.0	\$ 659,980	\$ 9,240	\$ 650,740	\$ 513,318	\$ 7,186	\$ 506,131	\$ 293,325	\$ 4,107	\$ 289,218	\$ 1,466,623	\$ 20,533	1.4	\$ 1,446,090	98.6
3	17.3	\$ 2,283,531	\$ 1,630,441	\$ 653,090	\$ 1,776,080	\$ 1,268,121	\$ 507,959	\$ 1,014,903	\$ 724,641	\$ 290,262	\$ 5,074,514	\$ 3,623,203	71.4	\$ 1,451,311	28.6
4	12.5	\$ 1,649,950	\$ 356,389	\$ 1,293,561	\$ 1,283,295	\$ 277,192	\$ 1,006,103	\$ 733,311	\$ 158,395	\$ 574,916	\$ 3,666,556	\$ 791,976	21.6	\$ 2,874,580	78.4
5	6.8	\$ 897,573	\$ 87,065	\$ 810,508	\$ 698,112	\$ 67,717	\$ 630,395	\$ 398,921	\$ 38,695	\$ 360,226	\$ 1,994,607	\$ 193,477	9.7	\$ 1,801,130	90.3
6	7.2	\$ 950,371	\$ 411,511	\$ 538,861	\$ 739,178	\$ 320,064	\$ 419,114	\$ 422,387	\$ 182,894	\$ 239,494	\$ 2,111,936	\$ 914,468	43.3	\$ 1,197,468	56.7
7	6.5	\$ 857,974	\$ 453,868	\$ 404,106	\$ 667,313	\$ 353,009	\$ 314,305	\$ 381,322	\$ 201,719	\$ 179,603	\$ 1,906,609	\$ 1,008,596	52.9	\$ 898,013	47.1
8	5.0	\$ 659,980	\$ 304,251	\$ 355,729	\$ 513,318	\$ 236,640	\$ 276,678	\$ 293,325	\$ 135,223	\$ 158,102	\$ 1,466,623	\$ 676,113	46.1	\$ 790,510	53.9
9	5.7	\$ 752,377	\$ 18,809	\$ 733,568	\$ 585,182	\$ 14,630	\$ 570,553	\$ 334,390	\$ 8,360	\$ 326,030	\$ 1,671,950	\$ 41,799	2.5	\$ 1,630,151	97.5
10	8.0	\$ 1,055,968	\$ 234,425	\$ 821,543	\$ 821,309	\$ 182,331	\$ 638,978	\$ 469,319	\$ 104,189	\$ 365,130	\$ 2,346,596	\$ 520,944	22.2	\$ 1,825,652	77.8
11	11.1	\$ 1,465,156	\$ 215,378	\$ 1,249,778	\$ 1,139,566	\$ 167,516	\$ 972,050	\$ 651,180	\$ 95,724	\$ 555,457	\$ 3,255,902	\$ 478,618	14.7	\$ 2,777,284	85.3
12	5.5	\$ 725,978	\$ 337,580	\$ 388,398	\$ 564,650	\$ 262,562	\$ 302,088	\$ 322,657	\$ 150,035	\$ 172,621	\$ 1,613,285	\$ 750,177	46.5	\$ 863,107	53.5
13	3.3	\$ 435,587	\$ 180,333	\$ 255,254	\$ 338,790	\$ 140,259	\$ 198,531	\$ 193,594	\$ 80,148	\$ 113,446	\$ 967,971	\$ 400,740	41.4	\$ 567,231	58.6
100.00	\$	13,199,603			10,266,358			5,866,490			\$ 29,332,451	\$ 9,420,644	32.1	\$ 19,911,806	67.9

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 1 Recommendations

(Subject to the Regional Allocation Formula *)

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 1 \$ 1,789,279

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 1 TBRA FUNDS **\$357,856**

Total Amount available for TBRA Urban/Exurban **\$0**

Total Amount available for TBRA Rural **\$357,856**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA Rural Funds Recommended **\$0**
 Remaining TBRA funds moved to OCC Rural **\$357,856**

AVAILABLE REGION 1 HBA FUNDS **\$626,248**

Total Amount available for HBA Urban/Exurban **\$0**

Total Amount available for HBA Rural **\$626,248**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0137	City of Lorenzo	85.00	HBA	1	R	\$100,000	10	\$100,000	10	No	Gen.	

\$100,000 **\$100,000**

Total HBA Rural Funds Recommended **\$100,000**
 Remaining HBA funds moved to OCC Rural **\$526,248**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE + / - \$1.00

2004 Single Family Finance Production - HOME Program

Region 1 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 1 OCC FUNDS	\$805,176
Total Amount available for OCC Urban/Exurban	\$0
Total Amount available for OCC Rural	\$805,176
Add remaining TBRA	\$357,856
Add remaining HBA	\$526,248
	<u>\$1,689,279</u>

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0210	City of Crosbyton	131.00	OCC	1	R	\$250,000	5	\$250,000	5	No	SN	
2004-0225	City of Ropesville	131.00	OCC	1	R	\$500,000	10	\$500,000	10	No	SN	
2004-0045	City of Abernathy	125.50	OCC	1	R	\$495,000	9	\$495,000	9	No	SN	
2004-0199	South Plains CAA., Inc.	125.00	OCC	1	R	\$500,000	10	\$444,279	9	No	SN	
2004-0151	City of Ralls	124.00	OCC	1	R	\$495,000	9			No	SN	
2004-0165	City of Lorenzo	124.00	OCC	1	R	\$495,000	9			No	SN	
2004-0232	City of Sundown	124.00	OCC	1	R	\$250,000	5			No	SN	
2004-0055	City of Plains	122.00	OCC	1	R	\$495,000	9			No	SN	
2004-0060	Caprock Community Action Association, Inc.	122.00	OCC	1	R	\$500,000	9			No	SN	
2004-0058	City of Anton	121.00	OCC	1	R	\$220,000	4			No	SN	
2004-0163	City of Lockney	121.00	OCC	1	R	\$495,000	9			No	SN	
2004-0138	City of Amherst	120.00	OCC	1	R	\$495,000	9			No	SN	
2004-0053	City of Olton	119.00	OCC	1	R	\$495,000	9			No	SN	
2004-0096	City of Plainview	117.00	OCC	1	R	\$275,000	5			No	Gen.	
2004-0047	City of Shallowater	116.00	OCC	1	R	\$275,000	5			No	SN	
2004-0052	City of Muleshoe	116.00	OCC	1	R	\$220,000	4			No	SN	
2004-0054	City of Floydada	116.00	OCC	1	R	\$220,000	4			No	SN	
2004-0228	City of Slaton	116.00	OCC	1	R	\$250,000	5			No	SN	
2004-0048	City of Petersburg	115.00	OCC	1	R	\$330,000	6			No	SN	
2004-0231	City of Tahoka	114.00	OCC	1	R	\$250,000	5			No	SN	
2004-0230	City of Sudan	113.00	OCC	1	R	\$250,000	5			No	SN	
2004-0046	City of Hale Center	111.00	OCC	1	R	\$220,000	4			No	Gen.	
2004-0049	City of Matador	111.00	OCC	1	R	\$220,000	4			No	SN	
2004-0149	City of Roaring Springs	109.00	OCC	1	R	\$495,000	9			No	SN	

\$8,690,000

\$1,689,279

Total OCC Rural Funds Recommended

\$1,689,279

Remaining Region 1 funds

\$0

** DUE TO ROUNDING, FIGURES MAY FLUCTUATE + / - \$1.00*

2004 Single Family Finance Production - HOME Program

Region 2 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 2 \$ 1,466,623

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 2 TBRA FUNDS \$293,325

Total Amount available for TBRA Urban/Exurban \$4,107

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA U / E Funds Recommended **\$0**
 Remaining TBRA U / E funds moved to TBRA Rural **\$4,107**

Total Amount available for TBRA Rural \$289,218

Add remaining TBRA Urban / Exurban **\$4,107**

\$293,325

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0095	Central Texas MHMR	109.25	TBRA	2	R	\$240,000	20	\$240,000	20	No	SN	

\$240,000 \$240,000

Total TBRA Rural Funds Recommended **\$240,000**
 Remaining TBRA funds moved to OCC Rural **\$53,325**

* *DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00*

2004 Single Family Finance Production - HOME Program

Region 2 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 2 HBA FUNDS **\$513,318**

Total Amount available for HBA Urban/Exurban **\$7,186**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total HBA U / E Funds Recommended **\$0**
 Remaining HBA U / E funds moved to HBA Rural **\$7,186**

Total Amount available for HBA Rural **\$506,131**

Add remaining HBA Urban / Exurban **\$7,186**
\$513,318

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total HBA Rural Funds Recommended **\$0**
 Remaining HBA funds moved to OCC Rural **\$513,318**

AVAILABLE REGION 2 OCC FUNDS **\$659,980**

Total Amount available for OCC Urban/Exurban **\$9,240**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total OCC U / E Funds Recommended **\$0**
 Remaining OCC U / E funds moved to OCC Rural **\$9,240**

* *DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00*

2004 Single Family Finance Production - HOME Program

Region 2 Recommendations

*(Subject to the Regional Allocation Formula *)*

Total Amount available for OCC Rural	\$650,740
Add remaining OCC U / E	\$9,240
Add remaining TBRA	\$53,325
Add remaining HBA	\$513,318
	\$1,226,623

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0173	City of Cisco	133.00	OCC	2	R	\$500,000	9	\$500,000	9	No	SN	
2004-0150	City of Ranger	127.00	OCC	2	R	\$495,000	9	\$495,000	9	No	SN	
2004-0145	City of De Leon	125.00	OCC	2	R	\$495,000	9	\$231,623	5	No	SN	
2004-0141	City of Brownwood	119.00	OCC	2	R	\$495,000	9			No	SN	
2004-0056	City of Electra	114.00	OCC	2	R	\$220,000	4			No	Gen.	

\$2,205,000

\$1,226,623

Total OCC Rural Funds Recommended

\$1,226,623

Remaining Region 2 funds

\$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 3 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 3 **\$5,074,514**

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 3 TBRA FUNDS **\$1,014,903**

Total Amount available for TBRA Urban/Exurban **\$724,641**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0222	Texas Neighborhood Services	94.50	TBRA	3	U / E	\$492,216	47	\$492,216	47	No	Gen.	
2004-0089	Frisco Housing Authority	76.50	TBRA	3	U / E	\$384,000	20			No	Gen.	

\$876,216 **\$492,216**

Total TBRA U / E Funds Recommended **\$492,216**
 Remaining TBRA U / E funds moved to TBRA Rural **\$232,425**

Total Amount available for TBRA Rural **\$290,262**

Add remaining TBRA Urban / Exurban **\$232,425**

\$522,687

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0179	Affordable Housing of Parker County, Inc	116.50	TBRA	3	R	\$131,160	30	\$131,160	30	No	Gen.	
2004-0224	Texas Neighborhood Services	102.50	TBRA	3	R	\$482,040	60			No	Gen.	**

\$613,200 **\$131,160**

Total TBRA Rural Funds Recommended **\$131,160**
 Remaining TBRA funds moved to OCC Rural **\$391,527**

*** Applicant Recommended TBRA U/E Funds. Applicant cannot receive more than \$500,000 per Activity. Balance insufficient to assist one unit.*

2004 Single Family Finance Production - HOME Program

Region 3 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 3 HBA FUNDS **\$1,776,080**

Total Amount available for HBA Urban/Exurban **\$ 1,268,121**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0083	Habitat for Hum. Council -N. Cen. TX	105.67	HBA	3	U / E	\$100,000	20	\$100,000	20	No	Gen.	
2004-0007	City of McKinney	103.00	HBA	3	U / E	\$150,000	30	\$150,000	30	No	Gen.	
								\$250,000	\$250,000			

Total HBA U / E Funds Recommended **\$250,000**
 Remaining HBA U / E funds moved to HBA Rural **\$1,018,121**

Total Amount available for HBA Rural **\$507,959**

Add remaining HBA Urban / Exurban **\$1,018,121**

\$1,526,080

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0072	City of Bonham	85.00	HBA	3	R	\$100,000	10	\$100,000	10	No	Gen.	
								\$100,000	\$100,000			

Total HBA Rural Funds Recommended **\$100,000**
 Remaining HBA funds moved to OCC Rural **\$1,426,080**

AVAILABLE REGION 3 OCC FUNDS **\$2,283,531**

Total Amount available for OCC Urban/Exurban **\$ 1,630,441**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0102	City of Lewisville	123.00	OCC	3	U / E	\$416,000	8	\$416,000	8	No	SN	
2004-0043	City of Mesquite	121.00	OCC	3	U / E	\$500,000	20	\$500,000	20	No	Gen.	
2004-0044	Cornerstone CDC	97.14	OCC	3	U / E	\$10,000	1	\$10,000	1	No	SN	
2004-0088	Rockwall Housing Development Corp.	77.00	OCC	3	U / E	\$500,000	7			No	SN	
								\$1,426,000	\$926,000			

Total OCC U / E Funds Recommended **\$926,000**
 Remaining OCC U / E funds moved to OCC Rural **\$704,441**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 3 Recommendations

*(Subject to the Regional Allocation Formula *)*

Total Amount available for OCC Rural	\$653,090
Add remaining OCC U / E	\$704,441
Add remaining TBRA	\$391,527
Add remaining HBA	\$1,426,080
	<hr/>
	\$3,175,138

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0005	City of Alvarado	134.00	OCC	3	R	\$434,000	10	\$434,000	10	No	SN	
2004-0059	City of Terrell	130.00	OCC	3	R	\$500,000	9	\$500,000	9	No	SN	
2004-0162	City of Josephine	129.00	OCC	3	R	\$495,000	9	\$495,000	9	No	SN	
2004-0170	City of Wolfe City	129.00	OCC	3	R	\$495,000	9	\$495,000	9	No	SN	
2004-0198	City of Bridgeport	129.00	OCC	3	R	\$275,000	5	\$275,000	5	No	Gen.	
2004-0208	City of Whitesboro	129.00	OCC	3	R	\$495,000	9	\$495,000	9	No	SN	
2004-0041	City of Commerce	128.00	OCC	3	R	\$495,000	9	\$240,569	5	No	SN	
2004-0139	City of Boyd	128.00	OCC	3	R	\$495,000	9	\$240,569	5	No	SN	
2004-0117	City of Venus	125.00	OCC	3	R	\$500,000	9			No	SN	
2004-0202	City of Corsicana	124.00	OCC	3	R	\$500,000	10			No	SN	
2004-0081	City of Bonham	120.00	OCC	3	R	\$440,000	8			No	SN	
2004-0092	Denton New Horizons Inc.	89.00	OCC	3	R	\$275,000	5			No	SN	
2004-0012	City of Lone Oak	68.00	OCC	3	R	\$330,000	6			No	Gen.	
						\$5,729,000		\$3,175,138				

Total OCC Rural Funds Recommended	\$3,175,138
Remaining Region 3 funds	\$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 4 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 4 \$ 3,666,556

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 4 TBRA FUNDS \$733,311

Total Amount available for TBRA Urban/Exurban \$158,395

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA U / E Funds Recommended **\$0**
 Remaining TBRA U / E funds moved to TBRA Rural **\$158,395**

Total Amount available for TBRA Rural \$574,916

Add remaining TBRA Urban / Exurban \$158,395

\$733,311

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0085	Special Health Resources for Texas, Inc.	123.07	TBRA	4	R	\$500,000	48	\$500,000	48	No	SN	
2004-0194	Affordable Caring Housing, Inc.	118.50	TBRA	4	R	\$268,992	40	\$233,311	35	No	Gen.	

\$768,992 \$733,311

Total TBRA Rural Funds Recommended **\$733,311**
 Remaining TBRA funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 4 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 4 HBA FUNDS **\$1,283,295**

Total Amount available for HBA Urban/Exurban **\$277,192**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0180	The Harrison Co. Housing Finance Corp.	95.00	HBA	4	U / E	\$100,000	10	\$100,000	10	No	Gen.	
2004-0233	City of Texarkana	80.00	HBA	4	U / E	\$500,000	50			No	Gen.	

\$600,000 **\$100,000**

Total HBA U / E Funds Recommended **\$100,000**

Remaining HBA U / E funds moved to HBA Rural **\$177,192**

Total Amount available for HBA Rural **\$1,006,103**

Add remaining HBA Urban / Exurban **\$177,192**

\$1,183,295

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0216	City of Jacksonville	111.00	HBA	4	R	\$250,000	25	\$250,000	25	No	Gen.	
2004-0073	Van Zandt County	72.00	HBA	4	R	\$80,000	8			No	Gen.	
2004-0079	Lamar County	68.50	HBA	4	R	\$130,000	13			No	Gen.	

\$460,000 **\$250,000**

Total HBA Rural Funds Recommended **\$250,000**

Remaining HBA funds moved to OCC Rural **\$933,295**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 4 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 4 OCC FUNDS **\$1,649,950**

Total Amount available for OCC Urban/Exurban **\$356,389**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0033	City of Wake Village	125.00	OCC	4	U / E	\$275,000	5	\$275,000	5	No	SN	
2004-0132	City of Texarkana	115.00	OCC	4	U / E	\$500,000	10	\$81,389	2	No	Gen.	

\$775,000 **\$356,389**

Total OCC U / E Funds Recommended **\$356,389**

Remaining OCC U / E funds moved to OCC Rural **\$0**

Total Amount available for OCC Rural **\$1,293,561**

Add remaining HBA **\$933,295**

\$2,226,856

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0077	City of Roxton	130.00	OCC	4	R	\$385,000	7	\$385,000	7	No	SN	
2004-0147	City of Waskom	130.00	OCC	4	R	\$495,000	9	\$495,000	9	No	SN	
2004-0078	City of Trinidad	128.00	OCC	4	R	\$495,000	9	\$495,000	9	No	SN	
2004-0213	City of Jacksonville	126.00	OCC	4	R	\$300,000	6	\$300,000	6	No	SN	
2004-0082	City of Cooper	125.00	OCC	4	R	\$495,000	9	\$275,928	5	No	SN	
2004-0142	City of Caney City	125.00	OCC	4	R	\$495,000	9	\$275,928	5	No	SN	
2004-0034	City of DeKalb	124.00	OCC	4	R	\$495,000	5			No	SN	
2004-0061	City of Athens	124.00	OCC	4	R	\$275,000	5			No	SN	
2004-0076	City of Deport	124.00	OCC	4	R	\$385,000	7			No	SN	
2004-0171	City of Rusk	124.00	OCC	4	R	\$495,000	9			No	SN	
2004-0211	City of Gladewater	124.00	OCC	4	R	\$200,000	4			No	SN	
2004-0226	City of Palestine	122.00	OCC	4	R	\$500,000	10			No	SN	
2004-0035	City of Lone Star	121.00	OCC	4	R	\$165,000	3			No	SN	
2004-0032	City of Daingerfield	120.00	OCC	4	R	\$275,000	5			No	SN	
2004-0062	City of Big Sandy	119.00	OCC	4	R	\$220,000	4			No	SN	
2004-0153	City of Seven Points	119.00	OCC	4	R	\$495,000	9			No	SN	
2004-0040	Red River County	118.00	OCC	4	R	\$495,000	9			No	SN	

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 4 Recommendations

*(Subject to the Regional Allocation Formula *)*

Region 4 OCC Rural continued

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0080	City of Avery	118.00	OCC	4	R	\$440,000	8			No	SN	
2004-0217	City of Jefferson	114.00	OCC	4	R	\$200,000	4			No	SN	
2004-0152	City of Van	113.00	OCC	4	R	\$495,000	9			No	SN	
2004-0098	Van Zandt County	107.00	OCC	4	R	\$110,000	2			No	SN	
2004-0011	City of Talco	102.00	OCC	4	R	\$330,000	6			No	Gen.	
2004-0004	City of Paris	101.00	OCC	4	R	\$450,000	10			No	SN	
2004-0017	City of Cumby	93.00	OCC	4	R	\$330,000	6			No	Gen.	
2004-0100	Lamar County	93.00	OCC	4	R	\$495,000	9			No	SN	
2004-0020	City of Linden	92.00	OCC	4	R	\$330,000	6			No	Gen.	
2004-0026	City of Atlanta	91.00	OCC	4	R	\$330,000	6			No	Gen.	
2004-0022	City of Bloomburg	87.00	OCC	4	R	\$330,000	6			No	Gen.	

\$10,505,000

\$2,226,856

Total OCC Rural Funds Recommended

\$2,226,856

Remaining Region 4 funds

\$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 5 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 5 \$ 1,994,607

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 5 TBRA FUNDS \$398,921

Total Amount available for TBRA Urban/Exurban \$38,695

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA U / E Funds Recommended \$0
 Remaining TBRA U / E funds moved to TBRA Rural \$38,695

Total Amount available for TBRA Rural \$360,226

Add remaining TBRA Urban / Exurban \$38,695

\$398,921

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0266	Buckner Children & Family Services, Inc. dba Buckner Family Place	126.00	TBRA	5	R	\$425,000	40	\$398,921	38	No	SN	
2004-0193	Affordable Caring Housing, Inc.	125.00	TBRA	5	R	\$152,544	20			No	Gen.	
2004-0075	Alpha Concepts, Inc.	82.00	TBRA	5	R	\$468,810	37			No	Gen.	

\$621,354 \$398,921

Total TBRA Rural Funds Recommended \$398,921
 Remaining TBRA funds moved to OCC Rural \$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 5 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 5 HBA FUNDS **\$698,112**

Total Amount available for HBA Urban/Exurban **\$67,717**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total HBA U / E Funds Recommended **\$0**
 Remaining HBA U / E funds moved to HBA Rural **\$67,717**

Total Amount available for HBA Rural **\$630,395**

Add remaining HBA Urban / Exurban **\$67,717**

\$67,717

\$698,112

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0074	Alpha Concepts, Inc.	87.80	HBA	5	R	\$350,000	29	\$350,000	29	No	Gen.	
2004-0254	Faith Temple COGIC - Silsbee, Inc.	87.00	HBA	5	R	\$75,000	10	\$75,000	10	No	Gen.	

\$425,000 **\$425,000**

Total HBA Rural Funds Recommended **\$425,000**
 Remaining HBA funds moved to OCC Rural **\$273,112**

AVAILABLE REGION 5 OCC FUNDS **\$897,573**

Total Amount available for OCC Urban/Exurban **\$87,065**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total OCC U / E Funds Recommended **\$0**
 Remaining OCC U / E funds moved to OCC Rural **\$87,065**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 5 Recommendations

*(Subject to the Regional Allocation Formula *)*

Total Amount available for OCC Rural	\$810,508
Add remaining OCC U / E	\$87,065
Add remaining HBA	\$273,112
	<hr/>
	\$1,170,685

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0223	City of Nacogdoches	132.00	OCC	5	R	\$500,000	10	\$500,000	10	No	SN	
2004-0143	City of Corrigan	129.00	OCC	5	R	\$495,000	9	\$335,343	6	No	SN	
2004-0144	Corrigan Housing Authority	129.00	OCC	5	R	\$495,000	9	\$335,342	6	No	SN	
2004-0167	City of Nome	127.00	OCC	5	R	\$495,000	9			No	SN	
2004-0260	Lone Star District Baptist Association	123.00	OCC	5	R	\$500,000	9			No	SN	
2004-0256	Faith Temple COGIC - Silsbee, Inc.	121.00	OCC	5	R	\$500,000	9			No	SN	
2004-0258	Lone Star Garden Development Corporation	121.00	OCC	5	R	\$500,000	9			No	SN	
2004-0200	City of Center	120.00	OCC	5	R	\$300,000	6			No	SN	
2004-0203	City of Crockett	119.00	OCC	5	R	\$300,000	6			No	SN	
2004-0221	City of Lufkin	118.00	OCC	5	R	\$500,000	10			No	SN	
2004-0259	Lone Star District Baptist Association	118.00	OCC	5	R	\$500,000	9			No	Gen.	
2004-0257	Faith Temple COGIC - Silsbee, Inc.	116.00	OCC	5	R	\$500,000	9			No	Gen.	
2004-0262	Lone Star Garden Development Corporation	116.00	OCC	5	R	\$500,000	9			No	Gen.	
2004-0013	Shelby County	101.00	OCC	5	R	\$495,000	9			No	Gen.	
2004-0016	San Augustine County	101.00	OCC	5	R	\$495,000	9			No	Gen.	
2004-0014	Angelina County	99.00	OCC	5	R	\$495,000	9			No	Gen.	
2004-0023	City of Broaddus	98.00	OCC	5	R	\$330,000	6			No	Gen.	
2004-0027	City of Tenaha	91.00	OCC	5	R	\$330,000	6			No	Gen.	
2004-0015	City of Groveton	89.00	OCC	5	R	\$330,000	6			No	Gen.	
2004-0021	City of Joaquin	89.00	OCC	5	R	\$330,000	6			No	Gen.	
2004-0010	City of Shepherd	88.00	OCC	5	R	\$330,000	6			No	Gen.	
2004-0018	City of Pineland	84.00	OCC	5	R	\$330,000	6			No	Gen.	

\$9,550,000	\$1,170,685
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Total OCC Rural Funds Recommended	\$1,170,685
Remaining Region 5 funds	\$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 6 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 6 \$ 2,111,936

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 6 TBRA FUNDS \$422,387

Total Amount available for TBRA Urban/Exurban \$182,894

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA U / E Funds Recommended **\$0**
 Remaining TBRA U / E funds moved to TBRA Rural **\$182,894**

Total Amount available for TBRA Rural \$239,494

Add remaining TBRA Urban / Exurban \$182,894

\$422,387

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0195	Affordable Caring Housing, Inc.	118.00	TBRA	6	R	\$174,048	20	\$174,048	20	No	Gen.	

\$174,048 \$174,048

Total TBRA Rural Funds Recommended **\$174,048**
 Remaining TBRA funds moved to OCC Rural **\$248,339**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 6 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 6 HBA FUNDS **\$739,178**

Total Amount available for HBA Urban/Exurban **\$320,064**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0183	Southeast Texas Housing Finance Corp.	96.00	HBA	6	U / E	\$250,000	50	\$250,000	50	No	Gen.	
						\$250,000		\$250,000				

Total HBA U / E Funds Recommended **\$250,000**
 Remaining HBA U / E funds moved to HBA Rural **\$70,064**

Total Amount available for HBA Rural **\$419,114**

Add remaining HBA Urban / Exurban **\$70,064**
\$489,178

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0001	Dayton Housing Authority	99.00	HBA	6	R	\$30,000	8	\$30,000	8	No	Gen.	
2004-0104	Southeast Texas Housing Finance Corp.	97.00	HBA	6	R	\$250,000	30	\$250,000	30	No	Gen.	
						\$280,000		\$280,000				

Total HBA Rural Funds Recommended **\$280,000**
 Remaining HBA funds moved to OCC Rural **\$209,178**

AVAILABLE REGION 6 OCC FUNDS **\$950,371**

Total Amount available for OCC Urban/Exurban **\$411,511**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0118	City of La Marque	131.00	OCC	6	U / E	\$500,000	9	\$411,511	8	No	SN	
2004-0116	City of Dickinson	120.00	OCC	6	U / E	\$500,000	9			No	SN	
						\$1,000,000		\$411,511				

Total OCC U / E Funds Recommended **\$411,511**
 Remaining OCC U / E funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 6 Recommendations

*(Subject to the Regional Allocation Formula *)*

Total Amount available for OCC Rural	\$538,861
Add remaining TBRA	\$248,339
Add remaining HBA	<u>\$209,178</u>
	\$996,378

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0105	City of Huntsville	129.00	OCC	6	R	\$500,000	12	\$500,000	12	No	SN	
2004-0121	City of Cleveland	128.00	OCC	6	R	\$500,000	9	\$496,378	9	No	SN	
2004-0115	City of Montgomery	127.00	OCC	6	R	\$500,000	9			No	SN	
2004-0122	City of Willis	126.00	OCC	6	R	\$500,000	9			No	SN	
2004-0110	City of Wharton	119.00	OCC	6	R	\$495,000	9			No	SN	
2004-0106	Walker County	115.00	OCC	6	R	\$500,000	10			No	SN	
2004-0024	City of Columbus	77.00	OCC	6	R	\$330,000	6			No	Gen.	
2004-0113	Combined Community Action, Inc.	71.00	OCC	6	R	\$224,000	10			No	SN	
2004-0019	City of Daisetta	62.00	OCC	6	R	\$330,000	6			No	Gen.	

\$3,879,000	\$996,378
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Total OCC Rural Funds Recommended	\$996,378
Remaining Region 6 funds	\$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 7 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 7 \$ 1,906,609

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 7 TBRA FUNDS \$381,322

Total Amount available for TBRA Urban/Exurban \$201,719

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
	<i>No Applicants</i>											

Total TBRA U / E Funds Recommended \$0
 Remaining TBRA U / E funds moved to TBRA Rural \$201,719

Total Amount available for TBRA Rural \$179,603

Add remaining TBRA Urban / Exurban \$201,719

\$381,322

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0112	Combined Community Action, Inc.	86.66	TBRA	7	R	\$80,000	6	\$80,000	6	No	Gen.	
						\$80,000		\$80,000				

Total TBRA Rural Funds Recommended \$80,000
 Remaining TBRA funds moved to OCC Rural \$301,322

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 7 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 7 HBA FUNDS **\$667,313**

Total Amount available for HBA Urban/Exurban **\$353,009**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0204	San Marcos Reinvestment Corporation	85.00	HBA	7	U / E	\$100,000	20	\$100,000	20	No	Gen.	
2004-0178	Travis County Housing Finance Corporation	61.00	HBA	7	U / E	\$300,000	60			No	Gen.	
						\$400,000		\$100,000				

Total HBA U / E Funds Recommended **\$100,000**
 Remaining HBA U / E funds moved to HBA Rural **\$253,009**

Total Amount available for HBA Rural **\$314,305**

Add remaining HBA Urban / Exurban **\$253,009**

\$567,313

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0134	United Cerebral Palsy	0.00	HBA	7	R	\$200,000	20			No	Gen.	Disqualified
						\$200,000		\$0				

Total HBA Rural Funds Recommended **\$0**
 Remaining HBA funds moved to OCC Rural **\$567,313**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 7 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 7 OCC FUNDS **\$857,974**

Total Amount available for OCC Urban/Exurban **\$453,868**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0176	City of San Marcos	129.00	OCC	7	U / E	\$500,000	9	\$453,868	8	No	SN	

\$500,000 **\$453,868**

Total OCC U / E Funds Recommended **\$453,868**
 Remaining OCC U / E funds moved to OCC Rural **\$0**

Total Amount available for OCC Rural **\$404,106**

Add remaining TBRA **\$301,322**

Add remaining HBA **\$567,313**

\$1,272,741

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0174	City of Thrall	130.00	OCC	7	R	\$275,000	5	\$275,000	5	No	SN	
2004-0161	City of Jonestown	126.00	OCC	7	R	\$495,000	9	\$408,167	8	No	SN	
2004-0166	City of Martindale	126.00	OCC	7	R	\$495,000	9	\$408,167	8	No	SN	
2004-0214	City of Granger	126.00	OCC	7	R	\$220,000	4	\$181,407	4	No	SN	
2004-0175	City of LaGrange	124.00	OCC	7	R	\$500,000	9			No	SN	
2004-0246	City of Kyle	123.00	OCC	7	R	\$500,000	10			No	SN	
2004-0240	Casa Mia, Inc.	100.34	OCC	7	R	\$303,520	6			No	Gen.	
2004-0114	Combined Community Action, Inc.	76.67	OCC	7	R	\$250,000	15			No	SN	

\$3,038,520 **\$1,272,741**

Total OCC Rural Funds Recommended **\$1,272,741**
 Remaining Region 7 funds **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 8 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban

R = Rural

PWD = Persons with Disabilities

SN = Special Needs

Gen. = General

OCC = Owner Occupied Asst.

HBA = Homebuyer Asst.

TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 8 \$ 1,466,623

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 8 TBRA FUNDS \$293,325

Total Amount available for TBRA Rural \$158,102

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
	No Applicants											

Total TBRA Rural Funds Recommended \$0
 Remaining TBRA Rural funds moved to TBRA U / E \$158,102

Total Amount available for TBRA Urban/Exurban \$135,223

Add remaining TBRA Rural \$158,102

\$293,325

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0008	Temple Housing Authority	112.00	TBRA	8	U / E	\$189,000	15	\$189,000	15	No	Gen.	

\$189,000 \$189,000

Total TBRA U / E Funds Recommended \$189,000
 Remaining TBRA funds moved to OCC Rural \$104,325

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

** Insufficient Funds to Assist One Unit

2004 Single Family Finance Production - HOME Program

Region 8 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 8 HBA FUNDS **\$513,318**

Total Amount available for HBA Urban/Exurban **\$236,640**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0031	Temple Housing Residential Corporation	93.00	HBA	8	U / E	\$365,000	49	\$236,640	32	No	Gen.	

\$365,000 **\$236,640**

Total HBA U / E Funds Recommended **\$236,640**
 Remaining HBA U / E funds moved to HBA Rural **\$0**

Total Amount available for HBA Rural **\$276,678**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0030	Temple Housing Residential Corporation	94.00	HBA	8	R	\$60,000	8	\$60,000	8	No	Gen.	
2004-0184	City of Hamilton	91.00	HBA	8	R	\$162,000	15	\$162,000	15	No	Gen.	

\$222,000 **\$222,000**

Total HBA Rural Funds Recommended **\$222,000**
 Remaining HBA funds moved to OCC Rural **\$54,678**

AVAILABLE REGION 8 OCC FUNDS **\$659,980**

Total Amount available for OCC Rural **\$355,729**

Add remaining TBRA **\$104,325**

Add remaining HBA **\$54,678**

\$514,732

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0164	City of Lometa	128.00	OCC	8	R	\$495,000	9	\$495,000	9	No	SN	
2004-0206	City of Fairfield	126.00	OCC	8	R	\$400,000	8			No	SN	**
2004-0207	City of Gatesville	126.00	OCC	8	R	\$500,000	10			No	SN	**
2004-0215	City of Hubbard	126.00	OCC	8	R	\$220,000	4			No	SN	**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

** Insufficient Funds to Assist One Unit

2004 Single Family Finance Production - HOME Program

Region 8 Recommendations

*(Subject to the Regional Allocation Formula *)*

Region 8 OCC Rural continued

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0186	City of Nolanville	123.00	OCC	8	R	\$385,000	7			No	SN	
2004-0185	City of Hico	117.00	OCC	8	R	\$500,000	9			No	SN	
2004-0187	City of Whitney	122.00	OCC	8	R	\$385,000	7			No	SN	
2004-0227	City of Rosebud	122.00	OCC	8	R	\$150,000	3			No	SN	
2004-0063	City of Madisonville	119.00	OCC	8	R	\$275,000	5			No	SN	
2004-0103	City of Hillsboro	119.00	OCC	8	R	\$495,000	9			No	SN	
2004-0190	City of Nolanville	118.00	OCC	8	R	\$385,000	7			No	Gen.	
2004-0188	City of Hico	112.00	OCC	8	R	\$500,000	9			No	Gen.	
2004-0189	City of Whitney	117.00	OCC	8	R	\$385,000	7			No	Gen.	
2004-0192	City of Marlin	116.00	OCC	8	R	\$500,000	9			No	SN	
2004-0212	City of Groesbeck	114.00	OCC	8	R	\$220,000	4			No	SN	
2004-0191	City of Marlin	111.00	OCC	8	R	\$500,000	9			No	Gen.	
2004-0209	City of Cameron	110.00	OCC	8	R	\$275,000	5			No	SN	
2004-0025	City of Marquez	85.00	OCC	8	R	\$330,000	6			No	Gen.	

\$6,900,000 \$495,000

Total OCC Rural Funds Recommended **\$495,000**

Remaining OCC Rural funds moved to OCC U / E **\$19,732**

Total Amount available for OCC Urban/Exurban **\$304,251**

Add remaining OCC Rural

\$19,732

\$323,983

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0065	City of Lacy Lakeview	133.00	OCC	8	U / E	\$220,000	4	\$220,000	4	No	SN	
2004-0064	City of Bellmead	128.00	OCC	8	U / E	\$500,000	10	\$51,992	1	No	SN	
2004-0229	City of Temple	128.00	OCC	8	U / E	\$500,000	10	\$51,991	1	No	SN	
2004-0140	City of Belton	122.00	OCC	8	U / E	\$495,000	9			No	SN	

\$1,715,000 \$323,983

Total OCC U / E Funds Recommended **\$323,983**

Remaining Region 8 funds **\$0**

** DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00*

*** Insufficient Funds to Assist One Unit*

2004 Single Family Finance Production - HOME Program

Region 9 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 9 \$ 1,671,950

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 9 TBRA FUNDS \$334,390

Total Amount available for TBRA Rural \$326,030

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
	<i>No Applicants</i>											

Total TBRA Rural Funds Recommended **\$0**
 Remaining TBRA Rural funds moved to TBRA Urban / Exurban **\$326,030**

Total Amount available for TBRA Urban/Exurban \$8,360

Add remaining TBRA Rural \$326,030

\$334,390

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0006	Comal County Housing Authority	125.00	TBRA	9	U / E	\$400,000	40	\$334,390	34	No	SN	

\$400,000 \$334,390

Total TBRA U / E Funds Recommended **\$334,390**
 Remaining TBRA funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 9 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 9 HBA FUNDS **\$585,182**

Total Amount available for HBA Urban/Exurban **\$14,630**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total HBA U / E Funds Recommended **\$0**

Remaining HBA U / E funds moved to HBA Rural **\$14,630**

Total Amount available for HBA Rural **\$570,553**

Add remaining HBA Urban / Exurban **\$14,630**

\$585,182

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total HBA Rural Funds Recommended **\$0**

Remaining HBA funds moved to OCC Rural **\$585,182**

AVAILABLE REGION 9 OCC FUNDS **\$752,377**

Total Amount available for OCC Urban/Exurban **\$18,809**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0002	City of New Braunfels	112.00	OCC	9	U / E	\$100,000	20	\$18,809	4	No	Gen.	

\$100,000 **\$18,809**

Total OCC U / E Funds Recommended **\$18,809**

Remaining OCC U / E funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 9 Recommendations

*(Subject to the Regional Allocation Formula *)*

Total Amount available for OCC Rural	\$733,568
Add remaining HBA funds	\$585,182
	<u>\$1,318,750</u>

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0242	Frio County	126.00	OCC	9	R	\$500,000	10	\$500,000	10	No	SN	
2004-0248	City of Pearsall	125.00	OCC	9	R	\$500,000	10	\$500,000	10	No	SN	
2004-0156	City of Dilley	122.00	OCC	9	R	\$495,000	9	\$159,375	3	No	SN	
2004-0157	Housing Authority of City of Dilley	122.00	OCC	9	R	\$495,000	9	\$159,375	3	No	SN	
2004-0126	City of Hondo	116.00	OCC	9	R	\$500,000	10			No	SN	
2004-0009	City of Pleasanton	87.00	OCC	9	R	\$330,000	6			No	Gen.	

\$2,820,000 \$1,318,750

Total OCC Rural Funds Recommended **\$1,318,750**
Remaining Region 9 funds \$0

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 10 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 10 \$ 2,346,596

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 10 TBRA FUNDS **\$469,319**

Total Amount available for TBRA Urban/Exurban **\$104,189**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA U / E Funds Recommended **\$0**
 Remaining TBRA U / E funds moved to TBRA Rural **\$104,189**

Total Amount available for TBRA Rural **\$365,130**

Add remaining TBRA Urban / Exurban **\$104,189**

\$469,319

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0097	The Latino Education Project (LEP)	115.00	TBRA	10	R	\$300,000	30	\$300,000	30	No	SN	

\$300,000 \$300,000

Total TBRA Rural Funds Recommended **\$300,000**
 Remaining TBRA funds moved to OCC Rural **\$169,319**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 10 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 10 HBA FUNDS **\$821,309**

Total Amount available for HBA Urban/Exurban **\$182,331**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
No Applicants												

Total HBA U / E Funds Recommended **\$0**

Remaining HBA U / E funds moved to HBA Rural **\$182,331**

Total Amount available for HBA Rural **\$638,978**

Add remaining HBA Urban / Exurban **\$182,331**

\$821,309

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0181	Housing Authority of the City of Beeville	131.00	HBA	10	R	\$150,000	15	\$150,000	15	No	Gen.	
2004-0070	Catholic Charities	90.50	HBA	10	R	\$500,000	50	\$500,000	50	No	Gen.	

\$650,000 **\$650,000**

Total HBA Rural Funds Recommended **\$650,000**

Remaining HBA funds moved to OCC Rural **\$171,309**

AVAILABLE REGION 10 OCC FUNDS **\$1,055,968**

Total Amount available for OCC Urban/Exurban **\$234,425**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0160	Institute of Rural Development	109.33	OCC	10	U / E	\$495,000	9	\$234,425	5	No	SN	

\$495,000 **\$234,425**

Total OCC U / E Funds Recommended **\$234,425**

Remaining OCC U / E funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 10 Recommendations

*(Subject to the Regional Allocation Formula *)*

Total Amount available for OCC Rural	\$821,543
Add remaining TBRA funds	\$169,319
Add remaining HBA funds	\$171,309
	<hr/>
	\$1,162,171

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0177	City of Hallettsville	129.00	OCC	10	R	\$500,000	9	\$500,000	9	No	SN	
2004-0234	Community Action Corporation of S. TX	126.50	OCC	10	R	\$448,000	20	\$448,000	20	No	SN	
2004-0169	City of Premont	125.00	OCC	10	R	\$495,000	9	\$214,171	4	No	SN	
2004-0050	City of Beeville	124.00	OCC	10	R	\$405,000	9			No	SN	
2004-0168	City of Odem	122.00	OCC	10	R	\$495,000	9			No	SN	
2004-0250	City of Three Rivers	122.00	OCC	10	R	\$500,000	10			No	SN	
2004-0108	City of Mathis	119.00	OCC	10	R	\$495,000	9			No	SN	
2004-0249	City of Robstown	114.00	OCC	10	R	\$500,000	10			No	SN	
2004-0146	San Patricio County	109.40	OCC	10	R	\$495,000	9			No	SN	
2004-0051	Nueces County Community Action Agency	89.00	OCC	10	R	\$500,000	10			No	SN	

\$4,833,000

\$1,162,171

Total OCC Rural Funds Recommended **\$1,162,171**

Remaining Region 10 funds **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 11 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 11 \$ **3,255,902**

*Applicants below the **bold line** did not meet the threshold score requirement.*

AVAILABLE REGION 11 TBRA FUNDS **\$651,180**

Total Amount available for TBRA Rural **\$555,457**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0197	Willacy County Housing Authority	124.00	TBRA	11	R	\$200,000	20	\$200,000	20	No	SN	
						\$200,000		\$200,000				

Total TBRA Rural Funds Recommended **\$200,000**
 Remaining TBRA Rural funds moved to TBRA Urban / Exurban **\$355,457**

Total Amount available for TBRA Urban/Exurban **\$95,724**

Add remaining TBRA Rural **\$355,457**

\$451,180

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0241	Edinburg Housing Authority	103.00	TBRA	11	U / E	\$500,000	46	\$451,180	42	No	Gen.	
						\$500,000		\$451,180				

Total TBRA U / E Funds Recommended **\$451,180**
 Remaining TBRA funds moved to OCC Rural **\$0**

** DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00*

2004 Single Family Finance Production - HOME Program

Region 11 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 11 HBA FUNDS **\$1,139,566**

Total Amount available for HBA Urban/Exurban **\$167,516**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0086	City of San Benito	122.00	HBA	11	U / E	\$400,000	40	\$167,516	17	No	Gen.	
2004-0255	Edinburg Housing Authority	111.00	HBA	11	U / E	\$90,000	9			No	Gen.	
2004-0036	City of Pharr	103.00	HBA	11	U / E	\$300,000	30			No	Gen.	
2004-0101	Coto de Casa, Inc.	37.00	HBA	11	U / E	\$500,000	50			No	Gen.	

\$1,290,000 **\$167,516**

Total HBA U / E Funds Recommended **\$167,516**
 Remaining HBA U / E funds moved to HBA Rural **\$0**

Total Amount available for HBA Rural **\$972,050**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0136	Community Dev. Corp. of Brownsville	104.00	HBA	11	R	\$500,000	50	\$500,000	50	No	Gen.	
2004-0263	Southern Rio Services, Inc.	102.00	HBA	11	R	\$350,000	35	\$350,000	35	No	Gen.	
2004-0264	Community Colonias Organization, Inc.	93.00	HBA	11	R	\$500,000	50	\$122,050	13	No	Gen.	
2004-0029	Community Resource Group Inc.	81.00	HBA	11	R	\$220,000	20			No	Gen.	
2004-0037	Housing Authority of the City of Del Rio	61.00	HBA	11	R	\$500,000	50			No	Gen.	
2004-0205	Futuro Communities, Inc.	53.00	HBA	11	R	\$172,500	10			No	SN	

\$2,242,500 **\$972,050**

Total HBA Rural Funds Recommended **\$972,050**
 Remaining HBA funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 11 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 11 OCC FUNDS **\$1,465,156**

Total Amount available for OCC Rural **\$1,249,778**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0245	Zapata County	126.00	OCC	11	R	\$500,000	10	\$500,000	10	No	SN	
2004-0237	Community Colonias Organization	122.00	OCC	11	R	\$245,000	35	\$245,000	35	No	SN	
2004-0244	City of Santa Rosa	120.00	OCC	11	R	\$500,000	10	\$500,000	10	No	SN	
2004-0218	Community Action Council of South Texas	119.00	OCC	11	R	\$500,000	30			No	SN	
2004-0119	Zavala County	119.00	OCC	11	R	\$500,000	9			No	SN	
2004-0127	City of Roma	119.00	OCC	11	R	\$500,000	10			No	SN	
2004-0131	Housing Authority of the City of Crystal City	119.00	OCC	11	R	\$500,000	10			No	SN	
2004-0128	Val Verde County	117.00	OCC	11	R	\$500,000	10			No	SN	
2004-0124	City of Cotulla	116.00	OCC	11	R	\$500,000	10			No	SN	
2004-0130	City of Encinal	115.00	OCC	11	R	\$500,000	10			No	SN	
2004-0125	City of Los Indios	114.00	OCC	11	R	\$500,000	10			No	SN	
2004-0129	La Salle County	109.00	OCC	11	R	\$500,000	10			No	SN	
2004-0084	City of La Grulla	103.00	OCC	11	R	\$258,621	12			No	SN	
2004-0028	Community Resource Group Inc.	101.00	OCC	11	R	\$448,000	25			No	SN	

\$6,451,621 **\$1,245,000**

Total OCC Rural Funds Recommended **\$1,245,000**

Remaining OCC Rural Funds moved to OCC U / E **\$4,778**

Total Amount available for OCC Urban/Exurban **\$215,378**

Add remaining OCC Rural **\$4,778**

\$220,156

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0253	Town of Combes	108.00	OCC	11	U / E	\$500,000	10	\$220,156	5	No	SN	
2004-0265	City of Primera	105.00	OCC	11	U / E	\$500,000	48			No	SN	

\$1,000,000 **\$220,156**

Total OCC U / E Funds Recommended **\$220,156**

Remaining Region 11 funds **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 12 Recommendations

(Subject to the Regional Allocation Formula*)

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 12 \$ 1,613,285

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 12 TBRA FUNDS \$322,657

Total Amount available for TBRA Urban/Exurban \$150,035

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total TBRA U / E Funds Recommended \$0
 Remaining TBRA U / E funds moved to TBRA Rural **\$150,035**

Total Amount available for TBRA Rural \$172,621

Add remaining TBRA Urban / Exurban \$150,035

\$322,657

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0236	Buckner Children & Family Services, Inc. dba Family Place at Hearthstone	107.00	TBRA	12	R	\$78,156	5	\$78,156	5	No	SN	
						\$78,156		\$78,156				

Total TBRA Rural Funds Recommended **\$78,156**
 Remaining TBRA funds moved to OCC Rural **\$244,501**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 12 Recommendations

(Subject to the Regional Allocation Formula*)

AVAILABLE REGION 12 HBA FUNDS **\$564,650**

Total Amount available for HBA Urban/Exurban **\$262,562**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0068	City of Midland	93.00	HBA	12	U / E	\$75,000	10	\$75,000	10	No	Gen.	
2004-0182	Midland Community Dev. Corp.	76.00	HBA	12	U / E	\$120,000	16			No	Gen.	

\$195,000 **\$75,000**

Total HBA U / E Funds Recommended **\$75,000**

Remaining HBA U / E funds moved to HBA Rural **\$187,562**

Total Amount available for HBA Rural **\$302,088**

Add remaining HBA Urban / Exurban **\$187,562**

\$489,650

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
<i>No Applicants</i>												

Total HBA Rural Funds Recommended **\$0**

Remaining HBA funds moved to OCC Rural **\$489,650**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 12 Recommendations

(Subject to the Regional Allocation Formula*)

AVAILABLE REGION 12 OCC FUNDS **\$725,978**

Total Amount available for OCC Urban / Exurban **\$337,580**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0069	City of Midland	93.00	OCC	12	U / E	\$240,000	10	\$240,000	10	No	Gen.	

\$240,000 **\$240,000**

Total OCC U / E Funds Recommended **\$240,000**

Remaining OCC U / E funds moved to OCC Rural **\$97,580**

Total Amount available for OCC Rural **\$388,398**

Add remaining OCC U / E **\$97,580**

Add remaining TBRA **\$244,501**

Add remaining HBA **\$489,650**

\$1,220,129

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0251	City of Balmorhea	130.00	OCC	12	R	\$500,000	10	\$500,000	10	No	SN	
2004-0158	City of Grandfalls	126.00	OCC	12	R	\$495,000	9	\$495,000	9	No	SN	
2004-0219	City of Junction	125.00	OCC	12	R	\$250,000	5	\$112,565	3	No	SN	
2004-0220	City of Lamesa	125.00	OCC	12	R	\$250,000	5	\$112,564	3	No	SN	
2004-0196	City of Big Lake	120.00	OCC	12	R	\$250,000	5			No	SN	
2004-0057	City of Seminole	119.00	OCC	12	R	\$495,000	9			No	SN	
2004-0268	Pecos County	110.00	OCC	12	R	\$500,000	10			No	SN	
2004-0148	City of Wickett	106.00	OCC	12	R	\$495,000	9			No	SN	
2004-0094	City of Rankin	90.00	OCC	12	R	\$220,000	4			No	Gen.	

\$3,455,000 **\$1,220,129**

Total OCC Rural Funds Recommended **\$1,220,129**

Remaining Region 12 funds **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 13 Recommendations

*(Subject to the Regional Allocation Formula *)*

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE TO REGION 13 \$ 967,971

Applicants below the bold line did not meet the threshold score requirement.

AVAILABLE REGION 13 TBRA FUNDS \$193,594

Total Amount available for TBRA Urban/Exurban \$80,148

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
	<i>No Applicants</i>											

Total TBRA U / E Funds Recommended \$0
 Remaining TBRA U / E funds moved to TBRA Rural \$80,148

Total Amount available for TBRA Rural \$113,446

Add remaining TBRA Urban / Exurban \$80,148

\$193,594

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
	<i>No Applicants</i>											

Total TBRA Rural Funds Recommended \$0
 Remaining TBRA funds moved to OCC Rural \$193,594

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 13 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 13 HBA FUNDS **\$338,790**

Total Amount available for HBA Urban/Exurban **\$140,259**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0111	Organizacion Progresiva de San Elizario	62.00	HBA	13	U / E	\$240,000	24			No	SN	

\$240,000 **\$0**

Total HBA U / E Funds Recommended **\$0**
 Remaining HBA U / E funds moved to HBA Rural **\$140,259**

Total Amount available for HBA Rural **\$198,531**

Add remaining HBA Urban / Exurban **\$140,259**

\$338,790

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0099	Sparks Housing Development Corporation	106.00	HBA	13	R	\$450,000	30	\$338,790	34	No	SN	
2004-0091	El Paso Collaborative for Community and Economic Development	105.00	HBA	13	R	\$239,500	39			No	Gen.	

\$689,500 **\$338,790**

Total HBA Rural Funds Recommended **\$338,790**
 Remaining HBA funds moved to OCC Rural **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

2004 Single Family Finance Production - HOME Program

Region 13 Recommendations

*(Subject to the Regional Allocation Formula *)*

AVAILABLE REGION 13 OCC FUNDS **\$435,587**

Total Amount available for OCC Urban / Exurban **\$180,333**

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0247	Town of Anthony	125.00	OCC	13	U / E	\$500,000	10	\$180,333	4	No	SN	
2004-0042	City of Socorro	107.00	OCC	13	U / E	\$500,000	20			No	Gen.	
2004-0123	Organizacion Progresiva de San Elizario	82.00	OCC	13	U / E	\$400,000	10			No	SN	
						\$1,400,000		\$180,333				

Total OCC U / E Funds Recommended **\$180,333**
 Remaining OCC U / E funds moved to OCC Rural **\$0**

Total Amount available for OCC Rural **\$255,254**

Add remaining TBRA **\$193,594**
\$448,848

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0252	City of Presidio	125.00	OCC	13	R	\$500,000	10	\$448,848	9	No	SN	
2004-0154	City of Dell City	124.00	OCC	13	R	\$495,000	9			No	SN	
2004-0243	City of Valentine	121.00	OCC	13	R	\$500,000	10			No	SN	
2004-0159	Hudspeth County	120.00	OCC	13	R	\$495,000	9			No	SN	
						\$1,990,000		\$448,848				

Total OCC Rural Funds Recommended **\$448,848**
Remaining Region 13 funds **\$0**

* DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

**2004 Single Family Finance Production - HOME Program
Recommendations for Persons with Disabilities Set Aside**

U/E = Urban / Exurban	PWD = Persons with Disabilities	OCC = Owner Occupied Asst.
R = Rural	SN = Special Needs	HBA = Homebuyer Asst.
	Gen. = General	TBRA = Tenant-Based Rental Asst.

TOTAL AMOUNT AVAILABLE FOR PWD \$ 2,263,053

Applicants below the bold line did not meet the threshold score requirement.

Application Number	Applicant	Score	Activity	Region	U / E or R	Project Funds Requested	Units Requested	Project Funds Rec'd	Units Rec'd	Serving a PJ	Population Served	Notes:
2004-0275	United Cerebral Palsy	N/A	HBA	7	Both	\$500,000	20	\$500,000	20	Yes	PWD	Approved thru Consolidated Plan
2004-0155	El Paso Community MHMR Center	130.00	TBRA	13	Both	\$404,040	35	\$404,040	35	Yes	PWD	
2004-0120	City of Dayton	129.00	OCC	6	R	\$500,000	9	\$500,000	9	No	PWD	
2004-0003	Spindletop MHMR Services	126.33	TBRA	5	Both	\$163,700	25	\$163,700	25	Yes	PWD	
2004-0107	City of Wharton	119.00	OCC	6	R	\$495,000	9	\$347,657	7	No	PWD	
2004-0109	City of Mathis	119.00	OCC	10	R	\$495,000	9	\$347,656	7	No	PWD	
2004-0090	Mary Lee Foundation	118.00	TBRA	7	U / E	\$365,629	25			Yes	PWD	
2004-0135	Community Action Corporation of S. TX	118.00	TBRA	11	U / E	\$246,000	30			Yes	PWD	
2004-0087	Dallas Metrocare Services	117.00	TBRA	3	Both	\$406,800	24			Yes	PWD	
2004-0261	Lone Star Garden Development Corporation	117.00	OCC	5	R	\$500,000	9			No	PWD	
2004-0066	Lubbock Regional MHMR Center	116.00	TBRA	1	Both	\$500,000	50			Yes	PWD	
2004-0239	Buckner Children & Family Services, Inc. dba Amarillo Family Place	114.00	TBRA	1	Both	\$117,360	8			Yes	PWD	
2004-0038	Tri-County Mental Health Mental	113.00	TBRA	6	R	\$200,000	20			No	PWD	
2004-0235	Housing Auth. of the City of Brownsville	112.00	TBRA	11	U / E	\$486,528	56			Yes	PWD	
2004-0039	Tri-County Mental Health Mental	111.00	TBRA	6	U / E	\$500,000	45			No	PWD	
2004-0071	Valley Assoc. for Independent Living, Inc.	82.00	OCC	11	Both	\$125,000	5			Yes	PWD	
2004-0201	U U Housing Assistance Corporation	81.00	OCC	9	U / E	\$300,000	6			Yes	PWD	
2004-0093	Denton New Horizons Inc.	70.00	OCC	3	U / E	\$220,000	4			Yes	PWD	
2004-0238	Lake Como Area Council	70.00	OCC	3	U / E	\$350,000	20			Yes	PWD	
2004-0133	United Cerebral Palsy	62.00	OCC	7	Both	\$360,000	18			No	PWD	

\$6,735,057 \$2,263,053

Total PWD Funds Recommended **\$2,263,053**
Remaining PWD funds **\$0**

DUE TO ROUNDING, FIGURES MAY FLUCTUATE +/- \$1.00

BOARD ACTION SUMMARY

MULTIFAMILY FINANCE PRODUCTION DIVISION

August 19, 2004

Action Items

1. Consider the 2005 Draft Qualified Allocation Plan and Rules to be published for public comment.
2. Consider the proposed repeal of the 2003 Qualified Allocation Plan and Rules.

Required Action

Approve, or approve with amendments, the 2005 Draft Qualified Allocation Plan and Rules, to be published for public comment. Approve the proposed repeal of the 2003 Qualified Allocation Plan and Rules.

Background and Recommendations

Attached behind this Board Action Item is the 2005 Draft Qualified Allocation Plan and Rules (“Draft QAP”) which reflects all of staff’s recommendations for revisions to the QAP for the Board. The document is shown as a “blackline” of the 2004 QAP – additions are shown as underlined text and deletions are shown as marked through text.

The 2005 Draft QAP being recommended by staff ensures compliance with all statutory requirements, incorporates some of the 2005 QAP Working Group’s Recommendations, incorporates other input received, and includes other recommendations that staff believes are necessary to improve the Housing Tax Credit Program and are recommended based on staff’s evaluation of necessary policy and administrative changes and improvements.

The remainder of this document outlines those recommendations. Section I outlines staff’s inclusion (or not) of the 2005 QAP Working Group Recommendations; Section II outlines other important recommendations being made by staff that were not part of the Working Group’s Recommendations. Note that minor revisions and clarifications are not outlined in this document, but are included in the 2005 Draft QAP.

I. DEPARTMENT’S UTILIZATION OF WORKING GROUP RECOMMENDATIONS

In January 2004, the Texas Department of Housing and Community Affairs (“the Department”) initiated a work group to generate recommendations for the 2005 QAP that govern the Housing Tax Credit Program. That group, the 2005 QAP Working Group (“the Working Group”), a group independent of the Department, collaborated for six months to provide staff with final recommendations of their preferred revisions to the QAP. The “2005 QAP Working Group Recommendations for Revisions to the 2005 Qualified Allocation Plan and Rules” (“Working Group Recommendations”) is the official report of the Working Group and was released to the public on the Department’s website on July 28, 2004. For more detailed information on the structure, topics and committees of the Working Group, please refer to that document on the Department’s website.

The Working Group Recommendations reflect the decision of the group as a whole. Since the Working Group's recommendations were made by vote, and not consensus, it should be noted that the recommendations do not necessarily reflect the preferences of all Working Group members. The recommendations also did not (and do not) reflect the recommendations of Department staff.

What follows in Section I is a staff response to each of the recommended revisions made by the Working Group, organized by section of the 2004 QAP for which the input was given. Input not made specifically to the QAP (for instance those made to the Underwriting Rules) are not addressed here. The response to each recommendation is one of the three following choices:

- ³ **Staff Recommends** –Recommendation has been integrated into the 2005 Draft QAP;
- ³ **Staff Recommends with Revisions** – Recommendation has been partially integrated into the 2005 Draft QAP; the variation between the Working Group Recommendation and the 2005 Draft QAP is explained; or
- ³ **Staff Does Not Recommend** –Working Group Recommendation is not integrated into the 2005 Draft QAP and an explanation is given.

1. **§50.3(47) on Ineligible Building Types.** The Working Group recommends that the bedroom mix for a particular development be determined solely by the needs of the market and that the developer should set the bedroom mix (one, two, three and four bedroom) as well as the type of development (single family, townhome, garden apartments, etc.) based upon its analysis of the market supported by a third-party market analysis. Therefore, the group recommends deleting subparagraphs (E) and (G) of the definition for Ineligible Building Type. **Staff Recommends.** *If the Board decides to retain these sections, staff recommends that the introductory sentence to paragraph (G) be revised to say “Any Development involving any new construction of additional units...” to address that developments doing partial rehabilitation/partial new construction must comply.*

The minority opinion of the committee regarding this issue was approved by the Working Group as their official Minority Opinion. That opinion is that certain Board members perceive abuses in credit demands by the developers that build four-bedroom units and to address this issue the Board placed limits on the bedroom mix (as opposed to setting a maximum limit on credits per unit). The minority opinion is that if the Board is not receptive to entirely deleting the limitation placed on the bedroom mix, then as an alternative, the Board should consider setting a limit on credits per unit instead of on bedroom mixes.

2. **§50.3 Definitions on Urban, Exurban and Rural.** The Working Group recommends that definitions for Urban and Exurban be created and that the definition for Rural be revised. **Staff Does Not Recommend:** *Staff does not recommend adding new definitions for Urban or Exurban; staff believes that the legislation as drafted, with urban and exurban combined with a slash, confirms that the Urban and Exurban allocations are combined and not two separate allocations. Therefore, no definition is necessary. The Urban/Exurban allocation will continue to be all areas not satisfying the Rural Area definition. Staff does not recommend any revisions to the definition for a Rural Area since that definition is legislated.*

3. **§50.5(b) Addition of Ineligibility Criteria:** The Working Group voted to approve the addition of a new ineligibility criteria that would identify applicants who fail to make loan repayments to the Department as being ineligible for funds. *Staff recommends.*
4. **§50.6(e) – Size Limitations.** The Group approved a new Rural Allocation size limit of 96 units which does not permit market study exceptions. The minority recommendation was a tie between 80 and 104 units. The Group also recommends that all unit limitations throughout the QAP be divisible by four since townhouses are often built as fourplexes. *Staff Recommends. However, the Working Group recommended that developments exceeding the 96 Unit limit be moved into the Urban/Exurban Allocation which staff does not recommend as already discussed. Staff Recommends revisions for divisibility by four which increases the unit limits to 252. Staff also recommends, based on comment received, that the minimum development size for HOME and HTF awards only be 4 units as opposed to 16.*
5. **§50.7(a) – Regional Allocation Language Relating to the USDA 538 Program.** The Group approved a revision to the paragraph on Regional Allocation that deletes language relating to the 538 Program. *Staff Recommends.*
6. **§50.7(b) – Set Aside for USDA.** The group voted on whether to increase the USDA set-aside from 5% to 10%. This motion failed. On that same topic, the group then approved by vote to keep the 5% regional allocation for USDA but also approved the concept that an additional 5% of the At-Risk Set-Aside be targeted for USDA. (It was not clear whether this was approved as 5% of 15%, yielding a total increase of only 0.75%; or 5% of the total set-aside and therefore 1/3 of the At-Risk Set-Aside.) Revised language was not specifically provided. *Staff Does Not Recommend: Because no clarification was provided on this item from the Working Group and because no specific language was provided, staff does not recommend any changes to the existing set-asides.*
7. **§50.8(c) –Pre-Application.** The group decided not to include the USDA 514 Program in the pre-application exception. This item is revised to show that applications under the USDA 514 Program also are not required to participate in the Pre-Application process. *Staff Recommends.*
8. **§50.9(d)(4) – Subsequent Evaluation of Prioritized Applications.** The Group voted to clarify that the redistribution of credits occurs in both Urban/Exurban and Rural areas. *Staff Recommends.*
9. **§50.9(f)(4)(B)(iii) – Provision of Disposals and Dishwashers as Threshold.** The group recommends that dishwashers and disposals should not be a threshold requirement on developments involving the rehabilitation of existing elderly developments. *Staff Does Not Recommend: Staff feels that these are amenities valued in properties for low income tenants and that if an applicant is spending the funds to rehabilitate a property it should add these amenities. No recommended changes.*
10. **§50.9(f)(8) –Notification.** While the Working Group did not pass specific language revisions for this item, they did approve, by vote, that applicants should only be required to notify in one of the following three methods: signage, newspaper, or mailing notification to nearby residents. Each of these three methods is already described in detail in the QAP – the only revision is that whereas applicants must currently do the

newspaper and then additionally either the signage or mailing alternative, they would now be able to pick only one of the three. **Staff Recommends with Revisions:** *Staff does not recommend having the option of one of the three because in communities where an applicant may try to avoid public input, they may only run the newspaper ad since these tend to be less widely read. Staff, instead, recommends deleting the newspaper requirement entirely as suggested at the Housing Tax Credit Round Table and requiring that an applicant choose between either the sign or the mailing alternative.*

11. **§50.9(f)(8)(B) – Notification.** Clarifies the level of evidence for notifications and that the evidence should be that it was mailed, not received. The Group also recommends deleting the language that limits the notification to only Pre-Application for those that have done Pre-Application notifications; essentially this expands notification to Application for all applicants even if they already notified at Pre-Application. The level of detail of the information provided in the notifications is also recommended to be reduced. **Staff Recommends with Revisions:** *Staff accepts the revision that the proof of notification be only of mailing (and not delivery) but staff expanded what evidence would be acceptable. Staff does not recommend deleting the language relating to Pre-Application – this will cause excessive additional notification for the applicant; will create additional unnecessary review for staff and will place an additional burden on officials. Regarding the level of detail to be provided in the notification, staff accepted some of the revisions but has made adjustments that it feels are necessary to ensure that notification is comprehensive and is recommending the alternative suggested for clause VIII.*

12. **§50.9(f)(8)(B)(ii)(I) – Clerk and Neighborhood Notifications.** Recommends that the first level of notification be made to local officials and local planning departments in lieu of city and county clerks; that the notification be permitted to be made later than last year’s QAP permitted; and that the zip code notification language be deleted. Clarification was added that the statement of “knowing no neighborhood organizations” should be part of the application. **Staff Recommends with Revisions:** *Staff accepts the local official revision but feels that contacting the city manager or county administrator may be more successful than the planning department. Also, the dates were not adjusted as late as the Working Group recommended, because this reduction in time limits the response time from the officials. Staff also adds that the application must reflect information on the appropriate officials. Staff also made several clarifications for consistency with the Working Group’s recommendations and then added some clarifying language to ensure that all issues of documentation are addressed.*

13. **§50.9(f)(9)(B) – Organization Documentation for Threshold.** The group recommends that the only organizational document that should be required at application for threshold is a reservation of name for a to-be-formed entity or evidence of authority to do business in Texas for existing entities. All other items should be required after award and through creation of a new section under §50.13. **Staff Recommends.**

14. **§50.9(g)(1) – USDA language in Financial Feasibility Exhibit.** This item is revised for clarification regarding the acceptable form from USDA. **Staff Recommends with Revisions:** *Staff accepts this revision, and made additional revisions to simplify the review process.*

Staff is recommending that the Selection Criteria section of the QAP be “overhauled”. Recommendations delete all items that are not specifically legislated. Therefore, several

items on which the Working Group made recommendations are no longer items recommended by staff for inclusion in the QAP.

15. **§50.9(g)(2)(A) & (B) – Quantifiable Community Participation (QCP).** The Group expanded how the term “on record” is defined for purposes of meeting the requirement for this exhibit and deleted the requirement that the QCP letter must be addressed to the Director of Multifamily. The Group also adds the requirement that 51% of the neighborhood organization’s members must live within a mile of the development site. *Staff Recommends with Revisions: Staff concurred with the revisions with the added clarifications that the recording with the Department must be by March 1, 2005. Staff did not agree that 51% of membership should be required to live within one mile as it places too restrictive a requirement on the neighborhoods. Separate from the revisions of the Working Group, staff made additional suggested revisions to this item to clarify the process for applicants and neighborhoods, which includes defining “neighborhood organization.”*
16. **§50.9(g)(2)(C) – Quantifiable Community Participation Scoring.** The Group clarifies that the signatory’s mailing address must be provided. The Group additionally approved language that the organization must provide the Department with minutes of the meeting where their decision was made as well as a tape of the meeting; it was agreed that the Department would not be obligated to listen to the tape, but would have it for backup if needed. The Group also recommended adjusting the language for applicant’s eligibility for the “average” and suggested that these applicants get the maximum number of points – not the average. *Staff Recommends with Revisions: Staff concurs with the mailing address, but thinks that the request for minutes should not be required as it places too great a burden on the neighborhoods. Staff also concurs with the revisions for which applicants are eligible for the “average” but does not feel that this should be increased to the maximum as this minimizes the impact of the input from neighborhood organizations and incentivizes applicants to select areas with no neighborhood organizations.*
17. **§50.9(g)(2)(D) – Quantifiable Community Participation Evaluation.** The group agreed that the language in paragraph (D) regarding false statements be moved from this section of the QAP to another more general area. *Staff Recommends and suggests moving the language to §49.9(c).*
18. **§50.9(g)(3) – Development Location Characteristics.** The Group voted to retain the existing development location characteristics section with the exception of amending subparagraph (D) to give incentives to developments in tracts in which the AMFI equals or exceeds 80% of the MFI for the county, instead of having an MFI greater than that of the county. Note number 20 below regarding “Exurban” points. *Staff Does Not Recommend. The greater than MFI language follows the bond priority statutory language.*
19. **§50.9(g)(4) – Site Location Characteristics.** The group voted to retain the existing language with the exception of removing the negative points associated with a development adjacent to or within 300 feet of an Interstate Highway. *Staff Does Not Recommend. As noted above, this is one of the sections which staff is recommending be deleted in its entirety as it is not a legislated requirement.*

20. **§50.9(g)(5) – Housing Needs Characteristics and Exurban Points.** The Group voted to remove the Affordable Housing Needs Score (AHN) from the QAP. In the event that the Board retains the AHN scoring points, the Group recommended deleting the “Exurban” points currently found at §50.9(g)(3)(G). The group wanted to be sure that only one of those two items – either the AHN Score or the Exurban Points – remain in the 2005 QAP. ***Staff Recommends with Revisions:** Staff feels that the AHN Score has been a successful method for directing development into the more needy areas of a given region and that it should not be deleted outright, but staff is recommending that the maximum score for this item be only 6 points. Additionally, staff concurs that the Exurban points should be deleted. It should be noted that at the time of the Working Group’s recommendations the AHN Score was worth 20 points and the Exurban points were worth 10 points.*
21. **§50.9(g)(6) – Support and Consistency with Local Planning.** The Group voted to change subparagraph (A) relating to consistency with the consolidated plan to replace the points for consistency with points for support from local officials. Additionally, the group recommends deletion of the reference to the Attorney General Opinion in subparagraph (C) and to the local points under (C)(ii). ***Staff Recommends with Revisions:** Staff concurs with the deletion of the Attorney General language, however due to the ruling that points can not be awarded from local officials, staff does not concur with moving this to subparagraph (A), but recommends deleting all references to local official support points in this section. Separately, consistent with staff’s recommendation to not score items that are not legislated, the points for consistency with the consolidated plan were moved to threshold and are no longer being recommended as a point item.*
22. **§50.9(g)(6)(B) – Evidence of Public Meeting.** This item is revised to show that either minutes and a tape, or a full transcript, must be provided to receive points. ***Staff Does Not Recommend.** As noted above, this is one of the sections which staff is recommending be deleted in its entirety as it is not a legislated requirement.*
23. **§50.9(g)(7)(B) – Development Characteristics, Cost per Square Foot.** The Group voted to retain the existing language at §50.9(g)(7)(B) regarding costs per square foot, but with the exception that the \$73 per square foot cost limitation for projects that are only partially transitional housing for the homeless will only apply to the transitional units. ***Staff Recommends Partially.** Staff recommends keeping the exhibit as is – because transitional developments are no longer given points for being partially transitional, the language regarding transitional units is unnecessary. Additionally, based on separate public input staff is recommending that the cost per square foot be increased from \$62 to \$64.*
24. **§50.9(g)(7)(C) – Development Characteristics, Unit Amenities.** The Group made a revision to the Unit Amenities increasing the SEER rating for the air conditioning from 12 to 14 for a Development. ***Staff Recommends.***
25. **§50.9(g)(7)(D) – Development Characteristics, Common Amenities.** The Group made several revisions to the Common Amenities which included adding “Full perimeter fencing without controlled gate access” for two points, deleting item (VII) because it is repetitive with item (XVI), adding “or Equipped Computer Learning Center” to item (XII), noting in item (XIII) that Game/TV Room is actually a Furnished Community Room, deleting the reference to Health Screening in item (XVII) and adding it as its own

item, adding a putting green at item (XIX), and clarifying in item (XXI) that an applicant can get one point for one playground or tot lot. **Staff Recommends with Revisions:** *As noted above, this is one of the sections which staff is recommending be deleted in its entirety as it is not a legislated requirement. However, staff is recommending that this entire section be moved to the Threshold Criteria and in that section staff did make the changes recommended by the group.*

26. **§50.9(g)(7)(F) – Development Characteristics, Mixed Income Developments.** The Group recommends reducing the point range structure for mixed income developments from 7/6/4/2 to 4/3/2/1. **Staff Recommends with Revisions:** *Staff recommends an adjustment to scoring from 7/6/5/2 to 6/5/4/3.*
27. **§50.9(g)(8) – Sponsor Characteristics, HUB Points.** The points for material participation and ownership by a certified Historically Underutilized Business were recommended for deletion due to the perceived abuses in the award of points for this item. **Staff Does Not Recommend:** *Staff recommends that the HUB points be deleted due to recent court cases and potential manipulation. In lieu of this item, staff is recommending a Sponsor Characteristic scoring criteria that gives points for the Applicant being controlled by a Community Housing Development Organization (CHDO).*
28. **§50.9(g)(9) – Developments Targeting Families with Children.** The Group recommends revising this item to allow two-bedroom units to qualify as meeting this requirement but at 40% of the units instead of 30% being set aside at two bedroom or more. **Staff Recommends with Revisions:** *If implemented as proposed by the Working Group, then developments with 60% of the units designed as one-bedrooms would qualify for these points, which staff does not feel meets the intent of Section 42. Therefore, staff recommends the addition of two-bedroom units as requested by the Working Group, but at a significantly higher percentage of 70%.*
29. **§50.9(g)(11) – Tenant Characteristics.** The Group took two actions regarding this section. By vote, the group approved a revision that only developments dedicating 100% of their units for transitional housing for the homeless would qualify for points under this section. Additionally, the Group approved a proposal to reduce the points allowed for this section from 22 to 4. **Staff Recommends:** *Input from applicants, as well as the Portfolio Management and Compliance Division, indicate that partially transitional developments are very difficult to manage and monitor.*
30. **§50.9(g)(12) and (13) – Income Levels of the Tenants.** The Group voted to replace both of the current paragraphs (12) and (13) with simplified language that indicates that points will be awarded as follows in a more straightforward structure that involves less calculation and will be more understandable in scoring (for staff and applicants). As noted later in this report, the Working Group recommends that references to 30% of AMGI be based on the higher of local area median income or statewide median income. The Group also specifically voted to remove any requirement that additional subsidy or funding sources be provided for units earmarked for households at the 30% level. **Staff Recommends with Revisions:** *Staff Recommends the general structure proposed by the Working Group, but has made some clarifying additions as reflected in the Draft QAP, including increasing the point. As recommended by the group, no subsidy requirements is being recommended for low income targeting. As discussed later in this document, staff*

does not recommend utilizing the higher of local or statewide median when referencing 30% units.

31. **§50.9(g)(14) – Leveraging.** The Group voted to delete the second and third sentences of subparagraph A which provided a list of acceptable types of leveraging sources. The Group also voted to allow points under this section even if the development is awarded points for low income targeting. ***Staff Recommends with Revisions:*** *Staff Recommends deleting the second sentence and concurs that applicants should be eligible for points under Low Income Targeting and Leveraging, but additionally to ensure compliance with Chapter 2306, staff recommends that leveraging only be permitted for sources of funding from local governments. Staff additionally made revisions to the timeframe in which the evidence of the subsidy must be provided. Staff has also made some clarifying additions as reflected in the Draft QAP.*
32. **§50.9(g)(18)(A) – Regarding Penalty Points.** This item is revised for clarification that the penalty points should not be deducted for extensions associated with developments that have USDA as a lender. ***Staff Recommends.***
33. **§50.9(g)(18)(A), §50.15(a) and §50.21(k) – Extensions.** The group recommends an extension of time for the construction loan closing to September 1st for all financing requiring governmental approval such as FHA-insured loans, HUD, USDA, etc. By extending the deadline and removing the penalty, the group feels that the Department will encourage development that would generally be less feasible to seek out other financing alternatives that may take more time. Additionally, the group approved a revision to §50.21(k) that allows extension requests to be filed up to the applicable deadline date. ***Staff Recommends that all submission requirements at construction loan closing be eliminated; however, if they are retained, staff recommends this revision.***
34. **§50.9(g) – Cumulative Ranking of Scores.** The Group voted not to implement an adjustment to the scoring that would rank the point total in conformity with the nine priorities specified in Senate Bill 264. ***Staff Does Not Recommend:*** *Staff has ensured that the QAP fully complies with Senate Bill 264 and all other requirements of 2306, as well as §42, Internal Revenue Code.*
35. **§50.12(d) – Credit Amounts for Bond Developments.** The group recommends permitting increases to bond amounts as long as they do not exceed the amount permitted under Internal Revenue Code §42(m)(2)(d); the amount of credits should not be contingent on whether the cost increases were unavoidable or unforeseeable. Additionally, they recommend that increases greater than 110% of the original credit amount on the Determination Notice be approved by the Board, but that all other increases of a lesser amount be approved administratively. It should be noted that the language in the 2004 QAP currently only refers to §42(m)(2)(D) and does not restrict the increases to unavoidable or unforeseeable cost increases (this was in the 2003 QAP and removed for 2004). ***Staff Recommends.***
36. **§50.16(a) – Cost Certification.** The group recommends that a title policy or ‘nothing further certificate’ be required with the cost certification documents and that it be dated on or after the date of substantial completion. ***Staff Recommends.***

37. **§50.18(c)(8) – Amendments Relating to Low Income Units.** The Group approved a procedure, and penalties, for developers who propose to target low income units and then seek to be released from the commitment to serve the lowest income households. The Group worded this proposal to only penalize the appropriate parties and specifically excludes the syndicator. *Staff Recommends. The specific language is reflected in §49.18(c)(8) of the Draft QAP.*
38. **Comprehensive QAP Revision on Rent and Income Limits.** The Working Group recommended that the rent and income limits for 30% units, as referred to throughout the QAP, should be based upon the greater of either the local Area Median Family Income (AMFI) or the statewide AMFI. They recommended that this revision should apply not only to the rent schedule and underwriting, but also to the low income targeting evaluation. The Group noted that the Department will have to provide these income limits by number of people because they are not published by HUD. *Staff Does Not Recommend: Staff feels that this proposal is not in the best interest of the lower income tenants – a true 30% tenant in a low income area will not necessarily be eligible for the unit if the higher standard is used. Additionally, the administrative difficulty of monitoring using this approach would need to be researched further.*
39. **Interpretation and Handling of Regional Allocation and Defining Rural, Urban and Exurban Areas.** The group approved their Majority Recommendation which is summarized as follows:
- ³ The Department will continue to allocate housing funds to the 13 regions in the manner prescribed in 2306.111(d) that provides that the funding shall be based on the need for housing assistance and the availability of housing resources.
 - ³ Within each region, the funding shall initially be allocated between Rural and Urban/Exurban areas based on the need/availability formula.
 - ³ “Rural areas” as defined in 2306.6702(12) shall be used but clarification should be added that any new construction developments exceeding 76 units shall not qualify for the rural allocation, but instead will compete in the Urban/Exurban Allocation.
 - ³ The allocation of funds between Urban and Exurban shall be based on the population ratio that Urban bears to Exurban within that region. “Urban Regions” are high growth regions with populations in excess of 1,000,000 people. An “Urban City” is a city with a population equal to or greater than 250,000. The Exurban area is the area outside of the Urban City. An “exurban community” can be located in either a (1) Rural Area or (2) a non-urban city or (3) an unincorporated area with an Urban Region. The Exurban allocation is a separate funding allocation and does not impact the Rural Allocation.
- Staff Does Not Recommend: Staff believes that the legislation as drafted, with urban and exurban combined with a slash, confirms that the Urban and Exurban allocations are combined – not two separate allocations. Therefore staff does not recommend that some regions have 3 pots as suggested by the Working Group. Furthermore, staff feels strongly that regional distribution issues are geographic – not contingent on characteristics of the development. Therefore, staff does not recommend that an Application’s designation be tied to number of units in the development to determine its allocation category. Staff recommends no changes.*
40. **QAP Addition Regarding Housing Sponsor Report.** The group recommends that the Threshold Criteria be updated to require that Applicants who have an ownership interest

in existing properties in the Department's inventory must have submitted the Housing Sponsor Report on all of those properties. They recommend that the reports must all be submitted within 90 days of the submission of the application, but that if it is not provided it should not trigger termination. *Staff Does Not Recommend: While the Working Group wanted this added as a submission requirement, they were not recommending that it trigger termination. However, the lack of any requirement being met can trigger termination. Staff recommends that this be considered further in the future and the impact of non-filing be clarified.*

II. DEPARTMENT RECOMMENDATIONS FROM STAFF – NOT WORKING GROUP RECOMMENDATIONS

This section outlines other substantive recommendations being made by staff that were not part of the Working Group's formal Recommendations or not summarized in the Working Group portion of this document. Less substantive issues, details of revisions, formatting adjustments, and streamlining are omitted, but are reflected in the draft QAP provided to the Board for the Board Meeting on August 19. References are to the numbered sections of the 2005 Draft QAP.

- 1. Tax Exempt Bond Developments and Non-HTC Applications – General Revisions.** Because several of the components of the QAP (eligibility, threshold, etc.) are used for 4% Tax Exempt Bond Applications, as well as HOME and Housing Trust Fund rental applications, revisions have been made throughout the Draft QAP, as applicable, to ensure that deadlines that were specific to the 9% application round now are clearer on how this applies to the other programs that may have different application submission deadlines.
- 2. §49.3(12) and §49.7(b)(2) – At-Risk Set Aside.** Revised both sections to clarify questions from 2004 and eliminate inconsistencies between these two sections.
- 3. §49.3(50) and §49.19 – Material Non-Compliance and Compliance Monitoring.** All references to Material Non-Compliance and Compliance Monitoring are now done by reference only and the citations refer to 10 TAC §60 which is the Portfolio Management and Compliance Rule. This rule will go out for comment, and be sent to the Governor for approval, with the QAP.
- 4. §49.3(61) – Definition of QAP** – The definition was revised to more clearly refer to §42 and to the sections of 2306 that describe the QAP.
- 5. §49.5(a)(7) and (8) – Ineligibility.** Clarification was added for the “Two Times the State Average” ineligibility item to notify applicants of exactly when the test is applied to their application for both 9% and 4% credits; and the deadline was added (April 1, 2005) for when the applicant must have obtained a resolution from the local government to gain the waiver on the “Two Times the State Average” and the “One Mile – Three Year” tests.
- 6. §49.5(b) – Disqualification and Debarment.** A new item was added as paragraph (2) that allows the Executive Director to disqualify an application if it is missing whole volumes, has excessive omissions or is so incomplete that it can not be reasonably reviewed. As with other items in this section, the Applicant has the opportunity to appeal this decision. Clarification was also added to this section to ensure that the language

regarding entities for which Material Non-Compliance are reviewed is consistent with the application Threshold (some revisions in this vein are also found at §49.9(e) of the Draft QAP). Also references to Material Non-Compliance is referred to the PMC rule. Clarification was made that ineligibility for outstanding bills from the Department is only after 30 days from the bill date (not immediately); this is to give them time to at least pay their bill. Finally, staff recommends deleting paragraph (3) because it was redundant and already stated in paragraph (a) of this section.

7. **§49.5(e) – Affidavit.** New language is being added regarding due diligence and a sworn affidavit.
8. **§49.6(d) – Credit Amount.** Clarification was added that indicates how Forward Commitments are applied to the \$2 million credit cap – the language being added is already our interpretation and how we have been applying it; however we are now recommending incorporation into the rule.
9. **§49.6(f) – One Mile – One Year Rule.** Clarification was added of how forward commitments fit into the one mile-one year evaluation – the language being added is already our interpretation and how we have been applying it; however we are now recommending incorporation into the rule. Also, consistent with §2306, staff recommends removing the tax credit applications associated with the Tax Exempt Bonds from being held to this test.
10. **§49.7(a) – Regional Allocation Formula.** Clarification on how forward commitments approved by the Board (for both the competitive 9% application round and the Rural Rescue developments) will be applied to/deducted from the set-asides and allocation areas for the following year. They are not just taken “off the top.” The language being added is already our interpretation and how we have been applying it; however we are now recommending incorporation into the rule.
11. **§49.8(c) and (d) – Pre-Application Evaluation Process and Review.** This section was revised to remove the clause regarding review for inclusive capture rate (applicants can still do this, but staff did not feel it was necessary to have the language in the QAP); revised as discussed earlier for Working Group recommendations; and language was added that indicates that staff will not do a comprehensive review of all eligibility issues at pre-application and therefore is not responsible to the applicant to let them know at that point in time if they have any problems with their application. Staff additionally is adding language to the Pre-Application Threshold Criteria that more clearly delineates the site control period for pre-applications and required submittals rather than referencing similar document requirements from the Application Threshold section of the QAP (this created many questions and confusion last year so staff is working to minimize applicant confusion in this area).
12. **§49.9(a) – Application Submission.** The language in this section was revised to be clearer about applications being fully ready for submission on intake day (this created confusion last year). Language was also added to clarify that unless asked by the Department in a deficiency notice, an applicant can not revise set-asides, credit amounts or unit mixes – some applicants attempted to give ‘extra’ changes that were not requested like this in response to deficiency notices.

- 13. §49.9(d) – Evaluation Process.** One of the most significant administrative processing changes that is being suggested is in this section. Historically, the Department has thoroughly reviewed applications first for threshold before reviewing for scoring. The Threshold review, at a minimum, involves a 4-5 hour review per person (on a well-packaged application) and is performed by two separate individuals; the scoring review generally involves only a 30 minutes to 1 hour review per person and is also performed by two separate individuals. Because of this older methodology, ultimately many Threshold Reviews are performed on applications that are non-competitive based on their score. Therefore, this section is being revised substantially to reflect a new proposed procedure: applications will first be reviewed for eligibility and scoring. Then, based on score, region and set-aside requirements “priority” applications will be defined – those will be the applications reviewed for threshold. Deficiencies will only be issued on threshold if they are reviewed. This proposal will streamline the review process significantly, minimize staff overtime during the cycle, reduce the time for “priority” applications to be forwarded for underwriting and minimize the time applicants spend on threshold deficiencies when they are noncompetitive. Within these revisions, staff also proposes shortening the deficiency period from ten days to seven days – a compromise to still give the applicants time while not unduly dragging out the processing of applications.
- 14. §49.9(e)(1) – Experience Certification.** Based on preliminary public input and from applicants participating in other rental programs, language was added that applicants applying for less than 36 units need only have 25 units of experience to obtain an experience certification. This may help to encourage new applicants interested in small developments in non-rural areas.
- 15. §49.9(f)(4) – Certifications.** In the 2004 QAP, applicants were required to do a minimum threshold of Common Amenities that were described in the Selection Criteria section of the QAP. To emphasize that these are threshold, this section has been “pasted”, with several Working Group revisions, into the Threshold category. This also makes the requirement for these items more clear to the 4% applicants that must meet this threshold, but because they do not have to be scored so were often confused (staff is recommending that no selection criteria points can be awarded for this in 2005). Other minimal clarifications were also made throughout this section and a federal initiative was addressed by adding that all units must have technological capacity for high speed internet as recommended by One Economy, a nonprofit entity working to enhance technological advances in low income households. The certification regarding energy efficiency has been dramatically streamlined and now only requires that the applicant meet the 2003 International Energy Conservation Code – the QAP no longer provides the detailed specifications of what this should or should not entail. It was also clarified that local codes should be met, and only in the instance of no local codes, should the International Building Code be used. Additional clarification was added regarding design standards that must be met and that the 504 requirement for townhomes that requires 20% of the units having a downstairs bedroom is only for new construction.
- 16. §49.9(f)(5) – Design Items.** Minimal revisions to reduce unnecessary documentation submissions.

17. **§49.9(f)(6) – Cost Information.** Clarified that the Property Condition Assessment required for rehabilitation developments can be submitted at the same time as other third party reports.
18. **§49.9(f)(7) – Readiness to Proceed.** Staff recommends that site control language be clarified based on some applicant confusion in the 2004 cycle and also clarifies that site control must be continuous. Staff also strongly recommends, after the many fluctuations from the 2004 cycle, that the requirement for zoning approval from the Planning and Zoning Commission that was due on April 1 be removed entirely. Staff does recommend retaining the requirement that the Applicant have full zoning approved by council at the time of Commitment. Finally, staff revised this section to enhance consistency with other revisions being suggested elsewhere in the QAP.
19. **§49.9(f)(8) – Notifications.** As described earlier regarding the Working Group recommendation, staff recommends deleting the newspaper advertisement requirement. In addition to those items referred to with the Working Group recommendation, staff also added circumstances for which re-notification would be required for an Applicant who had already notified at Pre-Application and revised the public notice posting in rehabilitation developments – paragraph (D) – to be a certification that tenants have been notified.
20. **§49.9(f)(9) – Ownership Structure.** References relating to previous participation and the gathering of that information was revised to be consistent with other similarly themed revisions elsewhere in the QAP. Additionally, to streamline application submissions, only very limited organizational evidence is required at application – this requirement was moved to §49.13(c) and is due at the time of commitment.
21. **§49.9(f)(12) – Acquisition Threshold.** Clarified that an appraisal is only needed for applicants affiliated with the seller if they are requesting a land value greater than the amount shown in the purchase contract.
22. **§49.9(f)(15) – Consistency with the Consolidated Plan.** As noted earlier, staff is recommending that the scoring item that gave points for having consistency with the consolidated plan be moved to threshold.
23. **§49.9(g) – Selection Criteria.** The entire Selection Criteria section for scoring has been substantially overhauled. Most importantly, staff is recommending that only those scoring items that are tied directly to legislative mandates (either Chapter 2306 of Texas Government Code or Section 42, Internal Revenue Code) are being retained. All other scoring items are being recommended for removal. Additionally, substantial revisions were made to continue to meet the requirements of SB264 and a maximum score of 200 points was established.

To comprehensively make formatting, text location and order changes, deletions and additions, the language for the entire section (g) has been deleted and an entire new section (g) has been inserted. While some language from some scoring items may have remained the same, it is reflected in this text as being “new” text. This methodology facilitates a clean review of the new section and enabled staff to have a “clean slate” in drafting this section. However, because this makes it more challenging to look at a before and after snapshot of the changes, staff is providing the attached table which

reflects briefly those major changes as a before and after. Minor revisions are not reflected here.

Staff would like to note that there are several new scoring items that have been added to ensure all legislative requirements are being satisfied. These include:

- ³ Points for developments located in Qualified Census Tract that contribute to revitalization (selection item #17);
- ³ Points for affirmatively furthering fair housing (selection item #13);
- ³ Points for Leveraging. This item has now been split into three different sections. One item gives points for anticipated commitments of local development funding (selection item #5), one item gives points for anticipated commitments of state, private or federal funding (selection item #23), and one item gives points for actually having a firm commitment of funds from a third-party source and in which the development is located outside of a Qualified Census Tract (selection item #24);
- ³ Points for Working with the Public Housing Authorities waiting list;
- ³ The significant change on Sponsor Characteristics from HUB points to CHDO points.

There are several deletions from the selection criteria that include:

- ³ Site Amenities;
- ³ Negative Site Features;
- ³ Consistency with the Consolidated Plan (moved to Threshold);
- ³ Hosting a Public Meeting;
- ³ Common Amenities (moved to Threshold); and
- ³ Small Developments.

24. **§49.9(h) – Tie Breakers.** Staff recommends removing the tie breakers that all applications historically have all achieved (which made them ineffective as tie breakers). The tie breakers that everyone achieved were the level of amenities being provided. The section was revised to also have the tie breaker for QCT be the first tie breaker, ahead of credits per Net Rentable Area.

25. **§49.10 – Board Decisions, Forward Commitments.** The discretionary items were revised to more thoroughly track with the language in 2306.0661 regarding topics for public hearings and the inclusive capture rate was added as a discretionary item. Language was added that would authorize all forward commitments that would normally be required to be consistent with the 2005 QAP to be deemed as meeting that QAP if it satisfied the requirements of the 2004 QAP except for any statutorily required QAP changes. If this is added the issue of forward commitments always having to revise their applications will be ameliorated. Staff also clarified that developments getting forward commitments are under the timeline for applications under the following year, not the year of the award; the language being added is already our interpretation and how we have been applying it; however we are now recommending incorporation into the rule.

26. **§49.12 – Tax Exempt Bond Developments.** This section is proposed to remove the requirement that the applicant demonstrate consistency with the bond issuer's consolidated plan – but retains the requirement for consistency with the local municipality's consolidated plan. This was confusing and often difficult to get even

though the application was consistent with the local government. Clarification was also added explaining how the Department determines which QAP is applicable for a given bond application. The language being added is already our interpretation and how we have been applying it; however we are now recommending incorporation into the rule.

- 27. §49.13 – Commitment Notices.** The QAP currently indicates that a Commitment Notice will not be issued for any Development that violates the inclusive capture rate calculation as determined by Real Estate Analysis. Staff proposes removing this restriction from the QAP. The inclusive capture rate was created prior to the implementation of the one mile rules. While staff feels the inclusive capture rate should still be calculated by the Real Estate Analysis Division and may be taken into consideration in making a recommendation to the Board, it should not be utilized solely to deny an award of credits. Language was also moved to this section from other sections regarding documentation submission requirements at commitment, which include IRS Form 8821 which was originally placed under the Carryover section of the QAP (now only to be required for Tax Exempt Bond Developments once per year) and organizational documents originally due at application.
- 28. 49.15 – Closing of the Construction Loan, Commencement of Substantial Construction.** Staff recommends that section (a) Closing of the Construction Loan be deleted from the QAP which means the Department would no longer require the submission of documentation for the closing of the construction loan. Section (b) Commencement of Substantial Construction will be moved to Section 49.14(c). The Commencement of Substantial Construction along with the progress of plan reviews and inspections will be sufficient for the Department to gather progress information throughout the construction stage. This requirement remains important in gauging the progress of the applicants in moving toward the IRS deadline for placement in service. The removal of Section (a) Closing of the Construction Loan is no longer required to track progress and will reduce administrative processing and streamline the QAP. If the Board chooses not to delete section (a), staff alternatively recommends that the requirements associated with the Closing of Construction Loan deadline be rolled into the 10% Test which occurs in June of the year following the allocation.
- 28. §49.17(e) – Issuance of IRS Form 8609.** Clarified that 8609 forms will not be issued for developments that violate application representations, particularly fair housing violations and local building code standards.
- 29. §49.18(d) – Transfers.** Language revised to indicate that transfers will not be approved if they are requested prior to issuance of IRS 8609 forms unless there is evidence of a hardship; to describe how the credit cap is considered in transfers; and to remove language regarding partner removals that have been concerning investors.
- 30. §49.21 – Fees.** The Pre-Application, Application and Commitment Fees are being increased to accommodate increasing administrative costs of operating the tax credit program based on increased legislative requirements and rules. The Pre-Application fee is increased from \$5 per Unit to \$10 per Unit, the Application fee is increased from \$20 per Unit to \$30 per Unit, and the Commitment/Determination Fee was increased from 4% to 5% of the annual Housing Credit Allocation amount. Additionally, one new fee was created called the Tax Exempt Bond Credit Increase Request Fee. This would be a fee charged to applicants on Tax Exempt bond developments that are requesting credit

amount increases at the time of Cost Certification. The fee in this case is to cover the cost of the additional review demands.

Scoring Breakdown in Descending Order of Points for the Draft 2005 QAP

QAP Para.#	Topic	Total Points	Notes	Legislative Citation - Compare to QAP
1	Financial Feasibility	28	NA	2306.6710(b)(1)
2	QCP from Neighborhood Organizations	24	Range of 0 to 24 with 12 being neutral	2306.6710(b)(1); 2306.6725(a)(2)
3	Income Levels of the Tenants	22	NA	2306.6710(b)(1); 2306.111(g)(3)(B); 2306.6710(e); 42(m)(1)(B)(ii)(l)
4	Size and Quality of the Units	20	6 point max for size; 14 point max amenities	2306.6710(b)(1); 42(m)(1)(C)(iii); 2306.6725(b)(1)
5	Commitment of Local Development Funding	18	NA	2306.6710(b)(1)
6	State Elected Official Support/Opposition	14	Range of +14 to -14	2306.6710(b)(1); 2306.6725(a)(2)
7	Rent Levels of the Units	12	NA	2306.6710(b)(1)
8	Cost Per Square Foot	10	NA	2306.6710(b)(1); 42(m)(1)(C)(iii)
9	Supportive Services for Tenants	8	NA	2306.6710(b)(1); 2306.254; 2306.6725(a)(1); Rider 6
10	Pre-Application	6	NA	2306.6704
11	Housing Needs Score	6	NA	42(m)(1)(c)(ii)
12	Mixed Income	6	NA	2306.111(g)(3)(E)
13	Affirmatively Furthering Fair Housing	4	NA	42 U.S.C. §3608(d)
14	Development Location	4	NA	2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(c)(i)
15	Special Housing Needs Populations - Transitional	4	NA	42(m)(1)(c)(v)
16	Length of Affordability	4	NA	2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1); 2306.6710(e)(2); 42(m)(1)(B)(ii)(ll)
17	Location in QCT with Revitalization	2	NA	42(m)(1)(B)(ii)(lll)
18	Sponsor Characteristics - CHDO	2	NA	42(m)(1)(C)(iv)
19	Preservation with Revitalization	1	NA	42(m)(1)(C)(iii)
20	PHA Waiting Lists	1	NA	42(m)(1)(C)(vi)
21	Pop. with Children	1	NA	42(m)(1)(C)(vii)
22	Intended for Homeownership / ROFR	1	NA	2306.6725(b)(1); 42(m)(1)(C)(viii)
23	Leveraging of State, Federal and Private	1	NA	2306.6725(a)(3)
24	Third Party Commitment Outside of QCT	1	NA	2306.6710(e)(1)
25	Penalties	NA	Range	2306.6710(b)(2)

Maximum Number of Points 200

**COMPARISION CHART OF 2004 QAP SELECTION CRITERIA TO 2005 QAP SELECTION CRITERIA
In Order by 2004 QAP Section References**

2004 Category	2004* Citation	2005 Citation	2004* Points	2005 Points	Major Revisions
Financial Feasibility	(g)(1)	(g)(1)	28	28	Minimal clarifications to simplify the submission letter and pro forma requirements. Change made to language regarding the USDA form that is acceptable.
QCP	(g)(2)	(g)(2)	24	24	Substantially revised this section to be clearer for applicants and neighborhoods on what organizations qualify and the submission requirements. Revised score structure from +12 to 0 to -12 to 24 (+12 as neutral point and 0 as maximum opposition).
Development Location	(g)(3)	(g)(14)	5 and 10	4	Reduced points, deleted Exurban points, and added an item for serving families and being in a tract outside of a poverty area.
Site Amenities	(g)(4)(A)	NA	5	0	Removed – Not Legislated so Not Included.
Negative Site Features	(g)(4)(B)	NA	-5	0	Removed – Not Legislated so Not Included.
Housing Needs Score	(g)(5)	(g)(11)	7	6	Only clarified appropriate census language so data is more readily available and reduced score.
Consistency with Consolidated Plan	(g)(6)(A)	NA	3	0	Removed – Not Legislated so Not Included. Was moved to Threshold.
Public Meeting	(g)(6)(B)	NA	6	0	Removed – Not Legislated so Not Included.
Letters from State Officials	(g)(6)(C)	(g)(6)	6	14	Removed reference to local officials, removed reference to AG Opinion, increased points. Adjusted submission deadline.
Unit Size Minimums	(g)(7)(A)	(g)(4)(A)	0	6	Was a threshold to be eligible for several other scoring items. Now a scoring item. Added 4-BR minimums.
Cost per SF	(g)(7)(B)	(g)(8)	9	10	Adjusted score and clarified language relating to Transitional Housing units for the calculation.
Quality of Units	(g)(7)(C)	(g)(4)(B)	12	14	Adjusted score, made minimal revisions to list of items based on input.
Common Amenities	(g)(7)(D)	NA	6	0	Moved to threshold. No additional points available. Removed – Not Legislated so Not Included.

2004 Category	2004* Citation	2005 Citation	2004* Points	2005 Points	Major Revisions
Preservation with Revitalization	(g)(7)(E)	(g)(19)	4	1	Reduced points.
Mixed Income	(g)(7)(F)	(g)(12)	7	6	Reduced points minimally.
Small Developments	(g)(7)(G)	NA	5	0	Removed – Not Legislated so Not Included.
Sponsor Charac. (HUB)	(g)(8)	(g)(18)	3	2	HUB points were deleted because of recent court decisions. To satisfy the §42 requirement for Sponsor Characteristics a new item has been added that give points for developments having a Community Housing Development Organization (CHDO) as the controlling member.
PHA Waiting List	Threshold	(g)(20)	0	1	Added for Legislative Requirement.
Affirmatively Furthering Fair Housing	NA	(g)(13)	0	4	Added for Legislative Requirement.
Tenants with Children	(g)(9)	(g)(21)	1	1	Allows 2 BR units but increased percentage needed.
Tenant Services	(g)(10)	(g)(9)	8	8	Minimal revisions adding a service reference and deleting services that staff considered to be amenities more than services.
Special Housing Needs / Transitional	(g)(11)	(g)(15)	7	4	Reduced the number of points and returned to requiring that all units must be transitional based on public input and internal input from Compliance division.
Low Income Targeting	(g)(12) and (13)	(g)(3)	20	22	All items combined into one section. Streamlined and revised consistent with proposed language from the Working Group with some adjustments by staff.
Rent Levels	(g)(13)(D)	(g)(7)	10	12	Points increased. Item totally revised and separated from low income targeting.
Leveraging	(g)(14)	(g)(5)	14	18	Revised so only for local political subdivision funding and must have evidence at time of commitment instead of prior to the June Board meeting. Also adding two separate items as criteria 23 and 24.
Length of Affordability	(g)(15)	(g)(16)	6	4	Points reduced.

2004 Category	2004* Citation	2005 Citation	2004* Points	2005 Points	Major Revisions
Right of First Refusal	(g)(16)	(g)(22)	5	1	Points reduced.
Pre-Application	(g)(17)	(g)(10)	7	6	Clarifications regarding how score and eligibility.
Leveraging for Private, State and Federal	NA	(g)(23)	0	1	Added for Legislative Requirement. Proposal is to have leveraging that is at least 2% of total development costs.
Point Reductions	(g)(18)	(g)(25)	NA	NA	Revised to remove penalty reductions for loan closing. Also did Working Group revisions.
Location in a QCT With Revitalization	NA	(g)(17)	NA	2	Added to balance with the points in (g)(24)
Third Party Commitment Outside a QCT	NA	(g)(24)	NA	1	Added for Legislative Requirement.

*2004 Refers to the 2004 Emergency QAP



Multifamily Finance Production Division

2005 Housing Tax Credit Program
 DRAFT Qualified Allocation Plan and Rules - For Board Approval

§50.49.1. PURPOSE, PROGRAM STATEMENT, ALLOCATION GOALS. 2222

§50.49.2. COORDINATION WITH RURAL AGENCIES. 2222

§50.49.3. DEFINITIONS. 2222

§50.49.4. STATE HOUSING CREDIT CEILING. 101099

§50.49.5. INELIGIBILITY, DISQUALIFICATION AND DEBARMENT, APPLICANT STANDARDS, REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON. 1010109

§50.49.6. SITE AND DEVELOPMENT RESTRICTIONS: FLOODPLAIN, INELIGIBLE BUILDING TYPES, SCATTERED SITE LIMITATIONS, CREDIT AMOUNT, LIMITATIONS ON THE SIZE OF DEVELOPMENTS, REHABILITATION COSTS. 13131312

§50.49.7. REGIONAL ALLOCATION FORMULA, SET-ASIDES, REDISTRIBUTION OF CREDITS. 14141413

§50.49.8. PRE-APPLICATION: SUBMISSION, EVALUATION PROCESS, THRESHOLD CRITERIA AND REVIEW, RESULTS. 15151514

§50.49.9. APPLICATION: SUBMISSION, ADHERENCE TO OBLIGATIONS, EVALUATION PROCESS, REQUIRED PRE-CERTIFICATION AND ACKNOWLEDGEMENT, THRESHOLD CRITERIA, SELECTION CRITERIA, EVALUATION FACTORS, STAFF RECOMMENDATIONS. 17171715

§50.49.10 BOARD DECISIONS; WAITING LIST; FORWARD COMMITMENTS 53525039

§50.49.11. REQUIRED APPLICATION NOTIFICATIONS, RECEIPT OF PUBLIC COMMENT, AND MEETINGS WITH APPLICANTS; VIEWING OF PRE-APPLICATIONS AND APPLICATIONS; CONFIDENTIAL INFORMATION. 55535240

§50.49.12. TAX EXEMPT BOND DEVELOPMENTS: FILING OF APPLICATIONS, APPLICABILITY OF RULES, SUPPORTIVE SERVICES, FINANCIAL FEASIBILITY EVALUATION, SATISFACTION OF REQUIREMENTS. 56555342

§50.49.13 COMMITMENT AND DETERMINATION NOTICES; AGREEMENT AND ELECTION STATEMENT. 58565543

§50.49.14. CARRYOVER, 10% TEST. 59585644

§50.49.15. CLOSING OF THE CONSTRUCTION LOAN, COMMENCEMENT OF SUBSTANTIAL CONSTRUCTION. 60595745

§50.49.16. COST CERTIFICATION, LURA. 61595845

§50.49.17. HOUSING CREDIT ALLOCATIONS. 61605846

§50.49.18 BOARD REEVALUATION, APPEALS; AMENDMENTS, HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS, SALE OF TAX CREDIT PROPERTIES, WITHDRAWALS, CANCELLATIONS. 63626048

§50.49.19. COMPLIANCE MONITORING AND MATERIAL NON-COMPLIANCE. 63646350

§50.49.20. DEPARTMENT RECORDS, APPLICATION LOG, IRS FILINGS. 63676653

§50.49.21. PROGRAM FEES, REFUNDS, PUBLIC INFORMATION REQUESTS, AMENDMENTS OF FEES AND NOTIFICATION OF FEES, EXTENSIONS. 63686754

§50.49.22. MANNER AND PLACE OF FILING ALL REQUIRED DOCUMENTATION. 63706855

§50.49.23. WAIVER AND AMENDMENT OF RULES. 63706956

§50.49.24. DEADLINES FOR ALLOCATION OF HOUSING TAX CREDITS. 63706956

§50.49.1. Purpose, Program Statement, Allocation Goals.

(a) **Purpose.** The Rules in this chapter apply to the allocation by the Texas Department of Housing and Community Affairs (the Department) of Housing Tax Credits authorized by applicable federal income tax laws. The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low income rental housing Developments. That section provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Executive Order AWR-92-3 (March 4, 1992), the Department was authorized to make Housing Credit Allocations for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed this Qualified Allocation Plan (QAP) which is set forth in ~~§§50.49.1~~ through ~~50.49.2324~~ of this title. Sections in this chapter establish procedures for applying for and obtaining an allocation of Housing Tax Credits, along with ensuring that the proper threshold criteria, selection criteria, priorities and preferences are followed in making such allocations.

(b) **Program Statement.** The Department shall administer the program to encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, accessible, affordable rental housing in the private marketplace; maximize the number of suitable, accessible, affordable residential rental units added to the state's housing supply; prevent losses for any reason to the state's supply of suitable, accessible, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support; and provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development and operation of accessible affordable housing developments in rural and urban communities. [2306.6701]

(c) **Allocation Goals.** It shall be the goal of this Department and the Board, through these provisions, to encourage diversity through broad geographic allocation of tax credits within the state, and in accordance with the regional allocation formula, and to promote maximum utilization of the available tax credit amount. The processes and criteria utilized to realize this goal are described in ~~§§50.49.8~~ and ~~50.49.9~~ of this title, without in any way limiting the effect or applicability of all other provisions of this title.

§50.49.2. Coordination with Rural Agencies.

To assure maximum utilization and optimum geographic distribution of tax credits in rural areas, and to achieve increased sharing of information, reduction of processing procedures, and fulfillment of Development compliance requirements in rural areas, the Department has entered into a Memorandum of Understanding (MOU) with the TX-USDA-RHS to coordinate on existing, rehabilitated, and new construction housing Developments financed by TX-USDA-RHS; and will jointly administer the Rural Regional Allocation with the Texas Office of Rural Community Affairs (ORCA). ORCA will assist in developing all Threshold, Selection and Underwriting Criteria applied to Applications eligible for the Rural Regional Allocation. The Criteria will be approved by that Agency. To ensure that the Rural Regional Allocation receives a sufficient volume of eligible Applications, the Department and ORCA shall jointly implement outreach, training, and rural area capacity building efforts. [2306.6723]

§50.49.3. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Administrative Deficiencies** - The absence of information or a document from the Application which is important to a review and scoring of the Application ~~as~~ and is required under ~~§§50.49.8(d)~~ and ~~50.49.9(e), (f)~~ and (g) of this title.

(2) **Affiliate** - An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all General Partners, Special Limited Partners and Principals with at least a 10% ownership interest.

(3) **Agreement and Election Statement** - A document in which the Development Owner elects, irrevocably, to fix the Applicable Percentage with respect to a building or buildings, as that in effect for the month in which the Department and the Development Owner enter into a binding agreement as to the housing credit dollar amount to be allocated to such building or buildings.

(4) **Applicable Fraction** - The fraction used to determine the Qualified Basis of the qualified low income building, which is the smaller of the Unit fraction or the floor space fraction, all determined as provided in the Code, §42(c)(1).

(5) **Applicable Percentage** - The percentage used to determine the amount of the Housing Tax Credit, as defined more fully in the Code, §42(b).

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(A) For purposes of the Application, the Applicable Percentage will be projected at 10 basis points above the greater of:

(i) the current applicable percentage for the month in which the Application is submitted to the Department, or

(ii) the trailing 1-year, 2-year or 3-year average rate in effect during the month in which the Application is submitted to the Department.

(B) For purposes of making a credit recommendation at any other time, the Applicable Percentage will be based in order of priority on:

(i) The percentage indicated in the Agreement and Election Statement, if executed; or

(ii) The actual applicable percentage as determined by the Code, §42(b), if all or part of the Development has been placed in service and for any buildings not placed in service the percentage will be the actual percentage as determined by Code, §42(b) for the most current month; or

(iii) The percentage as calculated in subparagraph (A) of this paragraph if the Agreement and Election Statement has not been executed and no buildings have been placed in service.

(6) **Applicant** - Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting a Housing Credit Allocation. [2306.6702]

(7) **Application** - An application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material. [2306.6702]

(8) **Application Acceptance Period** - That period of time during which Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department as more fully described in §§~~50-49.9(a)~~ and ~~50-49.2122~~ of this title. For Tax Exempt Bond Developments this period is that period of time prior to the deadline stated in §~~50-49.12~~ of this title.

(9) **Application Round** - The period beginning on the date the Department begins accepting Applications for the State Housing Credit Ceiling and continuing until all available Housing Tax Credits from the State Housing Credit Ceiling (as stipulated by the Department) are allocated, but not extending past the last day of the calendar year. [2306.6702]

(10) **Application Submission Procedures Manual** - The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for the filing of Pre-Applications and Applications for Housing Tax Credits.

(11) **Area Median Gross Income (AMGI)** - Area median gross household income, as determined for all purposes under and in accordance with the requirements of the Code, §42.

(12) **At-Risk Development** - a Development that:

(A) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, ~~equity incentive~~, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under the following federal laws, as applicable:

(i) Sections 221(d)(3), (4) and (5), National Housing Act (12 U.S.C. Section 171514);

(ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(v) any project-based assistance authority pursuant to Section 8 of the U.S. Housing Act of 1937;

(vi) Sections 514, 515, 516, and 538 Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); and

(vii) Section 42, of the Internal Revenue Code of 1986 (26 U.S.C. Section 42), and

(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration (expiration will occur within two calendar years of July 31 of the year the Application is submitted); or

(ii) the federally insured mortgage on the Development is eligible for prepayment or is nearing the end of its mortgage term (the term will end within two calendar years of July 31 of the year the Application is submitted).

(C) An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in subparagraph (A) of this paragraph will not qualify as an At-Risk Development unless the redevelopment will include the same site, except that a Housing Authority proposing reconstruction of public housing, supplemented with HOPE VI funding or funding from their capital grant fund, will be qualified as an At-Risk Development if it meets the requirements described in §~~50-49.7(b)(2)(3)~~ of this title. ~~Redevelopment of any type must include the same site as the original development to qualify in this set-aside.~~

(D) With the exception of Housing Authorities proposing reconstruction of public housing, supplemented with HOPE VI funding or funding from their capital grant fund, Developments must be at risk of

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

losing all affordability on the site. However, Developments that have an opportunity to retain or renew any of the financial benefit described in subparagraph (A) of this paragraph must retain or renew all possible financial benefit to qualify as an At-Risk Development. [2306.6702]

(13) **Bedroom** - A portion of a Unit set aside for sleeping which is no less than 100 square feet; has no width or length less than 8 feet; has at least one window that provides exterior access; and has at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to accommodate 5 feet of hanging space.

(14) **Board** - The governing Board of the Department. [2306.004]

(15) **Carryover Allocation** - An allocation of current year tax credit authority by the Department pursuant to the provisions of the Code, §42(h)(1)(E) and Treasury Regulations, §1.42-6.

(16) **Carryover Allocation Document** - A document issued by the Department, and executed by the Development Owner, pursuant to ~~§50.49.14~~ of this title.

(17) **Carryover Allocation Procedures Manual** - The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for filing Carryover Allocation requests.

(18) **Code** - The Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the United States Department of the Treasury or the Internal Revenue Service.

(19) **Colonia** - A geographic area located in a county some part of which is within 150 miles of the international border of this state and that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the Texas Water Development Board.

(20) **Commitment Notice** - A notice issued by the Department to a Development Owner pursuant to ~~§50.49.13~~ of this title and also referred to as the "commitment."

(21) **Compliance Period** - With respect to a building, the period of 15 taxable years, beginning with the first taxable year of the Credit Period pursuant to the Code, §42(i)(1), unless the LURA has been extended consistent with §49.9(g)(16).

(22) **Control** - (including the terms "Controlling," "Controlled by", and/or "under common Control with") the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50% of the General Partner interest in a limited partnership, or designation as a managing General Partner of a limited liability company.

(23) **Cost Certification Procedures Manual** - The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for filing requests for IRS Form(s) 8609 for Developments placed in service under the Housing Tax Credit Program.

(24) **Credit Period** - With respect to a building within a Development, the period of ten taxable years beginning with the taxable year the building is placed in service or, at the election of the Development Owner, the succeeding taxable year, as more fully defined in the Code, §42(f)(1).

(25) **Department** - The Texas Department of Housing and Community Affairs, an agency of the State of Texas, established by Chapter 2306, Texas Government Code, including Department employees and/or the Board. [2306.004]

(26) **Determination Notice** - A notice issued by the Department to the Development Owner of a Tax Exempt Bond Development which states that the Development may be eligible to claim Housing Tax Credits without receiving an allocation of Housing Tax Credits from the State Housing Credit Ceiling because it satisfies the requirements of this QAP; sets forth conditions which must be met by the Development before the Department will issue the IRS Form(s) 8609 to the Development Owner; and specifies the Department's determination as to the amount of tax credits necessary for the financial feasibility of the Development and its viability as a rent restricted Development throughout the affordability period.

(27) **Developer** - Any Person entering into a contract with the Development Owner to provide development services with respect to the Development and receiving a fee for such services (which fee cannot exceed 15% of the Eligible Basis) and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

(28) **Development** - A proposed qualified low income housing project, for new construction or rehabilitation, as defined by the Code, §42(g), that consists of one or more buildings containing multiple Units, and that, if the Development shall consist of multiple buildings, is financed under a common plan and is owned by the same Person for federal tax purposes, and the buildings of which are either:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(A) located on a single site or contiguous site; or

(B) located on scattered sites and contain only rent-restricted units. [2306.6702]

(29) **Development Consultant** - Any Person (with or without ownership interest in the Development) who provides professional services relating to the filing of an Application, Carryover Allocation Document, and/or cost certification documents.

(30) **Development Owner** - Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire Control of a Development under a purchase contract approved by the Department. [2306.6702]

(31) **Development Team** - All Persons or Affiliates thereof that play a role in the development, construction, rehabilitation, management and/or continuing operation of the subject Property, which will include any Development Consultant and Guarantor.

(32) **Economically Distressed Area** - Consistent with §17.921 of Texas Water Code, an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by Texas Water Development Board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 1989, as determined by the Texas Water Development Board.

(33) **Eligible Basis** - With respect to a building within a Development, the building's Eligible Basis as defined in the Code, §42(d).

(34) **Executive Award and Review Advisory Committee ("The Committee")** - A Departmental committee that will make funding and commitment recommendations to the Board based upon the evaluation of an Application in accordance with the housing priorities as set forth in Chapter 2306 of the Texas Government Code, and as set forth herein, and the ability of an Applicant to meet those priorities. [2306.6702]

(35) **Extended Housing Commitment** - An agreement between the Department, the Development Owner and all successors in interest to the Development Owner concerning the extended housing use of buildings within the Development throughout the extended use period as provided in the Code, §42(h)(6). The Extended Housing Commitment with respect to a Development is expressed in the LURA applicable to the Development.

(36) **General Contractor** - One who contracts for the construction or rehabilitation of an entire Development, rather than a portion of the work. The General Contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. This party may also be referred to as the "contractor."

(37) **General Partner** - That partner, or collective of partners, identified as the general partner of the partnership that is the Development Owner and that has general liability for the partnership. In addition, unless the context shall clearly indicate the contrary, if the Development Owner in question is a limited liability company, the term "General Partner" shall also mean the managing member or other party with management responsibility for the limited liability company.

(38) **Governmental Entity** - Includes federal or state agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts and other similar entities.

(39) **Guarantor** - Means any Person that provides, or is anticipated to provide, a guaranty for the equity or debt financing for the Development.

(40) **Historic Development** - A residential Development that has received a historic property designation by a federal, state or local government entity.

(41) **Historically Underutilized Businesses (HUB)** - Any entity defined as a historically underutilized business with its principal place of business in the State of Texas in accordance with Chapter 2161, Texas Government Code.

(42) **Housing Credit Agency** - A Governmental Entity charged with the responsibility of allocating Housing Tax Credits pursuant to the Code, §42. For the purposes of this title, the Department is the sole "Housing Credit Agency" of the State of Texas.

(43) **Housing Credit Allocation** - An allocation by the Department to a Development Owner of Housing Tax Credit in accordance with the provisions of this title.

(44) **Housing Credit Allocation Amount** - With respect to a Development or a building within a Development, that amount the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the affordability period and which it allocates to the Development.

(45) **Housing Tax Credit ("tax credits")** - A tax credit allocated, or for which a Development may qualify, under the Housing Tax Credit Program, pursuant to the Code, §42. [2306.6702]

(46) **HUD** - The United States Department of Housing and Urban Development, or its successor.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(47) **Ineligible Building Types** - Those Developments which are ineligible, pursuant to this QAP, for funding under the Housing Tax Credit Program, as follows:

(A) Hospitals, nursing homes, trailer parks, dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §§42(i)(3)(B)(iii) and (iv)) are not eligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible for Housing Tax Credits if the Development involves the conversion of the building to a non-transient multifamily residential development.

(B) Any Qualified Elderly Development of two stories or more that does not include elevator service for any Units or living space above the first floor.

(C) Any Qualified Elderly Development with any Units having more than two bedrooms.

(D) Any Development with building(s) with four or more stories that does not include an elevator.

~~(E) Any Development proposing new construction, other than a Development (new construction or rehabilitation) composed entirely of single family dwellings, having any Units with four or more bedrooms.~~

~~(F) Any Development that violates the Integrated Housing Policy of the Department.~~

~~(G) Any Development involving new construction (other than a Qualified Elderly Development, a single family development or a transitional housing development) in which any of the designs in clauses (i) through (iii) of this subparagraph are proposed. For purposes of this limitation, a den, study or other similar space that could reasonably function as a bedroom will be considered a bedroom.~~

~~(i) more than 60% of the total Units are one bedroom Units; or~~

~~(ii) more than 45% of the total Units are two bedroom Units; or~~

~~(iii) more than 35% of the total Units are three bedroom Units.~~

(48) **IRS** - The Internal Revenue Service, or its successor.

(49) **Land Use Restriction Agreement (LURA)** - An agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of this chapter, Chapter 2306, Texas Government Code, and the requirements of the Code, §42. [2306.6702]

~~(50) **Material Non-Compliance** - As defined in 10 TAC Section 60.1. A property located within the state of Texas will be classified by the Department as being in material non-compliance status if the non-compliance score for such property is equal to or exceeds 30 points in accordance with the provisions of §50.5(b)(3) of this title and under the methodology and point system set forth in Chapter 60 of this title, to be proposed. A property located outside the state of Texas will be classified by the Department as being in Material Non-compliance status if the non-compliance score for such property is equal to or exceeds 30 points in accordance with the provisions of §50.5(b)(4) of this title and under the methodology and point system set forth in Chapter 60 of this title, to be proposed.~~

(51) **Minority Owned Business** - A business entity at least 51% of which is owned by members of a minority group or, in the case of a corporation, at least 51% of the shares of which are owned by members of a minority group, and that is managed and Controlled by members of a minority group in its daily operations. Minority group includes women, African Americans, American Indians, Asian Americans, and Mexican Americans and other Americans of Hispanic origin. [2306.6734]

(52) **ORCA** - Office of Rural Community Affairs, as established by Chapter 487 of Texas Government Code. [2306.6702]

(53) **Person** - Means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization or entity of any nature whatsoever and shall include any group of Persons acting in concert toward a common goal, including the individual members of the group.

(54) **Persons with Disabilities** - A person who:

(A) has a physical, mental or emotional impairment that:

(i) is expected to be of a long, continued and indefinite duration,

(ii) substantially impedes his or her ability to live independently, and

(iii) is of such a nature that the disability could be improved by more suitable housing conditions,

(B) has a developmental disability, as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. Section 15002), or

(C) has a disability, as defined in 24 CFR §5.403.

(55) **Pre-Application** - A preliminary application, in a form prescribed by the Department, filed with the Department by an Applicant prior to submission of the Application, including any required exhibits or other supporting material, as more fully described in §§~~50.49.8 and 50.49.2122~~ of this title.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(56) **Pre-Application Acceptance Period** - That period of time during which Pre-Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department.

(57) **Principal** - the term Principal is defined as Persons that will exercise Control over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) partnerships, Principals include all General Partners and Special LP and Principals with at least 10% ownership interest ;

(B) corporations, Principals include any officer authorized by the board of directors to act on behalf of the corporation, including the president, vice president, secretary, treasurer and all other executive officers, and each stock holder having a ten percent or more interest in the corporation; and

(C) limited liability companies, Principals include all managing members, members having a ten percent or more interest in the limited liability company or any officer authorized to act on behalf of the limited liability company.

(58) **Prison Community** - A city or town which is located outside of a Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA) and was awarded a state prison within the past five years.

(59) **Property** - The real estate and all improvements thereon which are the subject of the Application (including all items of personal property affixed or related thereto), whether currently existing or proposed to be built thereon in connection with the Application.

(60) Qualified Allocation Plan (QAP) -

(A) As defined in §42(m)(1)(B): Any plan which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions; which also gives preference in allocating housing credit dollar amounts among selected projects to projects serving the lowest income tenants, projects obligated to serve qualified tenants for the longest periods, and projects which are located in qualified census tracts and the development of which contributes to a concerted community revitalization plan; and which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of §42 and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(B) As defined in Section 2306.6702, Texas Government Code: a plan adopted by the board under this subchapter that provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions; provides a procedure for the department, the department's agent, or another private contractor of the department to use in monitoring compliance with the qualified allocation plan and this subchapter; and consistent with Section 2306.6710(e), gives preference in housing tax credit allocations to developments that, as compared to the other developments:

(i) when practicable and feasible based on documented, committed, and available third-party funding sources, serve the lowest income tenants per housing tax credit; and

(ii) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low income housing tax credit program.

~~(60) Qualified Allocation Plan (QAP) - [2306.6702] A plan adopted by the Board, and approved by the Governor, under this title, and as provided in the Code, § 42(m)(1) and as further provided in §§50.49.1 through 50.49.24 of this title, that:~~

~~(A) provides the threshold and scoring, and underwriting process based on housing priorities of the Department that are appropriate to local conditions; and~~

~~(B) consistent with 2306.6710(e), Texas Government Code, gives preference in Housing Credit Allocations to Developments that, as compared to other Developments:~~

~~(i) when practicable and feasible based on documented, committed, and available Third Party funding sources, serve the lowest income tenants per housing tax credit; and~~

~~(ii) produce for the longest economically feasible period the greatest number of high quality Units committed to remaining affordable to any tenants who are income-eligible under the Housing Tax Credit Program; and~~

~~(C) provides a procedure for the Department, the Department's agent, or private contractor of the Department to use in monitoring compliance with the Qualified Allocation Plan, notifying the IRS of noncompliance, and monitoring for noncompliance with habitability standards through regular site visits.~~

(61) **Qualified Basis** - With respect to a building within a Development, the building's Eligible Basis multiplied by the Applicable Fraction, within the meaning of the Code, §42(c)(1).

(62) **Qualified Census Tract** - Any census tract which is so designated by the Secretary of HUD in accordance with the Code, §42(d)(5)(C)(ii).

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(63) **Qualified Elderly Development** - A Development which meets the requirements of the federal Fair Housing Act and:

(A) is intended for, and solely occupied by, individuals 62 years of age or older; or

(B) is intended and operated for occupancy by at least one individual 55 years of age or older per Unit, where at least 80% of the total housing Units are occupied by at least one individual who is 55 years of age or older; and where the Development Owner publishes and adheres to policies and procedures which demonstrate an intent by the owner and manager to provide housing for individuals 55 years of age or older. (See 42 U.S.C. Section 3607(b)).

(64) **Qualified Market Analyst** - A real estate appraiser certified or licensed by the Texas Appraiser or Licensing and Certification Board or a real estate consultant or other professional currently active in the subject property's market area who demonstrates competency, expertise, and the ability to render a high quality written report. The individual's performance, experience, and educational background will provide the general basis for determining competency as a Market Analyst. Competency will be determined by the Department, in its sole discretion. The Qualified Market Analyst must be a Third Party.

(65) **Qualified Nonprofit Organization** - An organization that is described in the Code, §501(c)(3) or (4), as these cited provisions may be amended from time to time, that is exempt from federal income taxation under the Code, §501(a), that is not affiliated with or Controlled by a for profit organization, and includes as one of its exempt purposes the fostering of low income housing within the meaning of the Code, §42(h)(5)(C). A Qualified Nonprofit Organization may select to compete in one or more of the Set-Asides, including, but not limited to, the nonprofit Set-Aside, the At-Risk Development Set-Aside and the TX-USDA-RHS Allocation Set-Aside.

(66) **Qualified Nonprofit Development** - A Development in which a Qualified Nonprofit Organization (directly or through a partnership or wholly-owned subsidiary) holds a controlling interest, materially participates (within the meaning of the Code, §469(h), as it may be amended from time to time) in its development and operation throughout the Compliance Period, and otherwise meets the requirements of the Code, §42(h)(5). [2306.6729]

(67) **Reference Manual** - That certain manual, and any amendments thereto, produced by the Department which sets forth reference material pertaining to the Housing Tax Credit Program.

(68) **Related Party** - As defined,

(A) The following individuals or entities:

(i) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573, Texas Government Code;

(ii) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(iii) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(I) the total combined voting power of all classes of stock of each of the corporations that can vote;

(II) the total value of shares of all classes of stock of each of the corporations; or

(III) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(iv) a grantor and fiduciary of any trust;

(v) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(vi) a fiduciary of a trust and a beneficiary of the trust;

(vii) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(I) the trust; or

(II) a person who is a grantor of the trust;

(viii) a person or organization and an organization that is tax-exempt under the Code, §501(a), and that is controlled by that person or the person's family members or by that organization;

(ix) a corporation and a partnership or joint venture if the same persons own more than:

(I) 50 percent of the outstanding stock of the corporation; and

(II) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(x) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(xi) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(xii) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(xiii) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

Nothing in this definition is intended to constitute the Department's determination as to what relationship might cause entities to be considered "related" for various purposes under the Code.

(69) **Rules** - The Department's Housing Tax Credit Qualified Allocation Plan and Rules as presented in this title.

(70) **Rural Area** - An area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS. [2306.6702]

(71) **Rural Development** - A Development located within a Rural Area and for which the Applicant applies for tax credits under the Rural Regional Allocation.

(72) **Selection Criteria** - Criteria used to determine housing priorities of the State under the Housing Tax Credit Program as specifically defined in ~~§50-49.9~~(g) of this title.

(73) **Set-Aside** - A reservation of a portion of the available Housing Tax Credits to provide financial support for specific types of housing or geographic locations or serve specific types of Applicants as permitted by the Qualified Allocation Plan on a priority basis. [2306.6702]

(74) **State Housing Credit Ceiling** - The limitation imposed by the Code, §42(h), on the aggregate amount of Housing Credit Allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with the Code, §42(h)(3).

(75) **Student Eligibility** - Per the Code, §42(i)(3)(D), "A unit shall not fail to be treated as a low-income unit merely because it is occupied:

(A) by an individual who is:

(i) a student and receiving assistance under Title IV of the Social Security Act (42 U.S.C. §§ 601 et seq.), or

(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act (29 USCS §§ 1501 et seq., generally; for full classification, consult USCS Tables volumes) or under other similar Federal, State, or local laws, or

(B) entirely by full-time students if such students are:

(i) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

(ii) married and file a joint return."

(76) **Tax Exempt Bond Development** - A Development which receives a portion of its financing from the proceeds of tax exempt bonds which are subject to the state volume cap as described in the Code, §42(h)(4), such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.

(77) **Third Party** - A Third Party is a Person who is not an:

(A) Applicant, General Partner, Developer, or General Contractor, or

(B) an Affiliate or a Related Party to the Applicant, General Partner, Developer or General Contractor, or

(C) Person(s) receiving any portion of the contractor fee or developer fee.

(78) **Threshold Criteria** - Criteria used to determine whether the Development satisfies the minimum level of acceptability for consideration as specifically defined in ~~§50-49.9~~(f) of this title. [2306.6702]

(79) **Total Housing Development Cost** - The total of all costs incurred or to be incurred by the Development Owner in acquiring, constructing, rehabilitating and financing a Development, as determined by the Department based on the information contained in the Application. Such costs include reserves and any expenses attributable to commercial areas. Costs associated with the sale or use of Housing Tax Credits to raise equity capital shall also be included in the Total Housing Development Cost. Such costs include but are not limited to syndication and partnership organization costs and fees, filing fees, broker commissions, related attorney and accounting fees, appraisal, engineering, and the environmental site assessment.

(80) **TX-USDA-RHS** - The Rural Housing Services (RHS) of the United States Department of Agriculture (USDA) serving the State of Texas (formerly known as TxFmHA) or its successor.

(81) Unit - Any residential rental unit in a Development consisting of an accommodation including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation. [2306.6702]

~~§50.49.4.~~ State Housing Credit Ceiling.

The Department shall determine the State Housing Credit Ceiling for each calendar year as provided in the Code, §42(h)(3)(C), using such information and guidance as may be made available by the Internal Revenue Service. The Department shall publish each such determination in the *Texas Register* within 30 days after the receipt of such information as is required for that purpose by the Internal Revenue Service. The aggregate amount of commitments of Housing Credit Allocations made by the Department during any calendar year shall not exceed the State Housing Credit Ceiling for such year as provided in the Code, §42. Housing Credit Allocations made to Tax Exempt Bond Developments are not included in the State Housing Credit Ceiling.

~~§50.49.5.~~ Ineligibility, Disqualification and Debarment, Applicant Standards, Representation by Former Board Member or Other Person.

(a) **Ineligibility.** An Application will be ineligible if:

(1) The Applicant, Development Owner, Developer or Guarantor has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or,

(2) The Applicant, Development Owner, Developer or Guarantor has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentations of material facts, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline; or,

(3) The Applicant, Development Owner, Developer or Guarantor at the time of Application is: subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; is subject to a federal tax lien; or is the subject of an enforcement proceeding with any Governmental Entity; or

(4) The Applicant, Development Owner, Developer or Guarantor with any past due audits has not submitted those past due audits to the Department in a satisfactory format on or before the close of the Application Acceptance Period. A Person is not eligible to receive a commitment of Housing Tax Credits from the Department if any audit finding or questioned or disallowed cost is unresolved as of June 1 of each year, or for Tax Exempt Bond Developments is unresolved as of the date the Application is submitted; or

(5) [2306.6703—~~as amended~~] At the time of Application or at any time during the two-year period preceding the date the Application Round begins (or for Tax Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been:

(A) a member of the Board; or

(B) the Executive Director, a Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Portfolio Management and Compliance, the Director of Real Estate Analysis, or a manager over housing tax credits employed by the Department.

(6) [2306.6703] The Applicant proposes to replace in less than 15 years any private activity bond financing of the Development described by the Application, unless:

(A) the Applicant proposes to maintain for a period of 30 years or more 100 percent of the Development Units supported by Housing Tax Credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the Area Median Gross Income, adjusted for family size; and

(B) at least one-third of all the units in the Development are public housing units or Section 8 Development-based units; or,

(7) The Development is located in a municipality or, if located outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax Exempt Bond Developments at the time the reservation is made by the Texas Bond Review Board) unless the Applicant:

(A) has obtained prior approval of the Development from the governing body of the appropriate municipality or county containing the Development in the form of a resolution; and

(B) has included in the Application a written statement of support from that governing body referencing this rule and authorizing an allocation of housing tax credits for the Development;

(C) For purposes of this paragraph, evidence under subparagraphs (A) and (B) must be received by the Department no later than April 1, 2005 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be considered); or

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(8) The Applicant proposes to construct a new Development that is located one linear mile (measured by a straight line on a map) or less from a Development that:

(A) serves the same type of household as the new Development, regardless of whether the Developments serve families, elderly individuals, or another type of household;

(B) has received an allocation of Housing Tax Credits (including Tax Exempt Bond Developments) for new construction at any time during the three-year period preceding the date the application round begins (or for Tax Exempt Bond Developments the three-year period preceding the date the Volume I is submitted); and

(C) has not been withdrawn or terminated from the Housing Tax Credit Program.

(D) An Application is not ineligible under this paragraph if:

(i) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.); or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.); or

(ii) the Development is located in a county with a population of less than one million; or

(iii) the Development is located outside of a metropolitan statistical area; or

(iv) the local government where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under subparagraphs (A) through (C) of this paragraph. For purposes of this clause, evidence of the local government vote must be received by the Department no later than April 1, 2005 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). [2306.6703]

(E) In determining the age of an existing development as it relates to the application of the three-year period, the development will be considered from the date the Board took action on approving the allocation of tax credits. For example, a Development whose credits were approved by the Board on March 15, 2002, could not have a new Development located within one mile until March 16, 2005. In dealing with ties between two or more Developments as it relates to this rule, refer to ~~§50.49.9(h)~~.

(b) **Disqualification and Debarment.** The Department will disqualify an Application, and/or debar a Person (see 2306.6721, Texas Government Code), if it is determined by the Department that ~~any~~those issues identified in ~~the paragraphs (1) through (6)~~ of this subsection exist. The Department shall debar a Person for no shorter period than the longer of, one year from the date of debarment, or until the violation causing the debarment has been remedied. If the Department determines the facts warrant it, a Person may be debarred for up to fifteen years. Causes for disqualification and debarment include: [2306.6721]

(1) The provision of fraudulent information, knowingly false documentation, or other intentional or negligent material misrepresentation in the Application or other information submitted to the Department at any stage of the evaluation or approval process; or,

(2) The submission of an Application that has an entire Volume of the application missing; that has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or that is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department; or

~~(2) at the time of Application or at any time during the two-year period preceding the date the application round begins (or for Tax Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been:~~

~~(A) a member of the Board; or~~

~~(B) the executive director, the deputy executive director for programs, the deputy executive director for housing operations, the director of multifamily finance production, the director of portfolio management and compliance or the director of real estate analysis employed by the Department.~~

~~(3) The Applicant, Development Owner, Developer or Guarantor or anyone that has 10% or more ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered/funded by the Department is in Material Non-Compliance with the LURA (or any other document containing an Extended Housing Commitment) or the program rules in effect for such property as further described in 10 TAC Section 60.1; or on the date the Application Round closes or upon the date of filing Volume I of the Application for a Tax Exempt Bond Development, and such Material Noncompliance is not corrected as provided herein. Any corrective action documentation affecting the Material Non-Compliance status score for Applicants competing in the 2004 Application Round must be received by the Department no later than 30 days prior to the close of the Application Acceptance Period, and any corrective action documentation affecting the Material Non-Compliance status score for Applicants with a Tax Exempt Bond Development must be received by the Department no later than 30 days prior to the submission of Volumes I and II. The Department may take into consideration the~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~representations of the Applicant regarding compliance violations described in §50.9(f)(9)(C) and (D) of this title; however, the records of the Department are Controlling; or,~~

~~(4) The Applicant, Development Owner, Developer or Guarantor or anyone that has 10% or more ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties outside of the state of Texas has an incidence of non-compliance with the LURA or the program rules in effect for such tax credit property as further described in 10 TAC Section 60.1; or as reported on the Uniform Application Previous Participation Certification and/or as determined by the state regulatory authority for such state and such non-compliance is determined to be Material Non-Compliance by the Department using methodology as set forth in Chapter 60 of this title, to be proposed; or,~~

~~(5) The Applicant, Development Owner, Developer, or any Guarantor, or any Affiliate of such entity has been a Principal of any entity that failed to make all loan payments in accordance with the original terms of the loan to the Department or was otherwise in default with any provisions of any loans from the Department.~~

~~(6) The Applicant or the Development Owner that is active in the ownership or Control of one or more tax credit properties in the state of Texas has failed to pay in full any fees within 30 days of when they were billed by the Department after the due date has passed, as further described in §50.49.2024 of this title; or~~

~~(7) the Applicant or a Related Party, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of the Development, or individual employed as a lobbyist or in another capacity on behalf of the Development, communicates with any Board member with respect to the Development during the period of time starting with the time an Application is submitted until the time the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application. Communication with Department staff must be in accordance with §50.49.9(b) of this title; violation of the communication restrictions of §50.49.9(b) is also a basis for disqualification and/or debarment. [2306.1113]~~

~~(8) It is determined by the Department's General Counsel that there is evidence that establishes probable cause to believe that an Applicant, Development Owner, Developer, or any of their employees or agents has violated a state revolving door or other standard of conduct or conflict of interest statute, including Section 2306.6733, Texas Government Code, or a section of Chapter 572, Texas Government Code, in making, advancing, or supporting the Application.~~

(c) Certain Applicant and Development Standards. Notwithstanding any other provision of this section, the Department may not allocate tax credits to a Development proposed by an Applicant if the Department determines that: [2306.223]

(1) the Development is not necessary to provide needed decent, safe, and sanitary housing at rental prices that individuals or families of low and very low income or families of moderate income can afford;

(2) the Development Owner undertaking the proposed Development will not supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income;

(3) the Development Owner is not financially responsible;

(4) the Development Owner has contracted, or will contract for the proposed Development with, a Developer that:

(A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) has breached a contract with a public agency and failed to cure that breach; or

(C) misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency and the amount of financial assistance awarded to the Developer by the agency;

(5) the financing of the housing Development is not a public purpose and will not provide a public benefit; and

(6) the Development will be undertaken outside the authority granted by this chapter to the Department and the Development Owner. (See 2306.223, Texas Government Code).

(d) Representation by Former Board Member or Other Person. [2306.6733]

(1) A former Board member or a former executive director, deputy executive director, director of multifamily finance production, director of portfolio management and compliance, director of real estate analysis or manager over housing tax credits previously employed by the Department may not:

(A) for compensation, represent an Applicant or one of its Related Parties for an allocation of tax credits before the second anniversary of the date that the Board member's, director's, or manager's service in office or employment with the Department ceased;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(B) represent any Applicant or a Related Party of an Applicant or receive compensation for services rendered on behalf of any Applicant or Related Party regarding the consideration of an Application in which the former board member, director, or manager participated during the period of service in office or employment with the Department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an Applicant or Related Party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the Department ceased.

(2) A Person commits an offense if the Person violates this section. An offense under this section is a Class A misdemeanor. (See 2306.6733, Texas Government Code).

(e) Due Diligence; Sworn Affidavit. In exercising due diligence in considering information of possible ineligibility, possible grounds for disqualification and debarment, Applicant and Development standards, possible improper representation or compensation, or similar matters, the Department may request a sworn affidavit or affidavits from the Applicant, Development Owner, Developer, Guarantor, or other persons addressing the matter. If an affidavit determined to be sufficient by the Department is not received by the Department within seven business days of the date of the request by the Department, the Department may terminate the Application.

(f) Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment. An Applicant or Person found ineligible, disqualified, debarred or otherwise terminated under subsections (a) through (d) of this section will first be notified in accordance with the Administrative Deficiency process described in ~~§50.49.9(d)(3)~~ of this title. They may also utilize the appeals process described in ~~§50.49.1748(b)~~ of this title.

~~§50.49.6.~~ Site and Development Restrictions: Floodplain, Ineligible Building Types, Scattered Site Limitations, Credit Amount, Limitations on the Size of Developments, Rehabilitation Costs.

(a) **Floodplain.** Any Development proposing new construction located within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain. No buildings or roads ~~Developments~~ that are part of a Development proposing rehabilitation, with the exception of developments with federal funding assistance from HUD or TX USDA-RHS, will be permitted in the 100 year floodplain unless they already meet the requirements established in this subsection for new construction.

(b) **Ineligible Building Types.** Applications involving Ineligible Building Types as defined in ~~§50.49.3(4847)~~ of this title will not be considered for allocation of tax credits.

(c) **Scattered Site Limitations.** Consistent with ~~§50.49.3(28)~~ of this title, a Development must be financed under a common plan, be owned by the same Person for federal tax purposes, and the buildings may be either located on a single site or contiguous site, or be located on scattered sites and contain only rent-restricted units.

(d) **Credit Amount.** The Department shall issue tax credits only in the amount needed for the financial feasibility and viability of a Development throughout the affordability period. The issuance of tax credits or the determination of any allocation amount in no way represents or purports to warrant the feasibility or viability of the Development by the Department, or that the Development will qualify for and be able to claim Housing Tax Credits. The Department will limit the allocation of tax credits to no more than \$1.2 million per Development. The Department shall not allocate more than \$2 million of tax credits in any given Application Round to any Applicant, Developer, Related Party or Guarantor; Housing Tax Credits approved by the Board during the 2004 calendar year, including commitments from the 2004 Credit Ceiling and forward commitments from the 2005 Credit Ceiling, are applied to the credit cap limitation for the 2004 Application Round. In order to encourage the capacity enhancement of developers in rural areas, the Department will prorate the credit amount allocated in situations where an Application is submitted in the Rural Regional Allocation and the Development has 76 Units or less. To be considered for this provision, a copy of a Joint Venture Agreement and narrative on how this builds the capacity of the inexperienced developers is required. Tax Exempt Bond Development Applications are not subject to these Housing Tax Credit limitations, and Tax Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply [2306.6711(b)]:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services, provided the Development Consultant fee received for such services does not exceed 10% of the fee to be paid to the Developer (or 20% for Qualified Nonprofit Developments), or \$150,000, whichever is greater.

(e) Limitations on the Size of Developments.

(1) The minimum Development size will be 16 Units if the Development involves Housing Tax Credits; the minimum Development size will be 4 Units if the funding source involves the Housing Trust Fund or HOME Program.

(2) Rural Developments involving new construction will be limited to 9676 Units, unless the Market Analysis clearly documents that larger developments are consistent with the comparables in the community and that there is significant demand for additional Units. Rural Developments involving only rehabilitation do not have a size limitation.

(3) Developments involving new construction, that are not Tax Exempt Bond Developments, will be limited to 252 250 Total Units, wherein the maximum Department administered ~~restricted~~ Units will be limited to 200 Units. Tax Exempt Bond Developments will be limited to 252 250 Total Units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit restrictions. For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is being constructed to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for at least six months.

(f) **Limitations on the Location of Developments.** Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year 2004-2005 are Harris, Dallas, Tarrant and Bexar Counties). For Tax Exempt Bond Developments, the year of the Development is the calendar year in which the Board approves the housing tax credits for the Development. In dealing with ties between two or more Developments as it relates to this rule, refer to §50.49.9(h). Applications submitted for tax credits associated with Tax Exempt Bond Developments are exempt from this limitation.[2306.6711]

(g) **Rehabilitation Costs.** Rehabilitation Developments must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$6,000 per Unit in direct hard costs.

(h) **Unacceptable Sites.** Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.

§50.49.7. Regional Allocation Formula, Set-Asides, Redistribution of Credits.

(a) **Regional Allocation Formula.** [2306.111(d)] As required by 2306.111, Texas Government Code, the Department uses a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling to all urban/exurban areas and rural areas. The formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas, and the Department uses the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula establishes separate targeted tax credit amounts for rural areas and urban/exurban areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published in the Texas Register and on the Department's web site. The regional allocation for rural areas is referred to as the Rural Regional Allocation and the regional

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

allocation for urban/exurban areas is referred to as the Urban/Exurban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition or be located in a Prison Community. Approximately 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS and that meet the definition of a Rural Development and do not exceed 76 Units if new construction. These Developments will be attributed to the Rural Regional Allocation in each region where they are located. ~~Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside.~~ Commitments of 2005 Housing Tax Credits issued by the Board in 2004 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2005 Application Round as appropriate.

(b) **Set-Asides.** An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development qualifies: [2306.111(d)]

(1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have the Controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the controlling managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, a Qualified Nonprofit Development submitting an Application in the nonprofit set-aside must have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or a co-Developer as evidenced in the development agreement. [2306.6729 and 2306.6706(b)]

(2) At least 15% of the allocation to each Uniform State Service Region will be set aside for allocation under the At-Risk Development Set-Aside. Through this Set-Aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of developments designated as At-Risk Developments as defined in ~~§50.49.3(12) of this title, and in both urban/exurban and rural communities in approximate proportion to the housing needs of each Uniform State Service Region.~~ [2306.6714]. A Housing Authority proposing reconstruction of public housing supplemented with HOPE VI funding or capital grant funds will be eligible to participate in this set-aside. In order to qualify for this set-aside, the housing authority providing the HOPE VI funding must provide evidence that it received a HOPE VI grant from HUD and made a commitment that HOPE VI funds will be provided to the Development. To qualify as an At-Risk Development, the Applicant (with the exception of housing authorities with HOPE VI or capital grant funds) must provide evidence that it either is not eligible to renew, retain or preserve any portion of the financial benefit described in ~~§50.49.3(12)(A) of this title,~~ or provide evidence that it will renew, retain or preserve the financial benefit described in ~~§50.49.3(12)(A) of this title.~~

(c) **Redistribution of Credits.** [2306.111(d)] If any amount of housing tax credits remain after the initial commitment of housing tax credits among the Rural Regional Allocation and Urban/Exurban Regional Allocation within each Uniform State Service Region and among the Set-Asides, the Department may redistribute the credits amongst the different regions and Set-Asides depending on the quality of Applications submitted as evaluated under the factors described in ~~§50.49.9(c) of this title~~ and the level of demand exhibited in the Uniform State Service Regions during the Allocation Round. However as described in subsection (b)(1) of this section, no more than 90% of the State's Housing Credit Ceiling for the calendar year may go to Developments which are not Qualified Nonprofit Developments. If credits will be transferred from a Uniform State Service Region which does not have enough qualified Applications to meet its regional credit distribution amount, then those credits will be apportioned to the other Uniform State Service Regions.

~~§50.49.8.~~ **Pre-Application: Submission, Evaluation Process, Threshold Criteria and Review, Results.** [2306.6704]

(a) **Pre-Application Submission.** Any Applicant requesting a Housing Credit Allocation may submit a Pre-Application to the Department during the Pre-Application Acceptance Period along with the required Pre-Application Fee as described in ~~§50.49.2024~~ of this title. Only one Pre-Application may be submitted by an Applicant for each site under the State Housing Credit Ceiling. The Pre-Application submission is a voluntary process. While the Pre-Application Acceptance Period is open, Applicants may withdraw their Pre-Application and subsequently file a new Pre-Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized to request the Applicant to provide additional information it deems relevant to clarify information contained in the Pre-Application or to submit documentation for items it considers to be Administrative Deficiencies. The rejection of a Pre-Application shall

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

not preclude an Applicant from submitting an Application with respect to a particular Development or site at the appropriate time.

(b) **Communication with the Department.** Applicants that submit a Pre-Application are restricted from communication with Department staff as provided in ~~§50.49.9(b)~~ of this title. [2306.1113]

(c) **Pre-Application Evaluation Process.** Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria, ~~and if requested by the Applicant, evaluated in regard to the inclusive capture rate as restricted under §1.32(g)(2) of this title.~~ Any Application from a TX-USDA-RHS 515 Development (~~including new construction and only for~~ rehabilitation) is exempted from the Pre-Application Evaluation Process and will automatically receive the Pre-Application points further outlined in Section 50.9(g) of this title. ~~is not eligible to receive points for submission of a Pre-Application.~~ Applications involving New Construction that are associated with a TX-USDA-RHS Development are not exempt from Pre-Application and are eligible to compete for the Pre-Application points further outlined in §50.9(g) of this title. An Application that has not received confirmation from the state office of RHS of its financing from TX-USDA-RHS may qualify for Pre-Application points, but such points shall be withdrawn upon the Development's receipt of TX-USDA-RHS financing. Pre-Applications that are found to have Administrative Deficiencies will be handled in accordance with ~~§50.49.9(d)(43)~~ of this title. Department review at this stage is limited and not all issues of eligibility and threshold are reviewed at Pre-Application. Acceptance by staff of a Pre-Application does not ensure that an Applicant satisfies all Application eligibility, Threshold or documentation requirements. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or threshold deficiencies at the time of Pre-Application.

(d) **Pre-Application Threshold Criteria and Review.** Applicants submitting a Pre-Application will be required to submit information demonstrating their satisfaction of the Pre-Application Threshold Criteria. The Pre-Applications not meeting the Pre-Application Threshold Criteria will be terminated and the Applicant will receive a written notice to the effect that the Pre-Application Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Pre-Application Threshold Criteria and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Pre-Application Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. The Pre-Application Threshold Criteria include:

(1) Submission of a "Pre-Application Submission Form" and "Certification of Pre-Application Total Self-Scoring Form," and

(2) Evidence of site control through March 1, 2005 as evidenced by the documentation required under ~~§50.49.9(f)(7)(A)~~ of this title.

~~(3) Consistent with §50.49.9(f)(8)(B) of this title, e~~ Evidence that all of the notifications required under ~~this paragraph that section~~ have been made. Notifications under clause (B)(i) must be made by the deadlines described in that clause; notifications under clauses (B)(ii) through (ix) must be made prior to the close of the Pre-Application Acceptance Period. [2306.6704] Evidence of notification must meet the requirements identified in clause (i) of this subparagraph to all of the individuals and entities identified in clause (ii) of this subparagraph. Evidence of such notifications shall include a copy of the exact letter and other materials that were sent to the individual or entity and proof of mailing as evidenced by a post marked certified mail receipt, express mail receipt, confirmation signature from the recipient, or fax/email receipt. [2306.6705] Proof of notification must not be older than three months from the first day of the Application Acceptance Period.[2306.6704]

(A) Each such notice must include, at a minimum, all of the following:

(i) The Applicant's name, address, individual contact name and phone number;

(ii) The Development name, address, city and county;

(iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(iv) Statement of whether the Development proposes new construction or rehabilitation;

(v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, transitional, elderly) ;

(vi) The approximate total number of Units and approximate total number of low income

Units;

(vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

(viii) The number of Units and proposed rents (less utility allowances) for the low income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur; and

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(ix) The expected completion date if credits are awarded.

(B) Notification must be sent to all of the following individuals and entities. Officials to be notified are those officials in office at the time the Application is submitted.

(i) Notification to Local Elected Officials and City and County Administrators for Neighborhood Organization Input. Evidence must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Local Elected Official and Administrator Notification" as outlined in the Application was sent no later than December 15, 2004 to the local elected official and to the city manager or county administrator for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, the notification must be made to the city council member or county commissioner representing that district; if the development is located in a jurisdiction that has at-large local elected officials, the notification must be made to the mayor or county judge for the jurisdiction. A copy of the reply letter or other official third-party documentation from the local elected official and city/county administrators must be provided. For urban/exurban areas, all entities identified in the letters from the local elected officials and city/county administrators whose boundaries include the proposed Development must be provided with written notification, and evidence of that notification must be provided. If the Applicant can provide evidence that the proposed Development is not located within the boundaries of an entity on a list from the local elected officials and city/county administrators, then such evidence in lieu of notification may be acceptable. If no reply letter is received from the local elected officials and city/county administrators by January 5, 2004, (or For Tax Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application) then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of any neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site, the Applicant must notify those organizations. The Applicant must also certify that any organizations in a response letter that are not notified do not contain the Development within their boundaries. In the event that local elected officials or administrators refer the applicant to another source, the Applicant must also notify that source and request the same information. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the Development is proposed to be located, the Applicant must attest to that fact in the format provided by the Department as part of the Application.

(ii) Superintendent of the school district containing the Development;

(iii) Presiding officer of the board of trustees of the school district containing the

Development;

(iv) Presiding officer of the governing body of any municipality containing the Development;

(v) All elected members of the governing body of any municipality containing the

Development;

(vi) Presiding officer of the governing body of the county containing the Development;

(vii) All elected members of the governing body of the county containing the Development;

(viii) State senator of the district containing the Development; and

(ix) State representative of the district containing the Development.

(e) **Pre-Application Results.** Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements set forth in subsection (ed) of this section and ~~§50-49.9(g)(1047)~~ of this title, will be eligible for Pre-Application points. The order and scores of those Developments released on the Pre-Application Submission Log do not represent a commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-Application Submission Log. Inclusion of a Development on the Pre-Application Submission Log does not ensure that an Applicant will receive points for a Pre-Application.

~~§50-49.9.~~ Application: Submission, Adherence to Obligations, Evaluation Process, Required Pre-Certification and Acknowledgement, Threshold Criteria, Selection Criteria, Evaluation Factors, Staff Recommendations.

(a) **Application Submission.** Any Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application, and the required Application fee as described in ~~§50-49.2024~~ of this title, to the Department during the Application Acceptance Period. Only complete Applications will be accepted. All required volumes must be appropriately bound as required by the Application Submission Procedures Manual and fully complete for submission not later than 5:00 p.m. on the date the Application is due. A complete Application may

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~be submitted at any time during the Application Acceptance Period, and is not limited to submission after the close of the Pre-Application Cycle. Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, Applicants may withdraw their Application and subsequently file a new Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized, but not required, to request the Applicant to provide additional information it deems relevant to clarify information contained in the Application or to submit documentation for items it considers to be an Administrative Deficiency, including both threshold and selection criteria documentation. [2306.6708] An Applicant may not change or supplement an Application in any manner after the filing deadline, and may not add any set-asides, increase their credit amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Department to remedy an Administrative Deficiency as further described in §50-49.3(1) of this title or to the amendment of an Application after a commitment or allocation of tax credits as further described in §50-49.1748 of this title.~~

(b) **Communication with the Department.** Applicants that submit a Pre-Application or Application are restricted from communication with Department staff as described in this subsection. The Applicant or a Related Party, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor, that is active in the ownership or Control of the Development, or individual employed as a lobbyist or in another capacity on behalf of the Development, may communicate with an employee of the Department with respect to the Development so long as that communication satisfies the conditions established under paragraphs (1) through (5) of this subsection. §50-49.5(b)(6) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

(1) The communication must be restricted to technical or administrative matters directly affecting the Application;

(2) The communication must occur or be received on the premises of the Department during established business hours;

(3) Communication with the Executive Director, the Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Single Family Finance Production, the Director of Portfolio Management and Compliance, and the Director of Real Estate Analysis of the Department must only be in written form which includes electronic communication through the Internet; and

(4) Communication with other Department staff may be oral or in written form which includes electronic communication through the Internet; and

(5) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. [2306.1113]

(c) **Adherence to Obligations.** [2306.6720] All representations, undertakings and commitments made by an Applicant in the application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be enforceable even if not reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the LURA. To protect the integrity of the Department's processes and decisions, evidence of false statements or misrepresentations from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including terminating the Application, rejecting neighborhood organization letters for scoring, and possible referral to local district and county attorneys.

(d) **Evaluation Process.** Applications will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in §49.5(b)(2); Applicants will be immediately notified in these instances.

~~(1) **Threshold Criteria Review.** Applications will be initially evaluated against the Threshold Criteria. Applications not meeting Threshold Criteria will be terminated, unless the Department determines that the failure to meet the Threshold Criteria is the result of Administrative Deficiencies, in which event the Applicant may be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria will be rejected and the Applicant will be provided a written notice to the effect that the Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria,~~

~~and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled.~~

~~(21) Eligibility and Selection Criteria Review. All Applications will first be reviewed as described in this paragraph. Applications will be confirmed for eligibility under §§ 49.5 and 49.6 of this chapter and Set-Aside eligibility will be confirmed. For an Application to be considered under the Selection Criteria, the Applicant must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then~~ Then, each Application will be preliminarily scored and ranked according to the Selection Criteria listed in subsection (g) of this section. Where a particular scoring criterion involves multiple points, the Department will award points to the proportionate degree, in its determination, to which a proposed Development complied with that criterion. As necessary to complete this process only, Administrative Deficiencies may be issued to the Applicant. This process will generate a preliminary Department score for every application. Applications not scored by the Department's staff shall be deemed to have the points allocated through self scoring by the Applicants until actually scored. This shall apply only for purposes of releasing the Submission Log in ranked order by score.

~~(2) Priority Review Assessment. Each Application will be assessed based on either the Applicant's self-score or the Department's preliminary score, region, and any Set-Asides that the Application indicates it is eligible for, consistent with paragraph (5) of this subsection. Those Applications that appear to be most competitive will be designated as "priority" Applications. Applications that do not appear to be competitive may not be reviewed in detail for Threshold Criteria during the Application Round.~~

~~(3) Threshold Criteria Review. Applications that are designated as "priority" status from the Priority Review Assessment will be evaluated in detail against the Threshold Criteria. Applications not meeting Threshold Criteria will be terminated, unless the Department determines that the failure to meet the Threshold Criteria is the result of Administrative Deficiencies, in which event the Applicant may be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria. To the extent that the review of Threshold Criteria documentation, or submission of Administrative Deficiency documentation, alters the score assigned to the Application, Applicant's will be notified of their final score. As Applications are evaluated under this Review process, a final score by the Department may remove the Application from "priority" status at which point other Applications may be designated as "priority" and reviewed under this subparagraph.~~

~~(4)(3) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility and Selection, and Threshold Criteria, may occur separately, Administrative Deficiency requests may be made several times.~~ The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within ~~five~~^{eight} business days of the deficiency notice date, then five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within ~~seven~~^{ten} business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period.

~~(5)(4) Subsequent Evaluation of Prioritized Applications. After the Application is scored under the Selection Criteria, t~~The Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division - in general these will be those applications identified with "priority" status. This prioritization order will also be used in making recommendations to the Board. Assignments will be determined by first selecting the Applications with the highest scores in the Nonprofit Set-Aside statewide. Then selection will be made for the Applications with the highest scores in the At-Risk Set-Aside and TX-USDA-RHS Allocation ~~Set-Asides~~ within each Uniform State Service Region. Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments, regardless of Set-Aside, in accordance with the requirements under ~~§50-49.7(a)~~ of this title for a Rural Regional Allocation and Urban/Exurban Regional Allocation. Selection for each of the Set-Asides will take precedence over selection for the Rural Regional Allocation and Urban/Exurban Regional Allocation. Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation within a region, for which there are no eligible feasible applications, will be redistributed as provided in §49.7(c) Redistribution of Credits. ~~will go to the Urban/Exurban Regional Allocation for that region and will not be shifted to Rural Developments in another region.~~ If the Department

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

determines that an allocation recommendation would cause a violation of the \$2 million limit described in ~~§50-49.6(d)~~ of this title, the Department will make its recommendation by selecting the Development(s) that most effectively satisfies(y) the Department's goals in meeting set-aside and regional allocation goals. Based on Application rankings, the Department shall continue to underwrite Applications until the Department has processed enough Applications satisfying the Department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and Set-Aside categories. To enable the Board to establish a Waiting List, the Department shall underwrite as many additional Applications as necessary to ensure that all available housing tax credits are allocated within the period required by law. [2306.6710(a), (b) and (d); 2306.111]

~~(65)~~ Underwriting Evaluation and Criteria. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits. In determining an appropriate level of housing tax credits, the Department shall, at a minimum, evaluate the cost of the Development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for the county in which the Development is to be located; if certifications are unavailable for the county, then the metropolitan statistical area in which the Development is to be located; or if certifications are unavailable under the county or the metropolitan statistical area, then the Uniform State Service Region in which the Development is to be located. Underwriting of a Development will include a determination by the Department, pursuant to the Code, §42, that the amount of credits recommended for commitment to a Development is necessary for the financial feasibility of the Development and its long-term viability as a qualified rent restricted housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title. Receipt of feasibility points under ~~§50-49.9(g)(1)~~ of this title does not ensure that an Application will be considered feasible during the feasibility evaluation by the Real Estate Analysis Division and conversely, a Development may be found feasible during the feasibility evaluation by the Real Estate Analysis Division even if it did not receive points under ~~§50-49.9(g)(1)~~ of this title. [2306.6711(b); 2306.6710(d)]

(A) The Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation.

(B) The Department will reduce the Applicant's estimate of Developer's and/or Contractor fees in instances where these exceed the fee limits determined by the Department. In the instance where the Contractor is an Affiliate of the Development Owner and both parties are claiming fees, Contractor's overhead, profit, and general requirements, the Department shall be authorized to reduce the total fees estimated to a level that it determines to be reasonable under the circumstances. Further, the Department shall deny or reduce the amount of Housing Tax Credits allocated with respect to any portion of costs which it deems excessive or unreasonable. Excessive or unreasonable costs may include developer fee attributable to Related Party acquisition costs. The Department also may require bids or Third Party estimates in support of the costs proposed by any Applicant.

~~(76)~~ Compliance Evaluation. After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status ~~of all members of the ownership structure~~ by the Department's Portfolio Management and Compliance Division, in accordance with Chapter 60 of this title.

~~(87)~~ Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns. Such inspection will evaluate the site based upon the criteria set forth in the Site Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, and educational facilities, and employment centers. The site's appearance to prospective tenants and its accessibility via the existing transportation infrastructure and public transportation systems shall be considered. "Unacceptable" sites include, without limitation, those containing a non-mitigable environmental factor that may adversely affect the health and safety of the residents. For Developments applying under the TX-USDA-RHS Set-Aside, the Department may rely on the physical site inspection performed by TX-USDA-RHS.

(e) ~~Required~~ Pre-Certification and Acknowledgement Procedures. No later than 7 days prior to the close of the Application Acceptance Period, an Applicant must submit the documents required in this subsection to obtain the required pre-certification and acknowledgement. For Applications submitted for Tax Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) all documents in this section must be submitted with the Application.

(1) Experience Certificate. Upon receipt of the evidence required under this paragraph, a certification from the Department will be provided to the Applicant for inclusion in their Application(s). Evidence must show that one of the Development Owner's General Partners, the Developer or their Principals have a record of

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

successfully constructing or developing residential units (single family or multifamily) in the capacity of owner, General Partner or Developer. If a Public Housing Authority organized an entity for the purpose of developing residential units the Public Housing Authority shall be considered a principal for the purpose of this requirement. If the individual requesting the certification was not the Development Owner, General Partner or Developer, but was the individual within one of those entities doing the work associated with the development of the units, the individual must show that the units were successfully developed as required below, and also provide written confirmation from the entity involved stating that the individual was the person responsible for the development. If rehabilitation experience is being claimed to qualify for an Application involving new construction, then the rehabilitation must have been substantial and involved at least \$6,000 of direct hard cost per unit.

(A) The term "successfully" is defined as acting in a capacity as the owner, General Partner, or Developer of:

(i) at least 100 residential units; or

(ii) at least 36 residential units if the Development applying for credits is a Rural Development;

or

(iii) at least 25 residential units if the Development applying for credits has 36 or fewer total

Units.

(B) One of the following documents must be submitted: American Institute of Architects (AIA) Document A111 - Standard Form of Agreement Between Owner & Contractor, AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, HUD Form 9822, development agreements, partnership agreements, or other documentation satisfactory to the Department verifying that the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals have the required experience. If submitting the IRS Form 8609, only one form per Development is required. The evidence must clearly indicate:

(i) that the Development has been completed (i.e. Development Agreements, Partnership Agreements, etc. must be accompanied by certificates of completion.);

(ii) that the names on the forms and agreements tie back to the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals as listed in the Application; and

(iii) the number of units completed or substantially completed.

(2) Financial Statement and Authorization to Release Credit Information. At the option of the Applicant, financial statements may be pre-submitted and a Department acknowledgement of receipt substituted for the financials in the subsequent Application. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Department will be provided to the Applicant for inclusion in their Application(s). The acknowledgement will not constitute acceptance by the Department that financial statements provided are acceptable in any manner but only acknowledge their receipt. Applicants that do not opt to pre-submit financial statements and authorization to release credit information must provide a full submission in accordance with this paragraph at the time of application. The financial statements and authorization to release credit information must be unbound and clearly labeled. A "Financial Statement and Authorization to Release Credit Information" must be completed and signed for any General Partner, Developer or Guarantor and any Person that has 10% or more ownership interest in the Development Owner, General Partner, Developer, or Guarantor. Nonprofit entities, public housing authorities and publicly traded corporations are only required to submit documentation for the entities involved; documentation for individual board members and executive directors is not required for this exhibit. The statement must not be older than 90 days from the date of submission. If submitting partnership or corporate financials in addition to the statements of individuals, the certified financial statements, or audited financial statements, if available, should be for the most recent fiscal year ended 90 days prior to the day the documentation is submitted. This document is required for an entity even if the entity is wholly-owned by a Person who has submitted this document as an individual. Entities that have not yet been formed and entities that have been formed recently but have no assets, liabilities, or net worth are not required to submit this documentation, but must submit a statement with their Application that this is the case.

(3) Previous Participation. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Portfolio Management and Compliance Division will be provided to the Applicant for inclusion in their Application(s). A completed and executed "Previous Participation and Background Certification Form" as provided in the Application must be provided for the Applicant, Development Owner, Developer and Guarantor and each entity shown on an organizational chart as described in subsection (f)(9)(A) of this section that has 10% or more ownership interest in the Development Owner, Developer or Guarantor. Nonprofit entities, public housing authorities and publicly traded corporations are only required to submit documentation for the entities involved; documentation for individual board members and executive directors is not required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

this exhibit. The ~~2004-2005~~ versions of these forms, as required in the Uniform Application, must be submitted. Units of local government are also required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or Control of the Person. All participation in any TDHCA funded or monitored activity, including non-housing activities, must be disclosed.

(4) National Previous Participation. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Portfolio Management and Compliance Division will be provided to the Applicant for inclusion in their Application(s). If the Applicant, Development Owner or any of its Affiliates, Developer and Guarantor or any entity shown on the organizational chart described in subsection (f)(9)(A) of this section that have 10% or more ownership interest in the Development Owner have, or have had, ownership or Control of affordable housing, being housing that receives any form of financing and/or assistance from any Governmental Entity for the purpose of enhancing affordability to persons of low or moderate income, outside the state of Texas, then evidence must be submitted that such Persons have sent the "National Previous Participation and Background Certification Form" to the appropriate Housing Credit Agency for each state in which they have developed or operated affordable housing. Nonprofit entities and public housing authorities are only required to submit documentation for the entity itself; documentation for board members and executive directors is not required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. This form is only necessary when the Developments involved are outside the state of Texas. An original form is not required. Evidence of such notification shall be a copy of the form sent to the agency and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from the agency.

(f) **Threshold Criteria.** The following Threshold Criteria listed in ~~paragraphs (1) through (15) of this subsection~~ are mandatory requirements at the time of Application submission unless specifically indicated otherwise:

(1) Completion and submission of the Application, which includes the entire Uniform Application and any other supplemental forms which may be required by the Department. [2306.1111]

(2) Completion and submission of the Site Packet (~~Volume 2~~) as provided in the Application.

(3) Set-Aside Eligibility. Documentation must be provided that confirms eligibility for all Set-Asides under which the Application is seeking funding as required in the Application.

(4) Certifications. The "Certification Form" provided in the Application confirming the following items:

(A) A certification of the basic amenities selected for the Development. All Developments, must meet at least the minimum threshold of points. The Applicant must certify that they will satisfy at least the minimum point threshold for amenities as further described in §50.9(g)(7)(D). The amenities selected must be made available for the benefit of all tenants. If fees in addition to rent are charged for amenities reserved for an individual tenant's use, then the amenity may not be included among those provided to complete this exhibit. Any future changes in these amenities, or substitution of these amenities, may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in a cancellation of a Commitment Notice or Carryover Allocation if the Threshold Criteria are no longer met. Developments must provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (ii) of this subparagraph and made available for the benefit of all tenants. Developments proposing rehabilitation or proposing Single Room Occupancy will receive double points for each item. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §49.1748(c) of this title and may result in a decrease in awarded credits if the substitution or change includes a decrease in cost, or in the cancellation of a Commitment Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.

(i) Applications must meet a minimum threshold of points (based on the total number of Units in the Development) as follows:

(I) Total Units are less than 40, 3 points are required to meet Threshold;

(II) Total Units are between 40 and 76, 6 points are required to meet Threshold;

(III) Total Units are between 77 and 99, 9 points are required to meet Threshold;

(IV) Total Units are between 100 and 149, 12 points are required to meet Threshold;

(V) Total Units are between 150 and 199, 15 points are required to meet Threshold;

(VI) Total Units are more than 200, 18 points are required to meet Threshold.

(ii) Amenities for selection include those items listed in subclauses (I) through (XXIV#) of this clause. Both Developments designed for families and Qualified Elderly Developments can earn points for providing each identified amenity unless the item is specifically restricted to one type of Development. All amenities must meet accessibility standards as further described in §49.9(f)(4)(D) of this title. An Application can only count an amenity once, therefore combined functions (a library which is part of a community room) only count under one category. Spaces for activities must be sized appropriately to serve the anticipated population.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- (I) Full perimeter fencing with controlled gate access (3 points);
- (II) Full perimeter fencing without controlled gate access (2 points);
- (III) Gazebo w/sitting area (1 point);
- (IV) Accessible walking path (1 point);
- (V) Community gardens (1 point);
- (VI) Community laundry room (1 point);
- (VII) Public telephone(s) available to tenants 24 hours a day (2 points);
- (VIII) Barbecue grills and picnic tables - at least one for every 50 Units (1 point);
- (IX) Covered pavilion that includes barbecue grills and tables (2 points);
- (X) Swimming pool (3 points);
- (XI) Furnished fitness center (2 points);
- (XII) Equipped Business Center (computer and fax machine) or Equipped Computer Learning

Center (2 points);

- (XIII) Furnished Community room (1 point);
- (XIV) Library (separate from the community room) (1 point);
- (XV) Enclosed sun porch or covered community porch/patio (2 points);
- (XVI) Service coordinator office in addition to leasing offices (1 point);
- (XVII) Senior Activity Room (Arts and Crafts, etc.) - Only Qualified Elderly Developments

Eligible (2 points);

- (XVIII) Health Screening Room - Only Qualified Elderly Developments Eligible (1 point);
- (XIX) Secured Entry (elevator buildings only) - (1 point);
- (XX) Horseshoe, Putting Green or Shuffleboard Court - Only Qualified Elderly Developments

Eligible (1 point);

- (XXI) Community Dining Room w/full or warming kitchen - Only Qualified Elderly

Developments Eligible (3 points);

- (XXII) Two Children's Playgrounds Equipped for 5 to 12 year olds, two Tot Lots, or one of each - Only Family Developments Eligible (2 points) or one point for one playground or one tot lot;

(XXIII) Sport Court (Tennis, Basketball or Volleyball) - Only Family Developments Eligible (2 points); or

- (XXIV) Furnished and staffed Children's Activity Center - Only Family Developments Eligible

(3 points).

(B) A certification that the Development will have all of the following Unit Amenities (not required for Single Room Occupancy Developments). If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to complete this exhibit. Any future changes in these amenities, or substitution of these amenities, may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in a cancellation of a Commitment Notice or Carryover Allocation if the Threshold Criteria are no longer met.

(i) All Units must be built/rehabilitated with three networks: One network installed for phone using CAT5e or better wiring; a second network for data installed using CAT5e or better wiring, networked from the Unit back to a central location; and a third network for TV services using COAX cable. ~~Computer line/phone jack available in all bedrooms (only one phone line needed);~~

- (ii) Mini blinds or window coverings for all windows;
- (iii) Dishwasher and Disposal (not required for TX-USDA-RHS Developments);
- (iv) Refrigerator;
- (v) Oven/Range;
- (vi) Exhaust/vent fans in bathrooms;
- (vii) Ceiling fans in living areas and bedrooms; and
- (viii) be designed in accordance with International Building Code.

(C) A certification that the Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or if no local building codes are in place then at a minimum to the most recent version of the International Building Code_s or other locally adopted building codes.

(D) A certification that the Applicant is in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); ~~and~~ the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the development is designed consistent with the Fair Housing Act Design Manual produced by HUD, the Code Requirements for Housing Accessibility 2000 (or as amended from

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

time to time) produced by the International Code Council and the Texas Accessibility Standards. [2306.257; 2306.6705(a)(7)]

(E) A certification that the Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses, and that the Applicant will submit a report at least once in each 90-day period following the date of the Commitment Notice until the Cost Certification is submitted, in a format prescribed by the Department and provided at the time a Commitment Notice is received, on the percentage of businesses with which the Applicant has contracted that qualify as Minority Owned Businesses. [2306.6734]

(F) A certification that the Development will comply with the accessibility standards that are described in~~required under~~ Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. This includes that for all Developments, a minimum of five percent of the total dwelling Units or at least one Unit, whichever is greater, shall be made accessible for individuals with mobility impairments. A Unit that is on an accessible route and is adaptable and otherwise compliant with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS), shall be deemed to meet this requirement. An additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be accessible for individuals with hearing or vision impairments. Additionally, in Developments involving new construction where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. At the time the 10% Test Documentation is submitted, construction loan closing, a certification from an accredited architect or Department-approved third party accessibility specialist, will be required stating that the Development was designed in conformance with these standards and that all features have been or will be installed to make the Unit accessible for individuals with mobility impairments or individuals with hearing or vision impairments. A similar certification will also be required after the Development is completed. ~~This requirement applies to all Developments including new construction and rehabilitation.~~ Any Developments designed as single family structures must also satisfy the requirements of 2306.514, Texas Government Code. [2306.6722 and 2306.6730]

(G) A certification that the Development will adhere to the ~~20032009~~ International Energy Conservation Code (IECC) ~~and the Department's Minimum Standard Energy Saving Devices~~ in the construction of each tax credit Unit, unless historic preservation codes permit otherwise for a Development involving historic preservation, notwithstanding. Minimum Standard Energy Saving Measures are identified in clauses (i) through (v) of this subparagraph. All Units must be air-conditioned. The measures must be certified by the Development architect as being included in the design of each tax credit Unit ~~prior to~~ at the time the 10% Test Documentation is submitted closing of the construction loan and in actual construction upon Cost Certification. [2306.6725(b)]

~~(i) Insulation values must meet the 2000 International Energy Conservation Code (IECC) for the region in which the development is located. Developments must also include soffit and ridge vents and insulated windows;~~

~~(ii) If newly installed, Energy Star or equivalently rated air handler and condenser; or heating and cooling systems with minimum SEER 12 A/C and 90% AFUE furnace if using gas; or in dry climates an evaporative cooling system may replace the Energy Star cooling system;~~

~~(iii) Water heaters to have an energy factor no less than .93 for electric or greater than .62 for gas;~~

~~(iv) Maximum 2.5 gallon/minute showerheads and maximum 1.5 gallon/minute faucet aerators;~~
and

~~(v) Installation of ceiling fans in living room and each sleeping room.~~

(H) A certification that the Development will be built by a General Contractor that satisfies the requirements of the General Appropriation Act, Article VII, Rider 7(c) applicable to the Department which requires that the General Contractor hired by the Development Owner or the Applicant, if the Applicant serves as General Contractor, must demonstrate a history of constructing similar types of housing without the use of federal tax credits.

(I) A certification that the Development Owner agrees to establish a reserve account consistent with 2306.186 Texas Government Code and as further described in ~~Chapter~~ Section 1.3760 of this title. [Section 2306.186]

(5) Design Items. This exhibit will provide:

(A) All of the architectural drawings identified in clauses (i) through ~~(iiiv)~~ of this subparagraph. While full size design or construction documents are not required, the drawings must have an accurate and legible scale and show the dimensions. All Developments involving new construction, or conversion of existing buildings not configured in the Unit pattern proposed in the Application, must provide all of the items identified in clauses (i) through ~~(iiiv)~~ of this subparagraph. For Developments involving rehabilitation for which the Unit

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

configurations are not being altered, only the items identified in clauses (i) and (ii) of this subparagraph are required:

(i) a site plan which:

- (I) is consistent with the number of Units and Unit mix specified in the "Rent Schedule" provided in the Application;
- (II) identifies all residential and common buildings and amenities; and
- (III) clearly delineates the flood plain boundary lines and all easements shown in the site survey;

~~(ii) floor plans for each type of residential building and each type of common area building;~~

(iii) floor plans and elevations for each type of residential building and each common area building clearly depicting the height of each floor and a percentage estimate of the exterior composition; and

~~(iiiiv) Unit floor plans for each type of Unit showing special accessibility and energy features.~~

The net rentable areas these Unit floor plans represent should be consistent with those shown in the "Rent Schedule" provided in the application. For purposes of completing the Rent Schedule for loft or studio type Units (which still must meet the definition of Bedroom), a Unit with 650 square feet or less is considered not more than a one-bedroom Unit, a Unit with 651 to 900 square feet is considered not more than a two-bedroom Unit and a Unit with greater than 900 square feet is considered not more than a three-bedroom Unit; and

(B) A boundary survey of the proposed Development site and of the property to be purchased. In cases where more property is purchased than the proposed site of the Development, the survey or plat must show the survey calls for both the larger site and the subject site. The survey does not have to be recent; but it must show the property purchased and the property proposed for development. In cases where the site of the Development is only a part of the site being purchased, the depiction or drawing of the Development portion may be professionally compiled and drawn by an architect, engineer or surveyor.

~~(C) Rehabilitation Developments must submit photographs of the existing signage, typical building elevations and interiors, existing Development amenities, and site work. These photos should clearly document the typical areas and building components which exemplify the need for rehabilitation.~~

(6) Evidence of the Development's development costs and corresponding credit request and syndication information as described in subparagraphs (A) through (G) of this paragraph.

(A) A written narrative describing the financing plan for the Development, including any non-traditional financing arrangements; the use of funds with respect to the Development; the funding sources for the Development including construction, permanent and bridge loans, rents, operating subsidies, and replacement reserves; and the commitment status of the funding sources for the Development. This information must be consistent with the information provided throughout the Application. [2306.6705(a)(1)]

(B) All Developments must submit the "Development Cost Schedule" provided in the Application. This exhibit must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(C) Provide a letter of commitment from a syndicator that, at a minimum, provides an estimate of the amount of equity dollars expected to be raised for the Development in conjunction with the amount of housing tax credits requested for allocation to the Development Owner, including pay-in schedules, syndicator consulting fees and other syndication costs. No syndication costs should be included in the Eligible Basis. [2306.6705(a)(2) and (3)]

(D) For Developments located in a Qualified Census Tract (QCT) as determined by the Secretary of HUD and qualifying for a 30% increase in Eligible Basis, pursuant to the Code, §42(d)(5)(C), Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. Census tract numbers must be clearly marked on the map, and must be identical to the QCT number stated in the Department's Reference Manual.

(E) Rehabilitation Developments must submit a Property Condition Assessment performed in accordance with §1.36 of this title, Property Condition Assessment Guidelines. For Developments receiving financing from TX-USDA-RHS, a copy of the ~~Housing Quality Standards Checklist~~ prepared by TX-USDA-RHS may be submitted in lieu of the Property Condition Assessment. The Property Condition Assessment may be submitted as a Supplemental Threshold Report consistent with the timelines and submission documentation requirements identified in paragraph (14)(D) of this subsection.

(F) If offsite costs are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the supplemental form "Off Site Cost Breakdown" must be provided.

(G) If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide a detailed cost breakdown prepared by a Third Party engineer or architect, and a letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(7) Evidence of readiness to proceed as evidenced by at least one of the items under each of subparagraphs (A) through (D) of this paragraph:

(A) Evidence of site control in the name of Development Owner. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All individual Persons who are members of the ownership entity of the seller of the proposed site must be identified at the time of Application (not required at Pre-Application). One of the following items described in clauses (i) through (iii) of this subparagraph must be provided:

(i) a recorded warranty deed; or

(ii) a contract for sale or lease (the minimum term of the lease must be at least 45 years) which is valid for the entire period the Development is under consideration for tax credits; ~~or or at least 90 days, whichever is greater; or~~

(iii) an exclusive option to purchase or earnest money contract (which must show that the earnest money has been deposited) which is valid for the entire period the Development is under consideration for tax credits. ~~or at least 90 days, whichever is greater.~~

(iv) As described in clauses (ii) and (iii), site control must be continuous. Closing on the property is acceptable, as long as evidence is provided that there was no period in which control was not retained.

(B) Evidence from the appropriate local municipal authority that satisfies one of clauses (i) through (iii) of this subparagraph. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period. [2306.6705(a)(5)]

(i) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance;

(ii) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that:

(I) the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development or that there is not a zoning requirement; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. ~~No later than April 1, 2004 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed), the Applicant must submit to the Department written evidence that the local entity responsible for initial approval of zoning has approved the appropriate zoning and that it will recommend approval of appropriate zoning to the entity responsible for final approval of zoning decisions (city council or county commission). If this evidence is not provided on or before April 1, 2004, the Application will be terminated.~~ Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the Department at the time the Commitment Fee, or Determination Notice Fee, is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded.

(iii) In the case of a rehabilitation Development, if the property is currently a non-conforming use as presently zoned, a letter which discusses the items in subclauses (I) through (IV) of this clause:

(I) a detailed narrative of the nature of non-conformance;

(II) the applicable destruction threshold;

(III) owner's rights to reconstruct in the event of damage; and

(IV) penalties for noncompliance.

(C) Evidence of interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department and any other sources documented in the Application. Such evidence must be consistent with the sources and uses of funds represented in the Application and shall be provided in one or more of the following forms described in clauses (i) through (iv) of this subparagraph:

(i) bona fide financing in place as evidenced by a valid and binding loan agreement and a deed(s) of trust in the name of the Development Owner and/or expressly allows the transfer to the Development Owner; or,

(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner and which has been executed by the lender (the term of the loan must be for a minimum of 15 years with at least a 30 year amortization). The commitment must state an expiration date

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

and all the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate and any required Guarantors. Such a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or,

(iii) any Federal, State or local gap financing, whether of soft or hard debt, must be identified at the time of Application. At a minimum, evidence from the lending agency that an application for funding has been made and a term sheet which clearly describes the amount and terms of the funding, and the date by which the funding determination will be made and any commitment issued, must be submitted. Evidence of application for funding from another Department program is not required except as indicated on the Uniform Application, as long as the Department funding is on a concurrent funding period with the Application submitted and the Applicant clearly indicates that such an application has been filed as required by the Application Submission Procedures Manual. If the commitment from the other funding source has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the other funding source, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will be reevaluated for financial feasibility; if determined to be feasible the Department may proceed with an allocation recommendation; or

(iv) if the Development will be financed through Development Owner contributions, provide a letter from an Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed together with a letter from the Development Owner's bank or banks confirming that sufficient funds are available to the Development Owner. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(D) Provide the documents in clause (i) of this subparagraph and either of the documents described in clauses (ii) and (iii) of this subparagraph, and satisfying the requirements of clause (iv) of this subparagraph, if applicable:

(i) a copy of the full legal description

(ii) a copy of the current title policy which shows that the ownership (or leasehold) of the land/Development is vested in the exact name of the Development Owner; or

(iii) a copy of a current title commitment with the proposed insured matching exactly the name of the Development Owner and the title of the land/Development vested in the exact name of the seller or lessor as indicated on the sales contract or lease.

(iv) if the title policy or title commitment is more than six months old as of the day the Application Acceptance Period closes, then a letter from the title company indicating that nothing further has transpired on the policy or commitment.

(8) Evidence of all of the notifications described in subparagraphs (A) through (E) of this paragraph. Such notices must be prepared in accordance with the "Public Notifications" statement provided in the Application.

~~(A) A copy of the public notice published in the most widely circulated newspaper in the area in which the proposed Development will be located. The newspaper must be intended for the general population and may not be a business newspaper or other specialized publication. Such notice must run at least twice within a thirty day period. Such notice must be published prior to the submission of the Application to the Department and can not be older than three months from the first day of the Application Acceptance Period. In communities located within a Metropolitan Statistical Area the notice must be published in the newspapers of both the Development community and the Metropolitan Statistical Area, unless the local newspaper of the Development community is published at least five times a week in which case the notice need only be published in the local newspaper of the Development community. Developments that involve rehabilitation and which are already serving low income residents are not required to publish this notice or provide this exhibit.~~

~~(AB) Evidence of notification meeting the requirements identified in clause (i) of this subparagraph to all of the individuals and entities identified in clause (ii) of this subparagraph. Evidence of such notifications shall include a copy of the exact letter and other materials that were sent to the individual or entity and proof of mailing as evidenced by a post marked certified mail receipt, express mail receipt, confirmation signature from the recipient, or fax/email receipt. [2306.6705]delivery in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Proof of notification must not be older than three months from the first day of the Application Acceptance Period.[2306.6704] If evidence of these notifications was submitted with the Pre-Application Threshold for the same Application and satisfied the~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Department's review of Pre-Application Threshold, then no additional notification is required at Application, ~~except,~~ that re-notification is required by tax credit Applicants who have submitted a Pre-Application if the Application reflects a total Unit increase or decrease of greater than 10%, an increase or decrease of greater than 10% for any given level of AMGI, or a change to the population being served (elderly, family or transitional). For Applications submitted for Tax Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), notification and proof thereof must not be older than 30 days prior to the date the Application is submitted.

(i) Each such notice must include, at a minimum, all of the following:

- (I) The Applicant's name, address, individual contact name and phone number;
- (II) The Development name, address, city and county;
- (III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
- (IV) Statement of whether the Development proposes new construction or rehabilitation;
- (V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, transitional, elderly);
- (VI) The approximate total number of Units and approximate total number of low income Units;
- (VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;
- (VIII) The number of Units and proposed rents (less utility allowances) for the low income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur; and
- (IX) The expected completion date if credits are awarded.

(ii) Notification must be sent to all of the following individuals and entities. Officials to be notified are those officials in office at the time the Application is submitted.

(I) Notification to Local Elected Officials and City and County Administrators for Neighborhood Organization Input. City and County Clerks and Neighborhood Organizations. Evidence must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Local Elected Official and AdministratorClerk Notification" as outlined in the Application was sent no later than January 15, 2004-2005 to the local elected official and to the city manager or ~~county administratorcity clerk and county clerk~~ for the city or if located outside of a city, then the ~~and~~ county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, the notification must be made to the city council member or county commissioner representing that district; if the development is located in a jurisdiction that has at-large local elected officials, the notification must be made to the mayor or county judge for the jurisdiction. A copy of the reply letter or other official third-party documentation from the local elected official and city/county administrator~~city and county clerks~~ must be provided. For urban/exurban areas, all entities identified in the letters from the local elected officials and city/county administrators whose boundaries include the proposed Development ~~city and county clerks whose listed address has the same zip code as the zip code for the Development~~ must be provided with written notification, and evidence of that notification must be provided. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters from the city and county clerks with those adjacent zip codes must also be provided with written notification, and evidence of that notification must be provided. For rural areas, all entities identified in the letters from the city and county clerks whose listed address is within a half mile of the Development site must be provided with written notification, and evidence of that notification must be provided. If the Applicant can provide evidence that the proposed Development is not located within the boundaries of an entity on a list from the local elected officials and city/county administrator~~clerk(s)~~, then such evidence in lieu of notification may be acceptable. If no reply letter is received from the local elected officials and city/county administrator~~city or county clerk~~ by February 25, 2004, (or For Tax Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application) then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of any neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site, the Applicant must notify those organizations. The Applicant must also certify that any organizations in a response letter that are not notified do not contain the Development within their boundaries. In the event that local elected officials or administrators refer the applicant to another source, the Applicant must also notify that source and request the same information. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Development is proposed to be located, the Applicant must attest to that fact in the format provided by the Department as part of the Application.

(II) Superintendent of the school district containing the Development;

Development;

(IV) Presiding officer of the governing body of any municipality containing the Development;

Development;

(VI) Presiding officer of the governing body of the county containing the Development;

(VII) All elected members of the governing body of the county containing the Development;

(VIII) State senator of the district containing the Development; and

(IX) State representative of the district containing the Development.

(BG) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development site prior to the date the Application is submitted. For Tax Exempt Bond Developments the sign must be installed no later than 14 days after the Department's receipt of Volumes I and II. Evidence submitted with the Application must include photographs of the site with the installed sign and invoice receipt confirming installation from the entity that installed the sign. The sign must be at least 4 feet by 8 feet in size and located within twenty feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day that the Board takes final action on the Application for the development. The information and lettering on the sign must meet the requirements identified in the Application. For Tax Exempt Bond Developments for which the Department is not the issuer of the bonds, the Applicant must ensure that the date, time and location of the TEFRA hearing are indicated on the sign. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's Option, mail written notification to those addresses described in either clause (i) or (ii) of this subparagraph. This written notification must include the information otherwise required for the sign as provided in the Application. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the distance required by clause (i) or (ii) of this subparagraph, up to 1,000 feet, showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. If the option in clause (i) of this subparagraph is used, then evidence must be provided affirming the local zoning notification requirements.

(i) all addresses required for notification by local zoning notification requirements. For example, if the local zoning notification requirement is notification to all those addresses within 200 feet, then that would be the distance used for this purpose; or

(ii) for Developments located in communities that do not have zoning, communities that do not require a zoning notification, or those located outside of a municipality, all addresses located within 1,000 feet of any part of the proposed Development site.

~~(CD) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that they have notified each tenant post a copy of the public notice in a prominent location at the Development throughout the period of time the Application is under review by the Department. A photograph of this posted notice must be provided with this exhibit. When the and let the tenants know of the Department's public hearing schedule for comment on submitted Applications, becomes available, a copy of the schedule must also be posted until such hearings are completed. Compliance with these requirements shall be confirmed during the Department's site inspection. .]~~

~~(E) The Development Owner shall certify to the Department that it shall consider as potential tenants holders of Section 8 vouchers or certificates or other tenants based rental assistance programs.~~

(9) Evidence of the Development's proposed ownership structure and the Applicant's previous experience as described in subparagraphs (A) through (E) of this paragraph.

(A) Chart which clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer or Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer or Guarantor, as applicable, whether directly or through one or more subsidiaries.

(B) Each Applicant, Development Owner, Developer or Guarantor, or any entity shown on an organizational chart as described in subparagraph (A) of this paragraph that has 10% or more ownership interest in the Development Owner, Developer or Guarantor, shall provide the following documentation, as applicable:

(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas, a certificate of reservation of the entity name from the Texas Secretary of State; or:

~~(i) a certificate of reservation of the entity name from the Texas Secretary of State or from the state in which the entity is to be formed if different from Texas; and~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(ii) executed letter(s) of intent to organize signed by a representative of each organization that is a party to the proposal or a copy of the draft organizational documents for the entity to be formed including Articles of Incorporation, Articles of Organization or Partnership Agreement with a signed notation from a representative of each organization acknowledging intent to organize.~~

~~(ii) For existing entities whether formed in or outside of the state of Texas, evidence that the entity has the authority to do business in Texas or has applied for such authority.:-~~

~~(i) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State; and~~

~~(ii) for entities formed in a state other than Texas a certificate of authority to do business in Texas or an application for a certificate of authority;~~

~~(iii) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement.~~

~~(iii) the Applicant must provide evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by laws which indicate same from the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents. A cover sheet must be placed before the copy of the organizational documents, identifying the relevant document(s) where the evidence of authority to sign is to be found and specifying exactly where the applicable information exists within all relevant documents by page number or by section and subsection if the pages are not numbered.~~

(C) Evidence that each entity shown on an the organizational chart described in subparagraph (A) of this paragraph that has 10% or more ownership interest in the Development Owner, Developer or Guarantor, has provided a copy of the completed and executed Previous Participation and Background Certification Form to the Department. Evidence must be a certification from the Department for each of those Persons required to submit these documents as further described under ~~§50-49.9(e)(3)~~ of this title. Applicants must request this certification at least seven days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification is the appropriate Person appearing in the organizational chart provided in subparagraph (A) of this paragraph.

(D) Evidence that, if the Development Owner or any of its Affiliates shown on the organizational chart described in subparagraph (A) of this paragraph that have 10% or more ownership interest in the Development Owner have, or have had, ownership or Control of affordable housing, being housing that receives any form of financing and/or assistance from any Governmental Entity for the purpose of enhancing affordability to persons of low or moderate income, outside the state of Texas, that such Persons have submitted the appropriate "National Previous Participation and Background Certification Form" to the Department. Evidence must be a certification from the Department for each of those Persons required to submit these documents as further described under ~~§50-49.9(e)(4)~~ of this title. Applicants must request this certification at least seven days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification is the appropriate Person appearing in the organizational chart provided in subparagraph (A) of this paragraph.

(E) Evidence, in the form of a certification, that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units in the capacity of owner, General Partner or Developer. Evidence must be a certification from the Department that the Person with the experience satisfies this exhibit, as further described under subsection (e)(1) of this section. Applicants must request this certification at least seven days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification appears in the organizational chart provided in subparagraph (A) of this paragraph.

(10) Evidence of the Development's projected income and operating expenses as described in subparagraphs (A) through (D) of this paragraph:

(A) All Developments must provide a 30-year proforma estimate of operating expenses and supporting documentation used to generate projections (operating statements from comparable properties).

(B) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds must be provided, which at a minimum identifies the source and annual amount of the funds, the number of Units receiving the funds, and the term and expiration date of the contract or other agreement. [2306.6705(a)}(4)]

(C) Applicant must provide documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate. If there is more than one entity (Section 8 administrator, public housing

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.

(D) Occupied Developments undergoing rehabilitation must also submit the items described in clauses (i) through (iv) of this subparagraph.

(i) The items in subclauses (I) and (II) of this clause are required unless the current property owner is unwilling to provide the required documentation. In that case, submit a signed statement as to its inability to provide all documentation as described.

(I) Submit at least one of the following:

(-a-) historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 3 months from the first day of the Application Acceptance Period;

(-b-) The two most recent consecutive annual operating statement summaries;

(-c-) the most recent consecutive six months of operating statements and the most recent available annual operating summary;

(-d-) all monthly or annual operating summaries available and a written statement from the seller refusing to supply any other summaries or expressing the inability to supply any other summaries, and any other supporting documentation used to generate projections may be provided; and

(II) a rent roll not more than 6 months old as of the first day the Application Acceptance Period, that discloses the terms and rate of the lease, rental rates offered at the date of the rent roll, Unit mix, tenant names or vacancy, and dates of first occupancy and expiration of lease.

(ii) a written explanation of the process used to notify and consult with the tenants in preparing the Application; [2306.6705(a)(6)]

(iii) a relocation plan outlining relocation requirements and a budget with an identified funding source; and [2306.6705(a)(6)]

(iv) if applicable, evidence that the relocation plan has been submitted to the appropriate legal agency. [2306.6705(a)(6)]

(11) Applications involving Nonprofit General Partners and Qualified Nonprofit Developments.

(A) All Applications involving a nonprofit General Partner, regardless of the Set-Aside applied under, must submit all of the documents described in clauses (i) and (ii) of this subparagraph: [2306.6706]

(i) an IRS determination letter which states that the nonprofit organization is a 501(c)(3) or (4) entity; and

(ii) the "Nonprofit Participation Exhibit."

(B) Additionally, all Applications applying under the Nonprofit Set-Aside, established under ~~§50.49.7~~ §49.7(b)(1) of this title, must also provide the following information with respect to the Qualified Nonprofit Organization as described in clauses (i) through (vi) of this subparagraph.

(i) copy of the page from the articles of incorporation or bylaws indicating that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(ii) copy of the page from the articles of incorporation or bylaws indicating that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(iii) a Third Party legal opinion stating:

(I) that the nonprofit organization is not affiliated with or Controlled by a for-profit organization and the basis for that opinion, and

(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside and the basis for that opinion. Eligibility is contingent upon the nonprofit organization Controlling the Development, or if the organization's Application is filed on behalf of a limited partnership, or limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member ~~being the sole General Partner~~; and otherwise meet the requirements of the Code, §42(h)(5);

(iv) a copy of the nonprofit organization's most recent audited financial statement; and

(v) a certification that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement.

(vi) evidence, in the form of a certification, that a majority of the members of the nonprofit organization's board of directors principally reside:

(I) in this state, if the Development is located in a rural area; or

(II) not more than 90 miles from the Development, if the Development is not located in a rural area.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(12) Applicants applying for acquisition credits, or Applicants affiliated with the seller that are asking for the land value to be an amount greater than the purchase contract indicated, that will be evaluated in accordance with §1.32(e)(1) of this title, must provide all of the documentation described in subparagraphs (A) through (C) of this paragraph. Applicants applying for acquisition credits must also provide the items described in subparagraph (D) of this paragraph and as provided in the Application.

(A) an appraisal, not more than 6 months old as of the first day of the Application Acceptance Period, which complies with the Uniform Standards of Professional Appraisal Practice and the Department's Market Analysis and Appraisal Policy. For Developments which require an appraisal from TX-USDA-RHS, the appraisal may be more than 6 months old, but not more than 12 months old as of the day the Application Acceptance Period closes and may be provided from as long as TX-USDA-RHS has confirmed that the existing appraisal is still acceptable to them. The appraisal may be submitted as a Supplemental Threshold Report consistent with the timelines and submission documentation requirements identified in paragraph (14)(D) of this subsection. This appraisal of the property must separately state the as-is, pre-acquisition or transfer value of the land and the improvements where applicable;

(B) a valuation report from the county tax appraisal district;

(C) clear identification of the selling Persons, and details of any relationship between the seller and the Applicant or any Affiliation with the Applicant or the Development Owner, Qualified Market Analyst or any other professional or other consultant performing services with respect to the Development. If any such relationship exists, complete disclosure and documentation of the seller's original acquisition and holding and improvement costs since acquisition, and any and all exit taxes, to justify the proposed sales price must also be provided; and

(D) "Acquisition of Existing Buildings Form."

(13) Evidence of an "Acknowledgement of Receipt of Financial Statement and Authorization to Release Credit Information" must be provided for any Person that has 10% or more ownership interest in the Development Owner or General Partner, the Developer, or Guarantor, as required under ~~§50.49.9~~ §(e)(2) of this title. Entities that have not yet been formed and entities that have been formed recently but have no assets, liabilities, or net worth are not required to submit this documentation, but must submit a statement with their Application that this is the case in lieu of submitting the Acknowledgement.

(14) Supplemental Threshold Reports. Documents under subparagraph (A) and (B) of this paragraph must be submitted as further stated in subparagraph (C) and (D) of this paragraph and in accordance with the Market Analysis Rules and Guidelines and Environmental Site Assessment Rules and Guidelines, §§1.33 and 1.35 of this title.

(A) A Phase I Environmental Site Assessment (ESA) on the subject Property, dated not more than 12 months prior to the first day of the Application Acceptance Period. In the event that a Phase I Environmental Site Assessment on the Development is more than 12 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated letter or updated report dated no older than at least three months prior to the first day of the Application Acceptance Period from the Person or organization which prepared the initial assessment confirming that the site has been re-inspected and reaffirming the conclusions of the initial report or identifying the changes since the initial report; The ESA must be prepared in accordance with the Department Environmental Site Assessment Rules and Guidelines. Developments whose funds have been obligated by TX-USDA-RHS will not be required to supply this information; however, the Applicants of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(B) A comprehensive Market Analysis prepared at the Applicant's expense by a disinterested Qualified Market Analyst approved by the Department in accordance with the approval process outlined in the Market Analysis Rules and Guidelines, §1.33 of this title. The Market Analysis must be prepared in accordance with the methodology prescribed in the Market Analysis Rules and Guidelines, §1.33 of this title. In the event that a Market Analysis on the Development is older than 6 months as of the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated Market Analysis from the Person or organization which prepared the initial report; however the Department will not accept any Market Analysis which is more than 12 months old as of the first day of the Application Acceptance Period. The Market Analysis should be prepared for and addressed to the Department. For Applications in the TX-USDA-RHS Set-Aside, the appraisal, required under paragraph (12)(A) of this subsection, will satisfy the requirement for a Market Analysis; no additional Market Analysis is required; however the Department may request additional information as needed. [2306.67055 as added Section 21 of 2306] ~~§42(m)(1)~~

(i) The Department may determine from time to time that information not required in the Department Market Analysis and Appraisal Rules and Guidelines will be relevant to the Department's evaluation of the need for the Development and the allocation of the requested Housing Credit Allocation Amount. The Department may request additional information from the Qualified Market Analyst to meet this need.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(ii) All Applicants acknowledge by virtue of filing an Application that the Department is not bound by any opinion expressed in the Market Analysis and may substitute its own analysis and underwriting conclusions for those submitted by the Qualified Market Analyst.

(C) Inserted at the front of each of these reports must be a transmittal letter from the individual preparing the report that states that the Department is granted full authority to rely on the findings and conclusions of the report.

(D) The requirements for each of the reports identified in subparagraphs (A) and (B) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety as described in subparagraphs (A) and (B) of this paragraph; or

(ii) Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than ~~March 31~~April 1, 2004. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, ~~March 31~~April 1, 2004. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration.

(15) Evidence from the local municipal authority that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or a letter from the local municipal authority stating that there is no local plan and that the city supports the Development.

(1645) Self-Scoring. Applicant's self-score must be completed on the "Application Self-Scoring Form."

(g) Selection Criteria. All Applications will be scored and ranked using the point system identified in this subsection. Maximum Total Points: 200.

(1) Financial Feasibility of the Development. Financial Feasibility of the Development based on the supporting financial data required in the Application that will include a Development underwriting pro forma from the permanent or construction lender. [2306.6710(b)(1)] Applications may qualify to receive 28 points for this item. Evidence will include the documentation required for this exhibit in addition to the commitment letter required under subsection (f)(7)(C) of this section. The supporting financial data shall include a thirty year pro forma prepared by the permanent or construction lender specifically identifying each of the first ten years and every fifth year thereafter. The pro forma must indicate that the development pro forma maintains a 1.10 debt coverage ratio throughout the initial thirty years proposed. In addition, the commitment letter must state that the lender's assessment finds that the Development will be feasible for thirty years. Points will be awarded if these criteria are met. No partial points will be awarded. For developments receiving financing from TX-USDA-RHS, the form entitled "Sources and Uses Comprehensive Evaluation for Multi-Family Housing Loans" or other form deemed acceptable by the Department shall meet the requirements of this section.

(2) Quantifiable Community Participation. Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site. Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. [§2306.6710(b)(1); §2306.6725(a)(2)]

It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the process utilized for notification purposes under subsection (f)(8)(B)(ii)(I) of this section if the organization provides the information and documentation required below. It is also possible that neighborhood organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring.

(A) Basic Submission Requirements for Scoring. Each neighborhood organization may submit one letter (and enclosures) that represents the organization's input. In order to receive a point score, the letter (and enclosures) must be received by the Department no later than April 1, 2005, directly from the neighborhood organization or with the Application. Letters should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Neighborhood Input)." Letters received after April 1, 2005 will be summarized for the Board's information and consideration, but will not affect the score for the Application.

The organization's letter (and enclosures) must:

(i) state the name and location of the proposed Development on which input is provided. A letter may provide input on only one proposed Development; if an organization desires to provide input on additional Developments, each Development must be addressed in a separate letter;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(ii) be signed by the chairman of the board, chief executive officer, or comparable head of the organization, and provide the signer's mailing address, phone number, and an e-mail address or facsimile number for the organization.

(iii) include the approved bylaws or similar organizational documents of the organization which must:

(I) establish that the organization has boundaries and state what the boundaries are. A map must be enclosed that clearly shows the boundaries of the organization; the site of the proposed development must be marked.

(II) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and public housing resident councils (for the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

The organization should clearly mark the information in their enclosed bylaws or similar organizational documents that addresses the foregoing requirements.

(iv) include documentation showing that the organization is on record as of March 1, 2005 with the state or county in which the development is proposed to be located. A record from the Secretary of State showing that the organization is incorporated or from the county clerk showing that the organization is on record with the county is sufficient. For a property owners association, a record from the county showing that the organization's management certificate is on record is sufficient. The documentation must be from the state or county and be current. If an organization's status with the Secretary of State at any time in May 2005 is shown as "forfeited," "dissolved," or any similar status, the organization will not be considered on record with the state. It is insufficient to be "on record" to provide only a request to the county or a state entity to be placed on record or to show that the organization has corresponded with such an entity or used its services or programs. It is insufficient to show that the organization is on record with a city.

As an option to be considered on record with the state, a letter including a contact name with a mailing address and phone number; a copy of the approved bylaws or similar organizational documents or 501(c) determination; name and position of officers; and a written description and map of the organization's geographical boundaries must be received by the Department no later than March 1, 2005 to place the organization on record with the state. Acceptance of this documentation by the Department will satisfy the "on record with the state" requirement, but is not a determination that the organization is a "neighborhood organization" or that other requirements are met.

(v) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2005 tax credit Application Round and that the organization and any member did not accept money or a gift of more than nominal value to cause the neighborhood organization to take its position of support or opposition.

(vi) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition. The organization is encouraged to hold a meeting to which all the members of the organization are invited to consider whether the organization should support, oppose, or be neutral on the proposed development, and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed development. The organization is also encouraged to invite the developer to this meeting.

(B) Scoring of Letters (and Enclosures). To be scored, the letter (and enclosures) must provide "quantifiable" input. The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development and provide specific evidence supporting that input.

(i) The score for this exhibit will range from a maximum of +24 for the strongest position of support to +12 for the neutral point to 0 for the strongest position of opposition. The number of points to be allocated to each organization's letter will be recommended by the Executive Award and Review Advisory Committee based on the factual basis of the organization's letter and evidence enclosed with the letter. The final score will be determined by the Executive Director. The Department may

investigate a matter and contact the Applicant and neighborhood organizations for more information. The Department may consider any relevant information sent to or known to the Department in determining a score.

(ii) The Department highly values quality public input addressed to the merits of a Development. Input that points out possible errors in the Department's analysis and matters that are specific to the neighborhood, the proposed site, the proposed Development, or Developer are valued. If a proposed Development is permitted by the existing or pending zoning or absence of zoning, concerns addressed by the allowable land use that are related to any multifamily development may generally be considered to have been addressed at the local level through the land use planning process. Input concerning positive efforts or the lack of efforts by the Applicant to inform and communicate with the neighborhood about the proposed development is highly valued. If the neighborhood organization refuses to communicate with the Applicant the efforts of the Applicant will not be considered negative. Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) Applicants that accurately certify in the Application that they do not know of any neighborhood organizations that are on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development, and for which no letters were scored, will be awarded the higher of zero points or the average number of points received by all Applications for this exhibit.

(C) Basic Submission Deficiencies. The Department is authorized but not required to request that the neighborhood organization provide additional information or documentation the Department deems relevant to clarify information contained in the organization's letter (and enclosures). If the Department determines to request additional information from an organization, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised. This potential deficiency process does not extend any deadline required above for the "Quantifiable Community Participation" process. An organization may not submit additional information or documentation after the April 1, 2005 deadline except in response to an e-mail or facsimile from the Department specifically requesting additional information.

(D) False Statements or Misrepresentations. See §49.9(c).

(3) The Income Levels of Tenants of the Development. Applications may qualify to receive up to 22 points for qualifying under only one of subparagraphs (A) through (C) of this paragraph. To qualify for these points, the tenant incomes must not be higher than permitted by the AMGI level. The Development Owner, upon making selections for this exhibit, will set aside Units at the levels of AMGI and will maintain the percentage of such Units continuously over the compliance and extended use period as specified in the LURA. These income levels require rent levels that do not exceed 30% of the income limitation in accordance with §42(g). [2306.6710(b)(1)(C); 2306.111(g)(3)(B); 2306.6710(e); 42(m)(1)(B)(ii)(I)]

(A) 22 points if at least 80% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(B) 22 points if at least 10% of the Total Units in the Development are set-aside with incomes at or below 30% of AMGI; or

(C) 18 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below a combination of 50% and 30% of AMGI in which at least 5% of the Total Units are at or below 30% of AMGI.

(4) The Size and Quality of the Units (Development Characteristics). Applications may qualify to receive up to 20 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. [2306.6710(b)(1)(D); 2306.6725(b)(1); 42(m)(1)(C)]

(A) Size of the Units. Applications may qualify to receive 6 points. The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Six points for this item will be automatically granted for Applications involving rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy without meeting these square footage minimums. The square feet of all of the Units in the Development, for each type of Unit, must be at least the minimum noted below.

(i) 500 square feet for an efficiency unit;

(ii) 650 square feet for a non-elderly one bedroom unit; 550 square feet for an elderly one bedroom unit;

(iii) 900 square feet for a two bedroom unit; 750 square feet for an elderly two bedroom unit;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(iv) 1,000 square feet for a three bedroom unit; and

(v) 1,200 square feet for a four bedroom unit.

(B) Quality of the Units. Applications may qualify to receive up to 14 points. Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) through (xix) of this subparagraph, not to exceed 14 points in total. Applications involving rehabilitation or single room occupancy may double the points listed for each item, not to exceed 14 points in total.

(i) Covered entries (1 point);

(ii) Nine foot ceilings (1 point);

(iii) Microwave ovens (1 point);

(iv) Self-cleaning or continuous cleaning ovens (1 point);

(v) Ceiling fixtures in all rooms (light with ceiling fan in all bedrooms) (1 point);

(vi) Refrigerator with icemaker (1 point);

(vii) Laundry connections (2 point);

(viii) Storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets - does not need to be in the Unit but must be on the property site (1 point);

(ix) Laundry equipment (washers and dryers) for each individual unit (3 points);

(x) Thirty year architectural shingle roofing (1 point);

(xi) Covered patios or covered balconies (1 point);

(xii) Covered parking (including garages) of at least one covered space per Unit (2 points);

(xiii) 100% masonry on exterior, which can include stucco and cementitious board products, excluding EFIS(3 points);

(xiv) Greater than 75% masonry on exterior, which can include stucco and cementitious board products, excluding efis (1 points);

(xv) Use of energy efficient alternative construction materials (structurally insulated panels) with wall insulation at a minimum of R-20 (3 points).

(xvi) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);

(xvii) 14 SEER HVAC or evaporative coolers in dry climates (3 points);[WG]

(xviii) Energy Star or equivalently rated Kitchen Appliances (2 points); or

(xix) High Speed Internet service to all Units at no cost to residents (2 points).

(5) The Commitment of Development Funding by Local Political Subdivisions. Applications may qualify to receive up to 18 points for qualifying under only one of subparagraphs (A) or (B) of this paragraph. [2306.6710(b)(1)(E)]

(A) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a local political subdivision. In addition to loans or grants, in-kind contributions such as donation of land or waivers of fees such as building permits, water and sewer tap fees, or similar contributions that benefit the Development will be acceptable to qualify for these points. Points will be determined on a sliding scale based on the amount per Unit. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. At the time the executed Commitment Notice should be submitted, the Applicant or Development Owner must provide evidence of a commitment for the sufficient local funding to the Department. If the funding commitment from the local political subdivision has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have precluded the Department's commitment of the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. If the Application would still be competitive even with the loss of points and would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the local political subdivision's funds, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. Use normal rounding. No funds from TDHCA's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category.

(i) A contribution of \$500 to \$1,000 per Low Income Unit receives 6 points; or

(ii) A contribution of \$1,001 to \$3,500 per Low Income Unit receives 12 points; or

(iii) A contribution of \$3,501 or more per Low Income Unit receives 18 points; or

(B) Evidence that the proposed Development is partially funded by development-based Housing Choice or rental assistance vouchers from a local political subdivision for a minimum of five years. Evidence at the time the Application is submitted must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was

received. At the time the executed Commitment Notice should be submitted, the Applicant or Development Owner must provide evidence of a commitment for the vouchers to the Department. If the funding commitment from the local political subdivision has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have precluded the Department's commitment of the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. If the Application would still be competitive even with the loss of points and would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the local political subdivision's funds, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. No funds from the Department's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. Use normal rounding. HUD must approve the vouchers no later than the time the 10% Test Documentation is submitted to the Department or the Commitment will be rescinded.

- (i) Development-Based Vouchers for 3% to 5% of the total Units receives 6 points; or
- (ii) Development-Based Vouchers for 6% to 8% of the total Units receives 12 points; or
- (iii) Development-Based Vouchers for 9% or more of the total Units receives 18 points.

(6) The Level of Community Support from State Elected Officials. The level of community support for the application, evaluated on the basis of written statements from state elected officials. [2306.6710(b)(1)(F); 2306.6725(a)(2)] Applications may qualify to receive up to 14 points for this item. Points will be awarded based on the written statements of support or opposition from state elected officials representing constituents in areas that include the location of the Development. Letters of support must identify the specific Development and must clearly state support or opposition of the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or official no later than April 1, 2005. Letters received after April 1, 2005 will be summarized for the Board in the board summary provided by staff, but will not affect the score of the Application. Officials to be considered are those officials in office at the time the Application is submitted. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit. Neutral letters, or letters that do not specifically refer to the Development, will receive neither positive nor negative points. Letters from State of Texas Representative or Senator: support letters are 7 points each for a maximum of 14 points; opposition letters are -7 points each for a maximum of -14 points.

(7) The Rent Levels of the Units. Applications may qualify to receive 12 points for qualifying under this exhibit. [2306.6710(b)(1)(G)] Applicants will be eligible for the points by committing to make all low income rents 10% less than the maximum tax credit rents for the income level specified in the Rent Schedule. The calculation for these points will be made based on the figures provided in the Rent Schedule submitted with the Application. All representations made will be included in the LURA.

(8) The Cost of the Development by Square Foot (Development Characteristics). Applications may qualify to receive 10 points for this item. [2306.6710(b)(1)(H); 42(m)(1)(C)] For this exhibit, costs shall be defined as construction costs, including site work, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule of the Application. Developments do not exceed \$73 per square foot for Qualified Elderly and Transitional Developments and \$64 for all other Developments. (10 points)

(9) The Services to be Provided to Tenants of the Development. Applications may qualify to receive up to 8 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. [2306.6710(b)(1)(I); 2306.254; 2306.6725(a)(1); Rider 6 of Appropriations]

(A) Applicants will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).

(B) The Applicant must certify that the Development will provide a combination of special supportive services appropriate for the proposed tenants. The provision of supportive services will be included in the LURA as selected from the list of services identified in this subparagraph. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided (maximum of 6 points).

(i) Applications will be awarded points for selecting services listed in clause (ii) of this subparagraph based on the following scoring range:

- (I) Two points will be awarded for providing one of the services; or

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(II) Four points will be awarded for providing two of the services; or

(III) Six points will be awarded for providing three of the services.

(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; organized team sports programs or youth programs; scholastic tutoring; any other programs described under Title IV-A of the Social Security Act (42 U.S.C. §§ 601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of-wedlock pregnancies; and encourages the formation and maintenance of two-parent families; any services addressed by §2306.254 Texas Government Code; or any other services approved in writing by the Department.

(10) Pre-Application Participation Incentive Points. [2306.6704] Applications which submitted a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph may qualify to receive 6 points for this item. To be eligible for these points, the Application must:

(A) be for the identical site as the proposed Development in the Pre-Application;

(B) have met the Pre-Application Threshold Criteria;

(C) be serving the same target population (family, elderly, and transitional) as in the Pre-Application;

(D) be serving the same target Set-Asides as indicated in the Pre-Application (Set-Asides can be dropped between Pre-Application and Application, but no Set-Asides can be added); and

(E) be awarded by the Department an Application score that is not more than 5% greater or less than the number of points awarded by the Department at Pre-Application, with the exclusion of points for support and opposition under subsections (g)(2) and (g)(6) of this title. An Applicant must choose, at the time of Application either clause (i) or (ii) of this subparagraph:

(i) to request the Pre-Application points and have the Department cap the Application score at no greater than the 5% increase regardless of the total points accumulated in the scoring evaluation. This allows an Applicant to avoid penalty for increasing the point structure outside the 5% range from Pre-Application to Application; or

(ii) to request that the Pre-Application points be forfeited and that the Department evaluate the Application as requested in the self-scoring sheet.

(11) Housing Needs Characteristics. [42(m)(1)(C)(ii)] Applications may qualify to receive up to 6 points. Each Application, dependent on the census designated place or county where the Development is located, will yield a score based on the Uniform Housing Needs Scoring Component. If a Development is in a census designated place, the census designated place score will be used. If a Development is not within a census designated place, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each place and county will be published in the Reference Manual.

(12) Serving Individuals and Families with Different Levels of Incomes. [2306.111(g)(3)(E)] Applications may qualify to receive up to 6 points. The Development is a mixed-income Development comprised of both market rate Units and qualified tax credit Units. Points will be awarded to Developments with a Unit based Applicable Fraction which is no greater than:

(i) 80% (6 points); or,

(ii) 85% (5 points); or,

(iii) 90% (4 points); or

(iv) 95% (3 point).

(13) Affirmatively Furthering Fair Housing. [42 U.S.C. 3608(d) and (e)(5)]. Applicants will receive up to a maximum total of four points (4 points for any two items or 2 points for any one item) for this exhibit by demonstrating that the proposed development will affirmatively further the goals of the Fair Housing Act. This may be accomplished by demonstrating with objective data and documentation the following:

(A) That the proposed Development will serve families with children and is proposed to be located in an elementary school attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. [2 points].

(B) That the proposed Development will expand housing opportunities for people with disabilities by providing additional accessible units developed with Section 504 of the Rehabilitation Act design standards by

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

increasing the minimum required percentage of 5% mobility accessible units to 10% or by increasing the minimum percentage for town home units with accessibility features from 20% to 30% . [2 points].

(C) That the proposed Development will expand affordable housing opportunities for low income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children and that the census tract in which the development is proposed to be located has no greater than 10% poverty population according to the most recent census data. [2 points].

(14) Development Location. [2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(C)(i); 42 U.S.C. 3608(e)(5) and (d); 42 U.S.C. 12705(b)(14); 24 CFR 91.315; 24 CFR 1.4] Applications may qualify to receive 4 points. Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (G) of this paragraph. Areas qualifying under any one of the subparagraphs (A) through (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) through (G) of this paragraph.

(A) A geographical area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD. [2306.127]

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. [2306.127]

(C) a city-sponsored area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation, or redevelopment. Such Developments must submit all of the following documentation: a letter from a city/county official verifying that the proposed Development is located within the city sponsored zone or district; a map from the city/county official which clearly delineates the boundaries of the district; and a certified copy of the appropriate resolution or documentation from the mayor, local city council, county judge, or county commissioners court which documents that the designated area was created by the local city council/county commission, and targets a specific geographic area which was not created solely for the benefit of the Applicant.

(D) the Development is located in a census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the median family for the county in which the census tract is located. This comparison shall be made using the most recent data available as of as of October 1 of the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county.

(E) the Development is located in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence. [2306.6725(b)(2)]

(F) the Development is located in a county that has received an award as of November 15, 2004, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

(15) Tenant Populations with Special Housing Needs. Applications may qualify to receive 4 points for this item. [42(m)(1)(C)(v)] Evidence that the Development is designated for transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist the homeless tenants in locating and retaining permanent housing. For the purpose of this exhibit, homeless persons are individuals or families that lack a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §91.5, as may be amended from time to time. All of the items described in subparagraphs (A) through (E) of this paragraph must be submitted. If all Units in the Development are designed solely for transitional housing for homeless persons, 4 points will be awarded.

(A) a detailed narrative describing the type of proposed housing;

(B) a referral agreement, not more than 12 months old from the first day of the Application Acceptance Period, with an established organization which provides services to the homeless;

(C) a marketing plan designed to attract qualified tenants and housing providers;

(D) a list of supportive services; and

(E) adequate additional income source to supplement any anticipated operating and funding gaps.

(16) Length of Affordability Period. Applications may qualify to receive up to 4 points. [2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1); 2306.6710(e)(2); 42(m)(1)(B)(ii)(II)] In accordance with the Code, each Development is required to maintain its affordability for a 15-year compliance period and, subject to certain exceptions, an additional 15-year extended use period. Development Owners that are willing to extend the affordability period for a Development beyond the 30 years required in the Code may receive points as follows:

(A) Add 5 years of affordability after the extended use period for a total affordability period of 35 years (2 points); or

(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (4 points)

(17) Qualified Census Tracts with Revitalization. Applications may qualify to receive 2 points for this item. [42(m)(1)(B)(ii)(III)] Applications will receive the points for this item if the Development is located within a Qualified Census Tract and contributes to a concerted community revitalization plan. Evidence of the community revitalization plan must be provided.

(18) Sponsor Characteristics. Applications may qualify to receive 2 points for this item. [42(m)(1)(C)(iv)] Points will be awarded if a Community Housing Development Organization (CHDO) has the Controlling interest in the Development or, if the Application is filed on behalf of a limited partnership, the CHDO must be the controlling managing General Partner. The CHDO must either have an existing CHDO designation from the Department that is no older than one calendar year from the date the Application is submitted, or the Application must be concurrently requesting HOME funds from the Department under the CHDO set-aside and be deemed to be eligible for that designation.

(19) Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics). Applications may qualify to receive 1 point for this item. [42(m)(1)(C)(iii)] The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing and the proposed rehabilitation is part of a community revitalization plan. If maximum rent limitations existed previously, then the restrictions must have expired at least one year prior to the first day of the Application Acceptance Period.

(20) Public Housing Waiting Lists. Applications may qualify to receive 1 point for this item. [42(m)(1)(C)(vi)] The Development Owner will get one point if they certify that they will consider as potential tenants holders of Section 8 vouchers or certificates or other tenant based rental assistance and will cooperate with the local public housing authority in accepting tenants from their waiting lists.

(21) Developments Targeting Tenant Populations of Individuals with Children. Applications may qualify to receive 1 point for this item. [42(m)(1)(C)(vii)] The Rent Schedule of the Application must show that 70% or more of the Total Units in the Development have 2 or more bedrooms.

(22) Projects Intended for Eventual Tenant Ownership - Right of First Refusal. Applications may qualify to receive 1 point for this item. [2306.6725(b)(1)] [42(m)(1)(C)(viii)] Evidence that Development Owner agrees to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period for the minimum purchase price provided in, and in accordance with the requirements of, §42(i)(7) of the Code (the "Minimum Purchase Price"), to a Qualified Nonprofit Organization, the Department, or either an individual tenant with respect to a single family building, or a tenant cooperative, a resident management corporation in the Development or other association of tenants in the Development with respect to multifamily developments (together, in all such cases, including the tenants of a single family building, a "Tenant Organization"). Development Owner may qualify for these points by providing the right of first refusal in the following terms.

(A) Upon the earlier to occur of:

(i) the Development Owner's determination to sell the Development, or

(ii) the Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to expiration of the Compliance Period. If the Development Owner determines that it will sell the Development at some point later than the end of the

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Compliance Period, the Notice of Intent shall be given no later than two years prior to date upon which the Development Owner intends to sell the Development.

(B) During the two years following the giving of Notice of Intent, the Sponsor may enter into an agreement to sell the Development only in accordance with a right of first refusal for sale at the Minimum Purchase Price with parties in the following order of priority:

(i) during the first six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization that is also a community housing development organization, as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. § 92.1 (a "CHDO") and is approved by the Department,

(ii) during the second six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization or a Tenant Organization; and

(iii) during the second year after the Notice of Intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a Tenant Organization approved by the Department.

(iv) If, during such two-year period, the Development Owner shall receive an offer to purchase the Development at the Minimum Purchase Price from one of the organizations designated in clauses (i) through (iii) of this subparagraph (within the period(s) appropriate to such organization), the Development Owner shall sell the Development at the Minimum Purchase Price to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at the Minimum Purchase Price from one or more of the organizations designated in clauses (i) through (iii) of this subparagraph (within the period(s) appropriate to such organizations), the Development Owner shall sell the Development at the Minimum Purchase Price to whichever of such organizations it shall choose.

(C) After whichever occurs the later of:

(i) the end of the Compliance Period; or

(ii) two years from delivery of a Notice of Intent,

the Development Owner may sell the Development without regard to any right of first refusal established by the LURA if no offer to purchase the Development at or above the Minimum Purchase Price has been made by a Qualified Nonprofit Organization, a Tenant Organization or the Department, or a period of 120 days has expired from the date of acceptance of all such offers as shall have been received without the sale having occurred, provided that the failure(s) to close within any such 120-day period shall not have been caused by the Development Owner or matters related to the title for the Development.

(D) At any time prior to the giving of the Notice of Intent, the Development Owner may enter into an agreement with one or more specific Qualified Nonprofit Organizations and/or Tenant Organizations to provide a right of first refusal to purchase the Development for the Minimum Purchase Price, but any such agreement shall only permit purchase of the Development by such organization in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(E) The Department shall, at the request of the Development Owner, identify in the LURA a Qualified Nonprofit Organization or Tenant Organization which shall hold a limited priority in exercising a right of first refusal to purchase the Development at the Minimum Purchase Price, in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(F) The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power-of-attorney from the Development Owner to execute such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.

(23) Leveraging of Private, State, and Federal Resources. Applications may qualify to receive 1 point for this item. [2306.6725(a)(3)] Evidence that the proposed Development has received an allocation of private, state or federal resources, including HOPE VI funds, that is equal to or greater than 2% of the Total Development costs reflected in the Application. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. At the time the executed Commitment Notice should be submitted, the Applicant or Development Owner must provide evidence of a commitment for the sufficient financing to the Department. If the funding commitment from the private, state or federal source has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have precluded the Department's commitment of the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. If the Application would still be competitive even with the loss of points and would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the commitment from the private, state or federal source, the Commitment Notice will be rescinded and the credits reallocated to the next Applicant on the Waiting List. Use

normal rounding. Funds from the Department's HOME and Housing Trust Fund sources will only qualify under this category if there is a NOFA out for available funds and the Applicant is eligible under that NOFA.

(24) Third-Party Funding Commitment Outside of Qualified Census Tracts. Applications may qualify to receive 1 point for this item. [2306.6710(e)(1)] Evidence that the proposed Development has documented and committed third-party funding sources and the Development is located outside of a Qualified Census Tract. The commitment of funds must already have been received from the third-party funding source and must equal to or greater than 2% of the Total Development costs reflected in the Application. Use normal rounding. Funds from the Department's HOME and Housing Trust Fund sources will not qualify under this category.

(24) Scoring Criteria Imposing Penalties. [2306.6710(b)(2)]

(A) Penalties will be imposed on an Application if the Applicant has requested extensions of Department deadlines, and did not meet the original submission deadlines, relating to developments receiving a housing tax credit commitment made in the application round preceding the current round. Extensions that will receive penalties are those extensions related to the submission of the carryover. For each extension request made, the Applicant will receive a 5 point deduction for not meeting the Carryover deadline. Subsequent extension requests after the first extension request made for each development from the preceding round will not result in a further point reduction than already described. No penalty points or fees will be deducted for extensions that were requested on Developments that involved rehabilitation, in which the Department is the primary lender, or for Developments that involve TX-USDA-RHS as a lender if TX-USDA-RHS is the cause for the Applicant not meeting the deadline.

(B) Penalties will be imposed on an Application if the Developer or Principal of the Applicant has been removed by the lender, equity provider, or limited partners in the past five years for failure to perform its obligations under the loan documents or limited partnership agreement. An affidavit will be provided by the Applicant and the Developer certifying that they have not been removed as described, or requiring that they disclose each instance of removal with a detailed description of the situation. If an Applicant or Developer submits the affidavit, and the Department learns at a later date that a removal did take place as described, then the Application will be terminated and any Allocation made will be rescinded. The Applicant, Developers or Principals of the Applicant that are in court proceedings at the time of Application must disclose this information and the situation will be evaluated on a case-by-case basis. 3 points will be deducted for each instance of removal.

~~(g) Selection Criteria. All Applications will be evaluated and ranking points will be assigned according to the Selection Criteria listed in paragraphs (1) through (18) of this subsection.~~

~~(1) Development Financial Feasibility. Applications will receive points based on the supporting financial data provided behind this exhibit in addition to the commitment letter required under subsection (f)(7)(C) of this section. The supporting financial data shall include a thirty year pro forma prepared by the permanent or construction lender specifically identifying each of the first ten years and every fifth year thereafter. The commitment letter must include the anticipated total operating expenses, net operating income and debt service for the first year of stabilized operation as reflected in the pro forma. The pro forma must indicate, and the commitment letter must confirm, that the development pro forma maintains a 1.10 debt coverage ratio throughout the initial thirty years proposed. In addition, the commitment letter must state that the lenders assessment finds that the Development will be feasible for thirty years. Points will be awarded if these criteria are met. No partial points will be awarded. For developments receiving financing from TX-USDA-RHS, the form entitled "Sources and Uses Comprehensive Evaluation for Multi-Family Housing Loans" shall meet the requirements of this section. (28 points). [2306.6710(b)(1)]~~

~~(2) Quantifiable Community Participation from Neighborhood Organizations. [2306.6710(b)(1); 2306.6725(a)(2)] Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site.~~

~~(A) Receipt of Input. Letters must be received by the Department no later than April 30, 2004, and only, for scoring purposes, directly from neighborhood organizations or with the Application. Letters must be addressed to the Texas Department of Housing and Community Affairs, "Attention: Director of Multifamily Finance Production Division (Neighborhood Input)". Letters received after April 30, 2004 will be summarized and provided for the Board's information and consideration, but will not affect the score for the Application. Separate from scoring, the Department urges all persons and organizations that wish to provide input to the Department to do so well before (and, preferably earlier than ten days before) the day of a Board meeting when a final decision must be made so the input may be carefully considered. Board decisions often cannot be delayed and late input is difficult for the Board and Department to fully consider.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(B) Neighborhood Organizations. For the purposes of the scoring of this exhibit, neighborhood organizations are organizations that are on record with the county or state in which the development is proposed to be located as of March 1 of the application year and that have a primary purpose of working to affect matters related to the welfare of the neighborhood that contains the proposed development site, not including governmental entities.~~

~~(C) Scoring of Input. For scoring purposes, each neighborhood organization may submit one letter that represents the organization's input. The letter must identify the specific Development and be signed by the chairman of the board, chief executive office or comparable head of the organization and include the signer's address and phone number. The letter must state and provide documentation which shows that it is from a neighborhood organization; that it is on record with the state or county in which the Development is proposed to be located; and that the organization's boundaries contain the proposed Development site. The letter must also provide the total number of members of the organization and a brief description of the process used to determine the members' position. To be accurately scored, the letter must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development and provide specific evidence supporting that input. It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the city and county clerks under subsection (f)(8)(B)(ii)(I) of this section, if the organization provides evidence that the proposed Development site is within the organization's boundaries and that it is on record with the county or state. It is also possible that neighborhood organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring.~~

~~(i) Applicants that accurately certify that they do not know of any neighborhood organizations that are on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development, and for which no letters were received, will be awarded the higher of zero points or the average number of points received by all Applications for this exhibit.~~

~~(ii) The score for this exhibit will range from a maximum of +12 points to -12 points and the number of points to be allocated to each organization's letter will be determined by the Executive Award and Review Advisory Committee based on the factual basis of the written statements and evidence from the neighborhood organizations. The Department may investigate a matter and contact the Applicant and neighborhood organizations for more information.~~

~~(D) Evaluation of Basis of Input. The Department highly values quality public input addressed to the merits of a Development. Input that points out possible errors in the Department's analysis and matters that are specific to the neighborhood, the proposed site, the proposed Development, or Developer are valued. If a proposed Development is permitted by the existing or pending zoning or absence of zoning, concerns addressed by the allowable land use that are related to any multifamily development may generally be considered to have been addressed at the local level through the land use planning process. Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law will not be considered. To protect the integrity of the Department's processes and decisions, evidence of false statements or misrepresentations from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including possible referral to local district and county attorneys. 2306.6725(a)(2)~~

~~(3) Development Location Characteristics. [2306.6725(a)(4)] Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (F) of this paragraph. Areas qualifying under any one of the subparagraphs (A) through (F) of this paragraph will receive 5 points. An Application may only receive points under one of the subparagraphs (A) through (F) of this paragraph. An Application may receive an additional ten points pursuant to subparagraph (G) of this paragraph in addition to any points awarded in subparagraphs (A) through (F) of this paragraph.~~

~~(A) A geographical area which is:~~

- ~~(i) an Economically Distressed Area; or~~
- ~~(ii) a Colonia; or~~
- ~~(iii) a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD.~~

~~(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period.~~

~~(C) a city sponsored area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation or redevelopment. Such Developments must submit all of the following documentation: a letter from a city/county official verifying that the proposed Development is located within the city sponsored zone or district; a map from the city/county official which clearly delineates the boundaries of the district; and a certified copy of the appropriate resolution or~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~documentation from the mayor, local city council, county judge, or county commissioners court which documents that the designated area was:~~

~~(i) created by the local city council/county commission, and
(ii) targets a specific geographic area which was not created solely for the benefit of the Applicant.~~(D) the Development is located in a census tract in which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the MFI for the county in which the census tract is located, as established by HUD. This comparison shall be made using the most recent data available from both sources as of as of October 1 of the year preceding the applicable program year. In those years when the U.S. Census does not publish median family income information at the census tract level, the most recent U.S. Census MFI available for the tract shall be multiplied by the change between HUD's published data for the county MFI as of the year in which the Census MFI was published and the county MFI as of October 1 of the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county.

~~(E) the Development is located in a census tract in which there are no other existing developments supported by housing tax credits. [2306.6725]~~

~~(F) the Development is located in a county that has received an award as of November 15, 2003, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.~~

~~(G) the Development is located in an incorporated city that is not a Rural Area but has a population no greater than 100,000 based on the most current available information published by the United States Bureau of the Census as of October 1 of the year preceding the applicable program year. The Development can not exceed 100 Units to qualify for these points. (7 points)~~

~~(4) Site Location Characteristics. Sites will be evaluated based on proximity to amenities, the presence of positive site features and the absence of negative site features. Sites will be rated based on the criteria below.~~

~~(A) Proximity of site to amenities. Developments located on sites within a one mile radius (two mile radius for Developments competing for a Rural Regional Allocation) of at least three services appropriate to the target population will receive five points. A site located within one quarter mile of public transportation or located within a community that has "on demand" transportation, or specialized elderly transportation for Qualified Elderly Developments, will receive full points regardless of the proximity to amenities, as long as the Applicant provides appropriate evidence of the transportation services used to satisfy this requirement. If a Qualified Elderly Development is providing its own specialized van service, then this will be a requirement of the LURA. Only one service of each type listed below will count towards the points. A map must be included identifying the development site and the location of the services, as well as written directions from the site to each service. The services must be identified by name on the map and in the written directions. If the services are not identified by name, points will not be awarded. All services must exist or, if under construction, must be at least 50% complete by the date the Application is submitted. (5 points)~~

~~(i) Full service grocery store or supermarket~~

~~(ii) Pharmacy~~

~~(iii) Convenience Store/Mini-market~~

~~(iv) Department or Retail Merchandise Store~~

~~(v) Bank/Credit Union~~

~~(vi) Restaurant (including fast food)~~

~~(vii) Indoor public recreation facilities, such as civic centers, community centers, and libraries~~

~~(viii) Outdoor public recreation facilities such as parks, golf courses, and swimming pools~~

~~(ix) Hospital/medical clinic~~

~~(x) Doctor's offices (medical, dentistry, optometry)~~

~~(xi) Public Schools (only eligible for Developments that are not Qualified Elderly Developments)~~

~~(xii) Senior Center (only eligible for Qualified Elderly Developments)~~

~~(B) Negative Site Features. Sites with the following negative characteristics will have points deducted from their score. For purpose of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development site. The distances are to be measured from all boundaries of the Development site. Applicants must indicate on a map the location of any negative site feature, with the exception of slope which must be documented with an engineer's certificate to ensure that points are not deducted. If an Applicant negligently fails to note a negative feature, double points will be deducted from the score or the Application may be terminated. If none of these negative features exist, the Applicant must sign a certification to that effect. (-7 points)~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(i) Developments located adjacent to or within 300 feet of junkyards will have 1 point deducted from their score.~~

~~(ii) Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score. Rural Developments funded through TX-USDA-RHS are exempt from this point deduction.~~

~~(iii) Developments located adjacent to or within 300 feet of an Interstate Highway including frontage and service roads will have 1 point deducted from their score.~~

~~(iv) Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.~~

~~(v) Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills will have 1 point deducted from their score.~~

~~(vi) Developments located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.~~

~~(5) Housing Needs Characteristics. Each Application, dependent on the city or county where the Development is located, will yield a score based on the Uniform Housing Needs Scoring Component. If a Development is in an incorporated city, the city score will be used. If a Development is outside the boundaries of an incorporated city, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each city and county will be published in the Reference Manual. (7 points maximum). [2306.6725(a)(4)]~~

~~(6) Support and Consistency with Local Planning. All documents must not be older than 6 months from the first day of the Application Acceptance Period. Points may be received under any of subparagraphs (A) through (C) of this paragraph.~~

~~(A) Evidence from the local municipal authority stating that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or a letter from the local municipal authority stating that there is no local plan and that the city supports the Development (3 points).~~

~~(B) Evidence that the Applicant has hosted a public meeting to which the neighborhood and other interested persons have been invited. Evidence must include copies of the method of notification used and a transcript of the meeting, as well as a list of meeting attendees. (6 points).~~

~~(C) Community Support from Elected Officials. Points will be awarded based on the written statements of support or opposition from local and state elected officials representing constituents in areas that include the location of the Development. Letters of support must identify the specific Development and must clearly state support or opposition of the specific Development at the proposed location. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or official no later than May 31, 2004. Letters received after May 31, 2004 will be summarized for the Board in the board summary provided by staff, but will not affect the score of the Application. Officials to be considered are those officials in office at the time the Application is submitted. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit. Points can be awarded for letters of support or opposition as identified in clauses (i) through (iii) of this subparagraph, not to exceed a total of 9 points. Neutral letters, or letters that do not specifically refer to the Development, will receive neither positive nor negative points. The Governing Board has directed the Department to request an opinion from the Attorney General on whether recent legislation permits scoring for input from officials other than state officials. If the Attorney General renders an opinion that only input from state officials may be scored, then city and county input will not be scored." [2306.6710(b)(1); [2306.6725(a)(2)]~~

~~(i) from State of Texas Representative or Senator (support letters are 3 points each, maximum of 6 points; opposition letters are 3 points each, maximum of 6 points); and~~

~~(ii) from the Mayor, City Council member for the area, County Judge, County Commissioner for the area, or a resolution from the City Council or County Commission (support letters or resolutions are 3 points each, maximum of 3 points; opposition letters or resolutions are 3 points each, maximum of 3 points).~~

~~(7) Development Characteristics. Applications may receive points under as many of the following subparagraphs as are applicable; however to qualify for points under this paragraph, the Development must first meet the minimum requirements identified under subparagraph (A) of this paragraph, unless otherwise provided in the particular subparagraph. This minimum requirement does not apply to Applications involving rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy.~~

~~(A) Unit Size. [2306.6710(b)(1)] The square feet of all of the Units in the Development, for each type of Unit, must be at minimum:~~

~~(i) 500 square feet for an efficiency unit;~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- ~~(ii) 650 square feet for a non-elderly one bedroom unit; 550 square feet for an elderly one bedroom unit;~~
 - ~~(iii) 900 square feet for a two bedroom unit; 750 square feet for an elderly two bedroom unit;~~
- and
- ~~(iv) 1,000 square feet for a three bedroom unit.~~

~~(B) Cost per Square Foot. For this exhibit, costs shall be defined as construction costs, including site work, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule of the Application. Developments do not exceed \$73 per square foot for Qualified Elderly and Transitional Developments, and \$62 for all other Developments. (9 points). [2306.6710(b)(1)]~~

~~(C) Unit Amenities and Quality. [2306.111(g)(3)(A) and 2306.6710(b)(1)] Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) through (xviii) of this subparagraph, not to exceed 12 points in total. Applications involving rehabilitation or proposing single room occupancy will double the points listed for each item, not to exceed 12 points in total.~~

- ~~(i) Covered entries (1 point);~~
- ~~(ii) Nine foot ceilings (1 point);~~
- ~~(iii) Microwave ovens (1 point);~~
- ~~(iv) Self cleaning or continuous cleaning ovens (1 point);~~
- ~~(v) Ceiling fixtures in all rooms (globe with ceiling fan in all bedrooms) (1 point);~~
- ~~(vi) Refrigerator with icemaker (1 point);~~
- ~~(vii) Laundry connections (1 point);~~
- ~~(viii) Storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets (1 point);~~
- ~~(ix) Laundry equipment (washers and dryers) in units (3 points);~~
- ~~(x) Thirty year architectural shingle roofing (1 point);~~
- ~~(xi) Covered patios or covered balconies (1 point);~~
- ~~(xii) Covered parking (including garages) of at least one covered space per Unit (2 points);~~
- ~~(xiii) 100% masonry on exterior, which can include stucco and cementitious board products, excluding efis (3 points);~~
- ~~(xiv) Greater than 75% masonry on exterior, which can include stucco and cementitious board products, excluding efis (1 point);~~
- ~~(xv) Use of energy efficient alternative construction materials (structurally insulated panels) with wall insulation at a minimum of R-20 (3 points).~~
- ~~(xvi) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);~~
- ~~(xvii) 12 SEER HVAC or evaporative coolers in dry climates (3 points);~~
- ~~(xviii) Energy Star or equivalently rated Kitchen Appliances (2 points)~~

~~(D) Common Amenities. All Developments, must meet at least the minimum threshold of points to satisfy the Threshold requirement under §50.9(f)(4)(A). To receive additional points for this exhibit, Developments must first provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (iii) of this subparagraph and made available for the benefit of all tenants. If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to complete this exhibit. [2306.111(g)(3)(A) and 2306.6710(b)(1)](i) Applications must meet a minimum threshold of points (based on the total number of Units in the Development) prior to accruing actual points for this exhibit, as follows:~~

- ~~(I) Total Units are less than 40, 3 points are required to meet Threshold;~~
- ~~(II) Total Units are between 40 and 76, 6 points are required to meet Threshold;~~
- ~~(III) Total Units are between 77 and 99, 9 points are required to meet Threshold;~~
- ~~(IV) Total Units are between 100 and 149, 12 points are required to meet Threshold;~~
- ~~(V) Total Units are between 150 and 199, 15 points are required to meet Threshold;~~
- ~~(VI) Total Units are more than 200, 18 points are required to meet Threshold.~~

~~(ii) Points for additional amenities. Developments providing additional amenities beyond the threshold identified in clause (i) of this subparagraph will be awarded points based on the point structure below, not to exceed 6 points. The Applicant will total its points for amenities and then subtract the threshold requirement in order to come up with the point total. (For example, a 200-unit Development would have to accumulate 24 points in Common Amenities in order to net a score of 6, but a 36-Unit Development would only have to accumulate 9 points in order to net a score of 6.) Developments proposing rehabilitation or proposing~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~Single Room Occupancy will receive double points for each item. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §50.18(c) of this title and may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in the cancellation of a Commitment Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.~~

~~(iii) Amenities for selection include those items listed in subclauses (I) through (XXIII) of this clause. Both Developments designed for families and Qualified Elderly Developments can earn points for providing each identified amenity unless the item is specifically restricted to one type of Development. All amenities must meet accessibility standards as further described in §50.9(f)(4)(D) of this title. An Application can only count an amenity once, therefore combined functions (a library which is part of a community room) only count under one category. Spaces for activities must be sized appropriately to serve the anticipated population.~~

- ~~(I) Full perimeter fencing with controlled gate access (3 points)~~
- ~~(II) Gazebo w/sitting area (1 point)~~
- ~~(III) Accessible walking path (1 point)~~
- ~~(IV) Community gardens (1 point)~~
- ~~(V) Community laundry room and/or laundry hook ups in Units (no hook up fees of any kind may be charged to a tenant for use of the hook ups (1 point);~~
- ~~(VI) Public telephone(s) available to tenants 24 hours a day (2 points);~~
- ~~(VII) A service coordinator office (1 point);~~
- ~~(VIII) Barbecue grills and picnic tables—at least one for every 50 Units (1 point)~~
- ~~(IX) Covered pavilion w/barbecue grills and tables (2 points)~~
- ~~(X) Swimming pool (3 points)~~
- ~~(XI) Furnished fitness center (2 points)~~
- ~~(XII) Equipped Business Center (computer and fax machine) (2 points)~~
- ~~(XIII) Game/TV/Community room (1 point)~~
- ~~(XIV) Library (separate from the community room) (1 point)~~
- ~~(XV) Enclosed sun porch or covered community porch/patio (2 points)~~
- ~~(XVI) Service coordinator office in addition to leasing offices (1 point)~~
- ~~(XVII) Senior Activity Room (Arts and Crafts, Health Screening, etc.)—Only Qualified Elderly Developments Eligible (2 points)~~
- ~~(XVIII) Secured Entry (elevator buildings only) (1 point)~~
- ~~(XIX) Horseshoe or Shuffleboard Court—Only Qualified Elderly Developments Eligible (1 point)~~
- ~~(XX) Community Dining Room w/full or warming kitchen—Only Qualified Elderly Developments Eligible (3 points)~~
- ~~(XXI) Two Children's Playgrounds Equipped for 5 to 12 year olds, two Tot Lots, or one of each—Only Family Developments Eligible (2 points)~~
- ~~(XXII) Sport Court (Tennis, Basketball or Volleyball)—Only Family Developments Eligible (2 points)~~
- ~~(XXIII) Furnished and staffed Children's Activity Center—Only Family Developments Eligible (3 points)~~

~~(E) The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing and the proposed rehabilitation is part of a community revitalization plan. If maximum rent limitations had existed previously, then the restrictions must have expired at least one year prior to the first day of the Application Acceptance Period (4 points).~~

~~(F) The Development is a mixed income Development comprised of both market rate Units and qualified tax credit Units. Points will be awarded to Developments with a Unit based Applicable Fraction which is no greater than: [2306.6710(b)(1)(C); 2306.111(g)(3)(E)]~~

- ~~(i) 80% (7 points); or,~~
- ~~(ii) 85% (6 points); or,~~
- ~~(iii) 90% (4 points); or~~
- ~~(iv) 95% (2 points).~~

~~(G) The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (5 points).~~

~~(8) Sponsor Characteristics. Evidence that a HUB, as certified by the Texas Building and Procurement Commission, has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission that the Person is a HUB at the close of the~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~Application Acceptance Period. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2004 and renewable after that date. (3 points)~~

~~(9) Developments Targeting Tenant Populations of Individuals with Children. The Rent Schedule of the Application must show that 30% or more of the Units in the Development have more than 2 bedrooms (1 point).~~

~~(10) Development Provides Supportive Services to Tenants. Points may be received under both subparagraphs (A) and (B) of this paragraph. [2306.254 and 2306.6725(a)(1) and 2306.6710(b)(1) and Rider 6 of Appropriations]~~

~~(A) Applicants will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).~~

~~(B) The Applicant must certify that the Development will provide a combination of special supportive services appropriate for the proposed tenants. The provision of supportive services will be included in the LURA as selected from the list of services identified in this subparagraph. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided (maximum of 6 points).~~

~~(i) Applications will be awarded points for selecting services listed in clause (ii) of this subparagraph based on the following scoring range:~~

~~(I) Two points will be awarded for providing one of the services; or~~

~~(II) Four points will be awarded for providing two of the services; or~~

~~(III) Six points will be awarded for providing three of the services.~~

~~(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; organized team sports programs, youth programs; scholastic tutoring; social events and activities; senior meal program; home-delivered meal program; community gardens or computer facilities; any other programs described under Title IV-A of the Social Security Act (42 U.S.C. §§ 601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of-wedlock pregnancies; and encourages the formation and maintenance of two-parent families; or any other services approved in writing by the Department.~~

~~(11) Tenant Characteristics — Populations with Special Needs. Evidence that the Development is designed for transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist the homeless tenants in locating and retaining permanent housing. For the purpose of this exhibit, homeless persons are individuals or families that lack a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §91.5, as may be amended from time to time. All of the items described in subparagraphs (A) through (E) of this paragraph must be submitted. Points will be awarded consistent with subparagraph (F) of this paragraph:~~

~~(A) a detailed narrative describing the type of proposed housing;~~

~~(B) a referral agreement, not more than 12 months old from the first day of the Application Acceptance Period, with an established organization which provides services to the homeless;~~

~~(C) a marketing plan designed to attract qualified tenants and housing providers;~~

~~(D) a list of supportive services; and~~

~~(E) adequate additional income source to supplement any anticipated operating and funding gaps~~

~~(F) Points will be awarded as follows:~~

~~(i) If all Units in the Development are designed solely for transitional housing for homeless persons, 7 points will be awarded; or~~

~~(ii) If at least 25% of the Units in the Development are designed for transitional housing for homeless persons, 5 points will be awarded.~~

~~(12) Low Income Targeting Points for Serving Residents at 40% and 50% of AMGI (up to 8 points). An Application may qualify for points under subparagraph (C) of this paragraph. To qualify for these points, the rents for the rent restricted Units must not be higher than the allowable tax credit rents at the rent restricted AMGI level. For Section 8 residents, or other rental assistance tenants, the tenant paid rent plus the utility allowance is compared to the rent limit to determine compliance. The Development Owner, upon making selections for this exhibit will set aside Units at the rent restricted levels of AMGI and will maintain the percentage of such Units continuously over the compliance and extended use period as specified in the LURA. [2306.6725(a)(3); 2306.111(g)(2) and (3)(B); 2306.6710(b)(1)(C) and (G); 2306.6710(e)](A) No more than 40% of the total number of low income units (including Units at 60% and 30% of AMGI) will be counted as designated for tenants at or below 50% of the AMGI for purposes of determining the points in the 50% and 40% AMGI categories.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

No more than 15% of the total number of low income targeted units will be counted as designated for tenants at 40% of the AMGI for purposes of determining the points in the 40% AMGI categories. For purposes of calculating "Total Low Income Targeted Units" for this exhibit, Units at 30% and 60% of AMGI are also included.

(B) In the table below no Unit may be counted twice in determining point eligibility. Use normal rounding to the hundredth to calculate the percentages, points and "Total Points" for 40% and 50% Units. In calculating the percentages, the denominator includes every low income Unit in the Development, not just the 40% and 50% Units. Normal rounding disregards all digits that are more than one decimal place past the digit rounded; therefore, the thousandths place must not be rounded prior to rounding to the hundredth, e.g. 35.0449% equals 35.04%, not 35.05%. To calculate "Rounded Total Points" disregard the hundredth place in "Total Points" and round normally, eg. 7.50 equals 8 and 7.49 equals 7. The final total points requested must be a whole number consistent with this rounding methodology.

(C) Developments should be scored based on the structure in the table below. Only Developments located in counties whose AMGI is below the statewide AMGI, may use Weight Factor B. All other Applicants are required to use Weight Factor A.

% of AMGI	# of Rent Restricted Units (a)	Percentage of Rent Restricted Units (a/b)	X	Q	Weight B	Points
				Weight A		
50%	(a)		X	10	15	
40%	(a)		X	20	30	
					TOTAL POINTS=	
TOTAL LI TARGETED UNITS* (b)					ROUNDED TOTAL POINTS=	

*Includes all Low Income Units

(D) Rent Levels of the Units. Applications will receive up to maximum of 10 additional points for restricting the rent levels of the Units under paragraphs (12) and (13) of this subsection. The total points available for paragraphs (12)(A) through (C) and (13) are 20 points. The percentage of points awarded under those sections will be calculated and that percentage applied to a maximum of 10 additional points to determine the number of points to be awarded. All calculations will be rounded using basic mathematical principles. (Example: If an application receives 16 of the 20 points for items (12)(A) through (C) and (13), which is 80% of the possible points, then the application will receive 8 additional points under this subparagraph (D), which is 80% of the possible points. A half point will be rounded up to the nearest whole number).

(13) Low Income Targeting Points for Serving Residents at 30% of AMGI (up to 12 points). Applications that propose Units with rents set at 30% AMGI and reserved for occupancy by extremely low income (those earning annual gross incomes of 30% or less of the AGMI) will be awarded up to 12 points. Developments must have a source of financing for the 30% units. Applicant must submit evidence that the proposed Development has either received development based rental assistance from a governmental or non-governmental entity, which does not have an identity of interest with the Applicant (with the exception of Applications involving Public Housing Authorities); or received an allocation of funds for on-site Development costs from a local unit of government or a nonprofit organization, which is not related to the Applicant. Such funds can include Community Development Block Grant funds, HOPE VI, local HOME (not funded from the Department), a local housing trust, Affordable Housing Program from the Federal Home Loan Bank or Tax Increment Financing, HUD Section 202, HUD Section 811 and HUD Section 8, and must be in the form of a grant or a forgivable loan (with the exception of Applications involving Public Housing Authorities). Points will be determined on a sliding scale based on the percentage of 30% units. The Development must have already applied for funding from the funding entity. Evidence at the application stage shall include a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from TDHCA's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. In order to qualify for these points, the Applicant must provide a 5-year rental assistance contract for development-based vouchers for each 30% Unit or grant funds of \$12,500 per 30% Unit. Use normal rounding.~~

~~(A) 3% to 5% of total Development Units at 30% AMGI receives 8 points; or~~

~~(B) 6% to 8% of total Development Units at 30% AMGI receives 10 points; or~~

~~(C) 9% to 10% of total Development Units at 30% AMGI receives 12 points~~

~~[2306.6725(a)(3); 2306.111(g)(2) and (3)(B)/(D); 2306.6710(b)(1) (C) and (G); 2306.6710(e)]~~

~~(14) Leveraging from local and private resources. An Application may qualify for points under only one of subparagraphs (A) or (B) of this paragraph. However, if an Applicant has requested points under paragraph (13) of this section, the Application is not eligible to receive points under this paragraph. (maximum of 14 points) [2306.6710(b)(1)(E)]~~

~~(A) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a local unit of government or a nonprofit organization, which is not related to the Applicant. Such funds can include Community Development Block Grant funds, HOPE VI, local HOME (not funded from the Department), a local housing trust, Affordable Housing Program from the Federal Home Loan Bank or Tax Increment Financing, HUD Section 202, HUD Section 811 and HUD Section 8 and must be in the form of a grant or a forgivable loan. In-kind contributions such as donation of land or waivers of fees such as building permits, water and sewer tap fees, or similar contributions that benefit the Development will be acceptable to qualify for these points. Points will be determined on a sliding scale based on the amount per Unit from outside sources. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from the Department's HOME or Housing Trust Fund sources will qualify under this category. Use normal rounding. No funds from TDHCA's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. (up to 14 points).~~

~~(i) A contribution of \$500 to \$1,000 per Low Income Unit receives 4 points; or~~

~~(ii) A contribution of \$1,001 to \$3,500 per Low Income Unit receives 8 points; or~~

~~(iii) A contribution of \$3,501 to \$6,000 per Low Income Unit receives 14 points; or~~

~~(B) Evidence that the proposed Development is partially funded by development-based Housing Choice or rental assistance vouchers from a governmental or non-governmental entity for a minimum of five years. Such entity cannot have an identity of interest with the Applicant with the exception of Applications involving Public Housing Authorities. Evidence at the time the Application is submitted must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from the Department's HOME or Housing Trust Fund sources will qualify under this category. Use normal rounding. (up to 14 points).~~

~~(i) Development-Based Vouchers for 3% to 5% of the total Units receives 4 points; or~~

~~(ii) Development-Based Vouchers for 6% to 8% of the total Units receives 8 points; or~~

~~(iii) Development-Based Vouchers for 9% to 10% of the total Units receives 14 points.~~

~~(15) Length of Affordability Period. [2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1); and § 22 of 2306.6710(e)] In accordance with the Code, each Development is required to maintain its affordability for a 15-year compliance period and, subject to certain exceptions, an additional 15-year extended use period. Development Owners that are willing to extend the affordability period for a Development beyond the 30 years required in the Code may receive points as follows:~~

~~(A) Add 5 years of affordability after the extended use period for a total affordability period of 35 years (3 points); or~~

~~(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (6 points)~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(16) Evidence that Development Owner agrees to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period for the minimum purchase price provided in, and in accordance with the requirements of, §42(i)(7) of the Code (the "Minimum Purchase Price"), to a Qualified Nonprofit Organization, the Department, or either an individual tenant with respect to a single family building, or a tenant cooperative, a resident management corporation in the Development or other association of tenants in the Development with respect to multifamily developments (together, in all such cases, including the tenants of a single family building, a "Tenant Organization"). Development Owner may qualify for these points by providing the right of first refusal in the following terms (5 points). [2306.6725(b)]~~

~~(A) Upon the earlier to occur of:~~

~~(i) the Development Owner's determination to sell the Development, or~~

~~(ii) the Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to expiration of the Compliance Period. If the Development Owner determines that it will sell the Development at some point later than the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to date upon which the Development Owner intends to sell the Development.~~

~~(B) During the two years following the giving of Notice of Intent, the Sponsor may enter into an agreement to sell the Development only in accordance with a right of first refusal for sale at the Minimum Purchase Price with parties in the following order of priority:~~

~~(i) during the first six month period after the Notice of Intent, only with a Qualified Nonprofit Organization that is also a community housing development organization, as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. § 92.1 (a "CHDO") and is approved by the Department,~~

~~(ii) during the second six month period after the Notice of Intent, only with a Qualified Nonprofit Organization or a Tenant Organization; and~~

~~(iii) during the second year after the Notice of Intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a Tenant Organization approved by the Department.~~

~~(iv) If, during such two year period, the Development Owner shall receive an offer to purchase the Development at the Minimum Purchase Price from one of the organizations designated in clauses (i) through (iii) of this subparagraph (within the period(s) appropriate to such organization), the Development Owner shall sell the Development at the Minimum Purchase Price to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at the Minimum Purchase Price from one or more of the organizations designated in clauses (i) through (iii) of this subparagraph (within the period(s) appropriate to such organizations), the Development Owner shall sell the Development at the Minimum Purchase Price to whichever of such organizations it shall choose.~~

~~(C) After whichever occurs the later of:~~

~~(i) the end of the Compliance Period; or~~

~~(ii) two years from delivery of a Notice of Intent,~~

~~the Development Owner may sell the Development without regard to any right of first refusal established by the LURA if no offer to purchase the Development at or above the Minimum Purchase Price has been made by a Qualified Nonprofit Organization, a Tenant Organization or the Department, or a period of 120 days has expired from the date of acceptance of all such offers as shall have been received without the sale having occurred, provided that the failure(s) to close within any such 120 day period shall not have been caused by the Development Owner or matters related to the title for the Development.~~

~~(D) At any time prior to the giving of the Notice of Intent, the Development Owner may enter into an agreement with one or more specific Qualified Nonprofit Organizations and/or Tenant Organizations to provide a right of first refusal to purchase the Development for the Minimum Purchase Price, but any such agreement shall only permit purchase of the Development by such organization in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.~~

~~(E) The Department shall, at the request of the Development Owner, identify in the LURA a Qualified Nonprofit Organization or Tenant Organization which shall hold a limited priority in exercising a right of first refusal to purchase the Development at the Minimum Purchase Price, in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.~~

~~(F) The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power of attorney from the Development Owner to execute~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.~~

~~(17) Pre-Application Points. [2306.6704] Applications which submitted a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph shall receive 7 points. To be eligible for these points, the Application must:~~

~~(A) be for the identical site as the proposed Development in the Pre-Application;~~

~~(B) have met the Pre-Application Threshold Criteria;~~

~~(C) be serving the same target population (family or elderly) as in the Pre-Application in the same Set-Asides; and~~

~~(D) be awarded by the Department an Application score that is not more than 5% greater or less than the number of points awarded by the Department at Pre-Application, with the exclusion of points for support and opposition under subsections (g)(2) and (g)(6)(C) of this title. An Applicant must choose, at the time of Application either clause (i) or (ii) of this subparagraph:~~

~~(i) to request the Pre-Application points and have the Department cap the Application score at no greater than the 5% increase regardless of the total points accumulated in the scoring evaluation. This allows an Applicant to avoid penalty for changing the point structure outside the 5% range from Pre-Application to Application; or~~

~~(ii) to request that the Pre-Application points be forfeited and that the Department evaluate the Application as requested in the self-scoring sheet.~~

~~(18) Point Reductions.~~

~~(A) [2306.6710(b)(2)] Penalties will be imposed on an Application if the Applicant has requested extensions of Department deadlines, and did not meet the original submission deadlines, relating to developments receiving a housing tax credit commitment made in the application round preceding the current round. Extensions that will receive penalties are those extensions related to the submission of the carryover and the closing of the construction loan as identified in §50.21 of this title. For each extension request made, the Applicant will be required to pay a \$2,500 extension fee as provided in §50.21(k) of this title and will receive a 2 point deduction for not meeting the Carryover deadline and a 5 point deduction for not meeting the closing of the construction loan deadline. Subsequent extension requests after the first extension request made for each development from the preceding round for these two deadlines will not result in a further point reduction than already described. No penalty points will be deducted for extensions that were requested on developments that involved rehabilitation or in which the Department is the primary lender.~~

~~(B) Penalties will be imposed on an Application if the Developer or Principal of the Applicant has been removed by the lender, equity provider, or limited partners in the past five years for its failure to perform its obligations under the loan documents or limited partnership agreement. An affidavit will be provided by the Applicant and the Developer certifying that they have not been removed as described, or requiring that they disclose each instance of removal with a detailed description of the situation. If an Applicant or Developer submits the affidavit, and the Department learns at a later date that a removal did take place as described, then the Application will be terminated and any Allocation made will be rescinded. The Applicant, Developers or Principals of the Applicant that are in court proceedings at the time of Application, must disclose this information and the situation will be evaluated on a case by case basis. 3 points will be deducted for each instance of removal.~~

~~(h) Tie Breaker Factors. [2306.185(a)(1) and (b)]~~

~~(1) In the event that two or more Applications receive the same number of points in any given Set-Aside category, Rural Regional Allocation or Urban/Exurban Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, s (1) through (5) of this subsection, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment.~~

~~(A) The number of points awarded for amenities under subsection (g)(7)(C) of this section;~~

~~(B) The number of points awarded for amenities under subsection (g)(7)(D) of this section;~~

~~(A) to give preference to a Development which is located in a QCT as specifically designated by the Secretary of HUD, and which also contributes to a concerted community revitalization plan [42(m)(1)(B)(ii)(III)], and~~

~~(B) The amount of requested tax credits number of per net rentable square foot requested eet per credit amount requested (the lower credits per square foot has preference); and~~

~~(D) The length of time the Development will be kept affordable.~~

~~(E) to give preference to a Development which is located in a QCT as specifically designated by the Secretary of HUD, and which also contributes to a concerted community revitalization plan; and~~

~~(2) This clause identifies how ties will be handled when dealing with the restrictions on location identified in §50.49.5(a)(8) and §50.6(f), and in dealing with any issues relating to capture rate calculation.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

When two Tax Exempt Bond Developments would violate one of these restrictions, and only one Development can be selected, the Department will utilize the lot number issued during the Bond Review Board lottery in making its determination. When two competitive Housing Tax Credits Applications in the Application Round would violate one of these restrictions, and only one Development can be selected, the Department will utilize the tie breakers identified in (h)(1) of this subsection. When a Tax Exempt Bond Development and a competitive Housing Tax Credit Application in the Application Round would both violate ~~one of these a~~ restrictions, the following determination will be used:

(A) Tax Exempt Bond Developments that ~~have~~ received their reservation from the Bond Review Board prior to April 30, ~~2004-2005~~ will take precedence over the Housing Tax Credit Applications in the ~~2004-2005~~ Application Round; and

(B) Housing Tax Credit Applications approved by the Board for tax credits in July 2005 ~~in the 2004 Application Round~~ will take precedence over the Tax Exempt Bond Developments that ~~have~~ received their reservation from the Bond Review Board on or between May 1, 2004-2005 and July 31, 2005 ~~2004~~; and

(C) After July 31, 2004, a Tax Exempt Bond Development with a reservation from the Bond Review Board will take precedence over any Housing Tax Credit Application from the ~~2004-2005~~ Application Round on the Waiting List. However, if no reservation has been issued by the date the Board approves an allocation to a Development from the Waiting List of Applications in the 2005 Application Round or a forward commitment, then the Waiting List Application or forward commitment will be eligible for its allocation. ~~first.~~

(i) **Staff Recommendations.** [2306.1112 and 2306.6731] After eligible Applications have been evaluated, ranked and underwritten in accordance with the QAP and the Rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. The Committee will develop funding priorities and shall make commitment recommendations to the Board. Such recommendations and supporting documentation shall be made in advance of the meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. The Committee will provide written, documented recommendations to the Board which will address at a minimum the financial or programmatic viability of each Application and a list of all submitted Applications which enumerates the reason(s) for the Development's proposed selection or denial, including all evaluation factors provided in subsection (g) of this section that were used in making this determination.

~~§50-49.10~~ Board Decisions; Waiting List; Forward Commitments

(a) **Board Decisions.** The Board's decisions shall be based upon the Department's and the Board's evaluation of the proposed Developments' consistency with the criteria and requirements set forth in this QAP and Rules.

(1) On awarding tax credits, the Board shall document the reasons for each Application's selection, including any discretionary factors used in making its determination, and the reasons for any decision that conflicts with the recommendations made by Department staff. The Board may not make, without good cause, a commitment decision that conflicts with the recommendations of Department staff. Good cause includes the Board's decision to apply discretionary factors. [2306.6725(c); ~~42(m)(1)(A)(iv); and~~ 2306.6731]

(2) In making a determination to allocate tax credits, the Board shall be authorized to not rely solely on the number of points scored by an Application. It shall in addition, be entitled to take into account, as it deems appropriate, the discretionary factors listed in this paragraph. The Board may also apply these discretionary factors to its consideration of Tax Exempt Bond Developments. If the Board disapproves or fails to act upon an Application, the Department shall issue to the Applicant a written notice stating the reason(s) for the Board's disapproval or failure to act. In making tax credit decisions (including those related to Tax Exempt Bond Developments), the Board, in its discretion, may evaluate, consider and apply any one or more of the following discretionary factors: [2306.111(g)(3)]

(A) the developer market study;

(B) the ~~proposed location of the Development, including supporting broad geographic dispersion;~~

(C) the compliance history of the Applicant and/or Developer;

(D) the Applicant and/or Developer's efforts to engage the neighborhood;

(E) the financial feasibility; ~~of the Development;~~

(F) the appropriateness of the Development's proposed size and configuration in relation to the housing needs of the community in which the Development is located;

(G) the housing needs of ~~the community in which the Development will be located~~ and the needs of the community, area, region and state;

(H) the Development's proximity to other low income ~~rent restricted~~ housing developments; ~~including avoiding overconcentration~~

(I) the availability of adequate public and private facilities and services;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- use;
- (J) the anticipated impact on local school districts; ~~giving due consideration to the authorized land use;~~
 - (K) zoning and other land use considerations;
 - ~~(L)~~ laws relating to fair housing including affirmatively furthering fair housing;
 - ~~(M)~~ the efficient use of the tax credits;
 - ~~(N)~~ consistency with local needs, including consideration of revitalization or preservation needs;
 - ~~(O)~~ the allocation of credits among many different entities without diminishing the quality of the housing;
 - ~~(P)~~ meeting a compelling housing need;
 - ~~(Q)~~ providing integrated, affordable housing for individuals and families with different levels of income;
 - ~~(R)~~ the inclusive capture rate as described under §1.32(g)(2);
 - ~~(S)~~ any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes and the policies of Chapter 2306, Texas Government Code; or
 - ~~(T)~~ other good cause as determined by the Board.

(2) Before the Board approves any Application, the Department shall assess the compliance history of the Applicant with respect to all applicable requirements; and the compliance issues associated with the proposed Development, including compliance information provided by the Texas State Affordable Housing Corporation. The Committee shall provide to the Board a written report regarding the results of the assessments. The written report will be included in the appropriate Development file for Board and Department review. The Board shall fully document and disclose any instances in which the Board approves a Development Application despite any noncompliance associated with the Development or Applicant. [2306.057]

(b) **Waiting List.** [2306.6711(c) and (d)] If the entire State Housing Credit Ceiling for the applicable calendar year has been committed or allocated in accordance with this chapter, the Board shall generate, concurrently with the issuance of commitments, a waiting list of additional Applications ranked by score in descending order of priority based on Set-Aside categories and regional allocation goals. The Board may also apply discretionary factors in determining the Waiting List. If at any time prior to the end of the Application Round, one or more Commitment Notices expire and a sufficient amount of the State Housing Credit Ceiling becomes available, the Board shall issue a Commitment Notice to Applications on the waiting list subject to the amount of returned credits, the regional allocation goals and the Set-Aside categories, including the 10% Nonprofit Set-Aside allocation required under the Code, §42(h)(5). At the end of each calendar year, all Applications which have not received a Commitment Notice shall be deemed terminated. The Applicant may re-apply to the Department during the next Application Acceptance Period.

(c) **Forward Commitments.** The Board may determine to issue commitments of tax credit authority with respect to Developments from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment"). The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments and the reasons for those commitments considering score and discretionary factors. The Board may utilize the forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration at any time during the 2004-2005 calendar year. Applications that are submitted under the 2005 QAP and granted a Forward Commitment of 2006 Housing Tax Credits are considered by the Board to comply with the 2006 QAP by having satisfied the requirements of this 2005 QAP, except for statutorily required QAP changes.

(1) Unless otherwise provided in the Commitment Notice with respect to a Development selected to receive a forward commitment, actions which are required to be performed under this chapter by a particular date within a calendar year shall be performed by such date in the calendar year of the Credit Ceiling from which the credits are allocated. ~~anticipated commitment rather than in the calendar year of the forward commitment.~~

(2) Any forward commitment made pursuant to this section shall be made subject to the availability of State Housing Credit Ceiling in the calendar year with respect to which the forward commitment is made. If a forward commitment shall be made with respect to a Development placed in service in the year of such commitment, the forward commitment shall be a "binding commitment" to allocate the applicable credit dollar amount within the meaning of the Code, §42(h)(1)(C).

(3) If tax credit authority shall become available to the Department in a calendar year in which forward commitments have been awarded, the Department may allocate such tax credit authority to any eligible Development which received a forward commitment, in which event the forward commitment shall be canceled with respect to such Development.

§50.49.11. Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants; Viewing of Pre-Applications and Applications; Confidential Information.

(a) Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants.

(1) Within approximately seven business days after the close of the Pre-Application Acceptance Period, the Department shall publish a Pre-Application Submission Log on its web site. Such log shall contain the Development name, address, Set-Aside, number of units, requested credits, owner contact name and phone number. [2306.6717(a)(1)]

(2) Approximately 30 days before the close of the Application Acceptance Period, the Department will release the evaluation and assessment of the Pre-Applications on its web site.

(3) Not later than 14 days after the close of the Pre-Application Acceptance Period, or Application Acceptance Period for Applications for which no Pre-Application was submitted, the Department shall: [2306.1114]

(A) publish an Application submission log on its web site.

(B) give notice of a proposed Development in writing that provides the information required under clause (i) of this subparagraph to all of the individuals and entities described in clauses (ii) through (viii) of this subparagraph. [2306.6718(a) through (c)]

(i) The following information will be provided in these notifications:

(I) The relevant dates affecting the Application including the date on which the Application was filed, the date or dates on which any hearings on the Application will be held and the date by which a decision on the Application will be made;

(II) A summary of relevant facts associated with the Development;

(III) A summary of any public benefits provided as a result of the Development, including rent subsidies and tenant services; and

(IV) The name and contact information of the employee of the Department designated by the director to act as the information officer and liaison with the public regarding the Application.

(ii) Presiding officer of the governing body of the political subdivision containing the Development (mayor or county judge) to advise such individual that the Development, or a part thereof, will be located in his/her jurisdiction and request any comments which such individual may have concerning such Development. If the presiding officer of the governing body expresses opposition to the Development, the Department will give consideration to the objections raised and will visit the proposed site or Development within 30 days of notification to conduct a physical inspection of the Development site and consult with the presiding officer of the governing body before the Application is scored, if opposition is received prior to scoring being completed. The Department will obtain reimbursement from the Applicant for the necessary travel and expenses at rates consistent with the state authorized rate [Rider 4 of Appropriations Bill] [\$42(m)(1)];

(iii) Any member of the governing body of a political subdivision who represents the area containing the Development. If the governing body has single-member districts, then only that member of the governing body for that district will be notified, however if the governing body has at-large districts, then all members of the governing body will be notified;

(iv) state representative and state senator who represent the community where the Development is proposed to be located. If the state representative or senator hold a community meeting, the Department shall provide appropriate representation.

(v) United States representative who represents the community containing the Development;

(vi) Superintendent of the school district containing the Development;

(vii) Presiding officer of the board of trustees of the school district containing the Development;

(viii) Any Neighborhood Organizations on record with the city or county in which the Development is to be located and whose boundaries contain the proposed Development site, based on the letters obtained by the Applicant ~~from the city and county clerks under §50.49.9(f) of this title or otherwise known to the Applicant or Department and on record with the state or county;~~ and

(ix) Advocacy organizations, social service agencies, civil rights organizations, tenant organizations, or others who may have an interest in securing the development of affordable housing that are registered on the Department's email list service.

(C) The elected officials identified in subparagraph (B) of this paragraph will be provided an opportunity to comment on the Application during the Application evaluation process. [\$42(m)(1)]

(4) The Department shall hold at least three public hearings in different Uniform State Service Regions of the state to receive comment on the submitted Applications and on other issues relating to the Housing Tax Credit Program. [2306.6717(c)]

(5) The Department shall make available on the Department's website information regarding the Housing Tax Credit Program including notice of public hearings, meetings, Application Round opening and closing dates,

submitted Applications, and Applications approved for underwriting and recommended to the Board, and shall provide that information to locally affected community groups, local and state elected officials, local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which a proposed Development is to be located, nonprofit and for-profit organizations, on-site property managers of occupied Developments that are the subject of Applications for posting in prominent locations at those Developments, and any other interested persons including community groups, who request the information. [2306.6717(b); 2306.6732]

(6) Approximately forty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will notify each Applicant of the receipt of any opposition received by the Department relating to his or her Development at that time.

(7) Not later than the third working day after the date of completion of each stage of the Application process, including the results of the Application scoring and underwriting phases and the commitment phase, the results will be posted to the Department's web site. [2306.6717(a)(3)]

(8) At least thirty days prior to the date of the July Board meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed, the Department will:

(A) provide the Application scores to the Board;

(B) if feasible, post to the Department's web site the entire Application, including all supporting documents and exhibits, the Application Log as further described in ~~§50.49.20(b)~~ of this title, a scoring sheet providing details of the Application score, and any other documents relating to the processing of the Application. [2306.6711(a) and 2306.6717(a)(2)]

(9) A summary of comments received by the Department on specific Applications shall be part of the documents required to be reviewed by the Board under this subsection if it is received 30 business days prior to the date of the Board Meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. Comments received after this deadline will not be part of the documentation submitted to the Board. However, a public comment period will be available prior to the Board's decision, at the Board meeting where tax credit commitment decisions will be made.

(10) Not later than the 120th day after the date of the initial issuance of Commitment Notices for housing tax credits, the Department shall provide an Applicant who did not receive a commitment for housing tax credits with an opportunity to meet and discuss with the Department the Application's deficiencies, scoring and underwriting. [2306.6711(e)]

(b) **Viewing of Pre-Applications and Applications.** Pre-Applications and Applications for tax credits are public information and are available upon request after the Pre-Application and Application Acceptance Periods close, respectively. All Pre-Applications and Applications, including all exhibits and other supporting materials, except Personal Financial Statements and Social Security numbers, will be made available for public disclosure after the Pre-Application and Application periods close, respectively. The content of Personal Financial Statements may still be made available for public disclosure upon request if the Attorney General's office deems it is not protected from disclosure by the Texas Public Information Act.

(c) **Confidential Information.** The Department may treat the financial statements of any Applicant as confidential and may elect not to disclose those statements to the public. A request for such information shall be processed in accordance with §552.305 of the Government Code. [2306.6717(d)]

~~§50.49.12.~~ Tax Exempt Bond Developments: Filing of Applications, Applicability of Rules, Supportive Services, Financial Feasibility Evaluation, Satisfaction of Requirements.

(a) **Filing of Applications for Tax Exempt Bond Developments.** Applications for a Tax Exempt Bond Development may be submitted to the Department as described in paragraphs (1) and (2) of this subsection:

(1) Applicants which receive advance notice of a Program Year ~~2004-2005~~ reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap must file a complete Application not later than 5:00 p.m. on December 30, 2004. ~~not later than 60 days after the date of the TBRB lottery.~~ Such filing must be accompanied by the Application fee described in ~~§50.49.2021~~ of this title.

(2) Applicants which receive advance notice of a Program Year ~~2004-2005~~ reservation after being placed on the waiting list as a result of the TBRB lottery for private activity volume cap must submit Volume 1 and Volume 2 of the Application and the Application fee described in ~~§50.49.2021~~ of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Any outstanding documentation required under this section must be submitted to the Department at least 60 days prior to the Board meeting at which the decision to issue a Determination Notice would be made.

(b) **Applicability of Rules for Tax Exempt Bond Developments.** Tax Exempt Bond Development Applications are subject to all rules in this title, with the only exceptions being the following sections: ~~§50.49.4~~ of this title (regarding State Housing Credit Ceiling), ~~§50.49.7~~ of this title (regarding Regional Allocation and Set-Asides),

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~§50.49.8~~ of this title (regarding Pre-Application), ~~§50.49.9(d)(2) and (4)~~ of this title (regarding Selection Criteria Review and Prioritization), ~~§50.49.9(g)~~ of this title (regarding Selection Criteria), ~~§50.49.10(b) and (c)~~ of this title (regarding Waiting List and Forward Commitments), and ~~§50.49.14~~ of this title (regarding Carryover and 10% Test). Such Developments requesting a Determination Notice in the current calendar year must meet all Threshold Criteria requirements stipulated in ~~§50.49.9(f)~~ of this title. Such Developments which received a Determination Notice in a prior calendar year must meet all Threshold Criteria requirements stipulated in the QAP and Rules in effect for the calendar year in which the Determination Notice was issued; provided, however, that such Developments shall comply with all procedural requirements for obtaining Department action in the current QAP and Rules; and such other requirements of the QAP and Rules as the Department determines applicable. ~~At the time of Application, Developments must demonstrate the Development's consistency with the bond issuer's consolidated plan or other similar planning document.~~ Consistency with the local municipality's consolidated plan or similar planning document must also be demonstrated in those instances where the city or county has a consolidated plan. Applicants will be required to meet all conditions of the Determination Notice by the time the construction loan is closed unless otherwise specified in the Determination Notice. Applicants must meet the requirements identified in ~~§50.49.15(a)~~ of this title. Applications that receive a reservation from the Bond Review Board on or before December 31, 2004 will be required to satisfy the requirements of the 2004 QAP; Applications that receive a reservation from the Bond Review Board on or after January 1, 2005 will be required to satisfy the requirements of the 2005 QAP.

(c) **Supportive Services for Tax Exempt Bond Developments.** [2306.254] Tax Exempt Bond Development Applications must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of these services will be included in the LURA. Acceptable services as described in paragraphs (1) through (3) of this subsection include:

(1) the services must be in at least one of the following categories: child care, transportation, basic adult education, legal assistance, counseling services, GED preparation, English as a second language classes, vocational training, home buyer education, credit counseling, financial planning assistance or courses, health screening services, health and nutritional courses, organized team sports programs, youth programs, scholastic tutoring, social events and activities, community gardens or computer facilities; or

(2) any other program described under Title IV-A of the Social Security Act (42 U.S.C. §§ 601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of wedlock pregnancies; and encourages the formation and maintenance of two-parent families, or

(3) any other services approved in writing by the Issuer or described in §2306.254 Texas Government Code. The plan for tenant supportive services submitted for review and approval of the Issuer must contain a plan for coordination of services with state workforce development and welfare programs. The coordinated effort will vary depending upon the needs of the tenant profile at any given time as outlined in the plan.

(d) **Financial Feasibility Evaluation for Tax Exempt Bond Developments.** Code §42(m)(2)(D) requires the bond issuer (if other than the Department) to ensure that a Tax Exempt Bond Development does not receive more tax credits than the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period. Treasury Regulations prescribe the occasions upon which this determination must be made. In light of the requirement, issuers may either elect to underwrite the Development for this purpose in accordance with the QAP and the Underwriting Rules and Guidelines, §1.32 of this title or request that the Department perform the function. If the issuer underwrites the Development, the Department will, nonetheless, review the underwriting report and may make such changes in the amount of credits which the Development may be allowed as are appropriate under the Department's guidelines. The Determination Notice issued by the Department and any subsequent IRS Form(s) 8609 will reflect the amount of tax credits for which the Development is determined to be eligible in accordance with this subsection, and the amount of tax credits reflected in the IRS Form 8609 may be greater or less than the amount set forth in the Determination Notice, based upon the Department's and the bond issuer's determination as of each building's placement in service. Any increase of tax credits, from the amount specified in the Determination Notice, at the time of each building's placement in service will only be permitted if it is determined by the Department, as required by Code §42(m)(2)(D), that the Tax Exempt Bond Development does not receive more tax credits than the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period, and increases to the amount of tax credits that exceed 110% of the amount of credits reflected in the Determination Notice are contingent upon approval by the Board. Increases to the amount of tax credits that do not exceed 110% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director.

(e) **Satisfaction of Requirements for Tax Exempt Bond Developments.** If the Department staff determines that all requirements of this QAP and Rules have been met, the Department will recommend that the Board authorize the issuance of a Determination Notice. The Board, however, may utilize the discretionary factors identified in ~~§50-49.10(a)~~ of this title in determining if they will authorize the Department to issue a Determination Notice to the Development Owner. The Determination Notice, if authorized by the Board, will confirm that the Development satisfies the requirements of the QAP and Rules in accordance with the Code, §42(m)(1)(D).

~~§50-49.13~~ Commitment and Determination Notices; Agreement and Election Statement.

(a) **Commitment and Determination Notices.** If the Board approves an Application, the Department will:

(1) if the Application is for a commitment from the State Housing Credit Ceiling, issue a Commitment Notice to the Development Owner which shall:

(A) confirm that the Board has approved the Application; and

(B) state the Department's commitment to make a Housing Credit Allocation to the Development Owner in a specified amount, subject to the feasibility determination described at ~~§50-49.1617~~ of this title, and compliance by the Development Owner with the remaining requirements of this chapter and any other terms and conditions set forth therein by the Department. This commitment shall expire on the date specified therein unless the Development Owner indicates acceptance of the commitment by executing the Commitment Notice or Determination Notice, pays the required fee specified in ~~§50-49.2024~~ of this title, and satisfies any other conditions set forth therein by the Department. A Development Owner may request an extension of the Commitment Notice expiration date by submitting an extension request and associated extension fee as described in ~~§50-49.2024~~ of this title. In no event shall the expiration date of a Commitment Notice be extended beyond the last business day of the applicable calendar year.

(2) if the Application regards a Tax Exempt Bond Development, issue a Determination Notice to the Development Owner which shall:

(A) confirm the Board's determination that the Development satisfies the requirements of this QAP; and

(B) state the Department's commitment to issue IRS Form(s) 8609 to the Development Owner in a specified amount, subject to the requirements set forth at ~~§50-49.12~~ of this title and compliance by the Development Owner with all applicable requirements of this title and any other terms and conditions set forth therein by the Department. The Determination Notice shall expire on the date specified therein unless the Development Owner indicates acceptance by executing the Determination Notice and paying the required fee specified in ~~§50-49.2024~~ of this title. The Determination Notice shall also expire unless the Development Owner satisfies any conditions set forth therein by the Department within the applicable time period.

(3) notify, in writing, the mayor or other equivalent chief executive officer of the municipality in which the Property is located informing him/her of the Board's issuance of a Commitment Notice or Determination Notice, as applicable.

(4) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount or where the cost for the total development, acquisition, construction or rehabilitation exceeds the limitations established from time to time by the Department and the Board, unless the Department staff make a recommendation to the Board based on the need to fulfill the goals of the Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.

~~(5) A Commitment or Determination Notice shall not be issued with respect to any Development in violation of the calculation relating to the inclusive capture rate as restricted under §1.32(g)(2) of this title, unless The Committee makes a recommendation to the Board based on the need to fulfill the goals of the Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.~~

~~(5) A Commitment or Determination Notice shall not be issued with respect to the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of one or more other low income rental housing properties in the state of Texas funded by administered by the Department, or outside the state of Texas, that is in Material Non-Compliance with the LURA (or any other document containing an Extended Low Income Housing Commitment) or the program rules in effect for such property, as described in Section 60.1 of this title, as of June 30 of each year (or for Tax Exempt Bond Developments as of 10 business days prior to the Board's vote to allocate credits. Any corrective action documentation affecting the Material Non-Compliance status score for Applicants must be received by the Department no later than May 15 of each year (or for Tax Exempt Bond Developments no later than 20 business days prior to the Board's vote to allocate credits).~~

(b) **Agreement and Election Statement.** Together with the Development Owner's acceptance of the Carryover Allocation, the Development Owner may execute an Agreement and Election Statement, in the form prescribed by the Department, for the purpose of fixing the Applicable Percentage for the Development as that for the month in which the Carryover Allocation was accepted (or the month the bonds were issued for Tax Exempt Bond Developments), as provided in the Code, §42(b)(2). Current Treasury Regulations, §1.42-8(a)(1)(v), suggest that in order to permit a Development Owner to make an effective election to fix the Applicable Percentage for a Development, the Carryover Allocation Document must be executed by the Department and the Development Owner within the same month. The Department staff will cooperate with a Development Owner, as possible or reasonable, to assure that the Carryover Allocation Document can be so executed.

(c) **Documentation Submission Requirements at Commitment of Funds.** No later than the date the Commitment Notice or Determination Notice is executed by the Applicant and returned to the Department with the appropriate Commitment Fee as further described in §49.2024(f) of this title, the following documents must also be provided to the Department. Failure to provide these documents may cause the Commitment to be rescinded.

(1) **Organizational Documents.** For each Applicant all of the following must be provided:

(A) Evidence that the entity has the authority to do business in Texas;

(B) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State;

(C) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement; and

(D) Evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents.

(2) Each Development Owner, General Partner and Principal must execute and provide to the Department Form 8821, Tax Information Authorization, within ten business days of the issuance of a Commitment Notice or Determination Notice. This form will be forwarded to the IRS for a review of information as permitted pursuant to IRS Form 8821 for the release of tax information relating to non-disclosure or recapture issues. Any information provided by the IRS will be evaluated by the Department and may be utilized by the Board to determine if a Carryover Allocation will be made. For Developments involving Tax Exempt Bonds, this documentation need only be provided for the Development Owner, General Partner and Principal one time per year, which should be in response to the first Determination Notice that they receive in a calendar year.

§50-49.14. Carryover, 10% Test.

(a) **Carryover.** All Developments which received a Commitment Notice, and will not be placed in service and receive IRS Form 8609 in the year the Commitment Notice was issued, must submit the Carryover documentation to the Department no later than November 1 of the year in which the Commitment Notice is issued. Developments involving acquisition/rehabilitation must submit the Carryover documentation to the Department no later than December 1 of the year in which the Commitment Notice is issued, however they will be ineligible for extensions beyond that date. Commitments for credits will be terminated if the Carryover documentation, or an approved extension, has not been received by this deadline. In the event that a Development Owner intends to submit the Carryover documentation in any month preceding November of the year in which the Commitment Notice is issued, in order to fix the Applicable Percentage for the Development in that month, it must be submitted no later than the first Friday in the preceding month. If the financing structure, syndication rate, amount of debt or syndication proceeds are revised at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be reevaluated by the Department. The Carryover Allocation format must be properly completed and delivered to the Department as prescribed by the Carryover Allocation Procedures Manual. All Carryover Allocations will be contingent upon the following, in addition to all other conditions placed upon the Application in the Commitment Notice:

(1) The Development Owner must have purchased the property for the Development.

(2) A current original plat or survey of the land, prepared by a duly licensed Texas Registered Professional Land Surveyor. Such survey shall conform to standards prescribed in the Manual of Practice for Land Surveying in Texas as promulgated and amended from time to time by the Texas Surveyors Association as more fully described in the Carryover Procedures Manual.

~~(3) A review of information provided by the IRS as permitted pursuant to IRS Form 8821, Tax Information Authorization, for the release of tax information relating to non-disclosure or recapture issues. Each~~

~~Development Owner, General Partner and Principal must execute and provide to the Department Form 8821 within ten business days of the issuance of a Commitment Notice or Determination Notice. Any information provided by the IRS will be evaluated by the Department and may be utilized by the Board to determine if a Carryover Allocation will be made.~~

~~(34) Attendance of the Development Owner and Development architect at eight hours of Department-approved Fair Housing training on or before the time the 10% Test Documentation is submitted closing of the construction loan.~~

~~(45) For all Developments involving new construction, evidence of the availability of all necessary utilities/services to the Development site must be provided. Necessary utilities include natural gas (if applicable), electric, trash, water, and sewer. Such evidence must be a letter or a monthly utility bill from the appropriate municipal/local service provider. If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner. Letters must be from an authorized individual representing the organization which actually provides the services. Such documentation should clearly indicate the Development property. If utilities are not already accessible (undeveloped areas), then the letter should not be older than three months from the first day of the Application Acceptance Period.~~

~~(56) Development Owners must provide evidence to the Department that they have notified the District office of the Texas Department of Transportation of their proposed property consistent with the template provided in the Carryover Allocation Procedures Manual.~~

~~(b) 10% Test. No later than six months from the date the Carryover Allocation Document is executed by the Department and the Development Owner, more than 10% of the Development Owner's reasonably expected basis must have been incurred pursuant to §42(h)(1)(E)(i) and (ii) of the Internal Revenue Code and Treasury Regulations, §1.42-6. The evidence to support the satisfaction of this requirement must be submitted to the Department no later than June 30 of the year following the execution of the Carryover Allocation Document in a format prescribed by the Department.~~

~~(c) Commencement of Substantial Construction. The Development Owner must submit evidence of having commenced and continued substantial construction activities. The evidence must be submitted not later than December 1 of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §49.20 of this title. The minimum activity necessary to meet the requirement of the substantial construction for new Developments will be defined as having expended 10% of the construction contract amount for the Development, adjusted for any change orders, and as documented by both the most recent construction contract application for payment and the inspection architect. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Development will be defined as having expended 10% of the construction budget as documented by the inspecting architect. Evidence of such activity shall be provided in a format prescribed by the Department.~~

~~§50.15. Closing of the Construction Loan, Commencement of Substantial Construction.~~

~~(a) Closing of the Construction Loan. The Development Owner must submit evidence of having closed the construction loan. The evidence must be submitted no later than June 1 of the year after the execution of the Carryover Allocation Document, and no later than 14 days after the closing of the construction loan for Tax Exempt Bond Developments, with the possibility of an extension as described in §50.21 of this title. At the time of submission of the documentation, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual. The Carryover Allocation will automatically be terminated if the Development Owner fails to meet the aforementioned closing deadline (taking into account any extensions), and has not had an extension approved, and all credits previously allocated to that Development will be recovered and become a part of the State Housing Credit Coiling for the applicable year. Owners of Tax Exempt Bond Developments will be fined \$2,500 if this requirement is not fulfilled.~~

~~(b) Commencement of Substantial Construction. The Development Owner must submit evidence of having commenced and continued substantial construction activities. The evidence must be submitted not later than December 1 of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §50.21 of this title. The minimum activity necessary to meet the requirement of substantial construction for new Developments will be defined as having expended 10% of the construction contract amount for the Development, adjusted for any change orders, and as documented by both the most recent construction contract application for payment and the inspecting architect. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Developments will be defined as~~

~~having expended 10% of the construction budget as documented by the inspecting architect. Evidence of such activity shall be provided in a format prescribed by the Department.~~

§50.49.1516. Cost Certification, LURA.

(a) Cost Certification. If a Carryover Allocation was not requested and received, Developments must be placed in service by December 31 of the year the Commitment Notice was issued. Developments receiving a Carryover Allocation must be placed in service by December 31 of the second year following the year the Carryover Allocation Agreement was executed. Developments requesting IRS Forms 8609 must submit the required Cost Certification documentation no later than April 1 of the year following the date the buildings were placed in service. Any Developments issued a Commitment Notice or Determination Notice that fails to submit its Cost Certification documentation by this time will be reported to the IRS- and the Owner will be required to submit a request for extension consistent with §49.20(k) of this title. The Department will perform an initial evaluation of the Cost Certification documentation within 45 days from the date of receipt of the Cost Certification documentation and notify the Owner in a deficiency letter of all additional required documentation. Once the Department has determined that all required documents have been received, the Department will issue IRS Forms 8609 no later than 90 days from the date of receipt of those final documents. Any deficiency letters issued to the Owner pertaining to the Cost Certification documentation will also be copied to the syndicator. At the time the Cost Certification documentation is provided, a title policy or 'nothing further certificate' must be provided dated on or after the date of substantial completion.

(b) Land Use Restriction Agreement (LURA). The Development Owner must request a LURA from the Department no later than September 1 of the first year in which credits will be claimed. The Development Owner must date, sign and acknowledge before a notary public the LURA and send the original to the Department for execution by December 1 of the first year in which credits will be claimed. ~~In addition, the initial compliance and monitoring fee must also be submitted to the Department by December 1 of that same year.~~ After receipt of the signed LURA from the Department, the Development Owner shall then record said LURA, along with any and all exhibits attached thereto, in the real property records of the county where the Development is located and return the original document, duly certified as to recordation by the appropriate county official, to the Department no later than the date that the Cost Certification Documentation is submitted to the Department. If any liens (other than mechanics' or materialmen's liens) shall have been recorded against the Development and/or the Property prior to the recording of the LURA, the Development Owner shall obtain the subordination of the rights of any such lienholder, or other effective consent, to the survival of certain obligations contained in the LURA, which are required by §42(h)(6)(E)(ii) of the Code to remain in effect following the foreclosure of any such lien. Receipt of such certified recorded original LURA by the Department is required prior to issuance of IRS Form 8609. A representative of the Department, or assigns, shall physically inspect the Development for compliance with the Application and the representatives, warranties, covenants, agreements and undertakings contained therein. Such inspection will be conducted before the IRS Form 8609 is issued for a building, but it shall be conducted in no event later than the end of the second calendar year following the year the last building in the Development is placed in service. The Development Owner for Tax Exempt Bond Developments shall obtain a subordination agreement wherein the lien of the mortgage is subordinated to the LURA.

§50.49.1617. Housing Credit Allocations.

(a) In making a commitment of a Housing Credit Allocation under this chapter, the Department shall rely upon information contained in the Application to determine whether a building is eligible for the credit under the Code, §42. The Development Owner shall bear full responsibility for claiming the credit and assuring that the Development complies with the requirements of the Code, §42. The Department shall have no responsibility for ensuring that a Development Owner who receives a Housing Credit Allocation from the Department will qualify for the housing credit.

(b) The Housing Credit Allocation Amount shall not exceed the dollar amount the Department determines is necessary for the financial feasibility and the long term viability of the Development throughout the affordability period. [2306.6711(b)] Such determination shall be made by the Department at the time of issuance of the Commitment Notice or Determination Notice; at the time the Department makes a Housing Credit Allocation; and as of the date each building in a Development is placed in service. Any Housing Credit Allocation Amount specified in a Commitment Notice, Determination Notice or Carryover Allocation Document is subject to change by the Department based upon such determination. Such a determination shall be made by the Department based on its evaluation and procedures, considering the items specified in the Code, §42(m)(2)(B), and the

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

department in no way or manner represents or warrants to any Applicant, sponsor, investor, lender or other entity that the Development is, in fact, feasible or viable.

(c) The General Contractor hired by the Development Owner must meet specific criteria as defined by the Seventy-fifth Legislature. A General Contractor hired by a Development Owner or a Development Owner, if the Development Owner serves as General Contractor must demonstrate a history of constructing similar types of housing without the use of federal tax credits. Evidence must be submitted to the Department, in accordance with ~~§50-49.9(f)(4)(H)~~ of this title, which sufficiently documents that the General Contractor has constructed some housing without the use of Housing Tax Credits. This documentation will be required as a condition of the commitment notice or carryover agreement, and must be complied with prior to commencement of construction and at cost certification and final allocation of credits.

(d) An allocation will be made in the name of the Development Owner identified in the related Commitment Notice or Determination Notice. If an allocation is made to a member or Affiliate of the ownership entity proposed at the time of Application, the Department will transfer the allocation to the ownership entity as consistent with the intention of the Board when the Development was selected for an award of tax credits. Any other transfer of an allocation will be subject to review and approval by the Department consistent with ~~§50-49.1748(c)~~ of this title. The approval of any such transfer does not constitute a representation to the effect that such transfer is permissible under §42 of the Code or without adverse consequences thereunder, and the Department may condition its approval upon receipt and approval of complete current documentation regarding the owner including documentation to show consistency with all the criteria for scoring, evaluation and underwriting, among others, which were applicable to the original Applicant.

(e) The Department shall make a Housing Credit Allocation, either in the form of IRS Form 8609, with respect to current year allocations for buildings placed in service, or in the Carryover Allocation Document, for buildings not yet placed in service, to any Development Owner who holds a Commitment Notice which has not expired, and for which all fees as specified in ~~§50-49.2024~~ of this title have been received by the Department and with respect to which all applicable requirements, terms and conditions have been met. For Tax Exempt Bond Developments, the Housing Credit Allocation shall be made in the form of a Determination Notice. For an IRS Form 8609 to be issued with respect to a building in a Development with a Housing Credit Allocation, satisfactory evidence must be received by the Department that such building is completed and has been placed in service in accordance with the provisions of the Department's Cost Certification Procedures Manual. The Cost Certification documentation requirements will include a certification and inspection report prepared by a Third-Party accredited accessibility inspector to certify that the Development meets all required accessibility standards. IRS Form 8609 will not be issued until the certifications are received by the Department. The Department shall mail or deliver IRS Form 8609 (or any successor form adopted by the Internal Revenue Service) to the Development Owner, with Part I thereof completed in all respects and signed by an authorized official of the Department. The delivery of the IRS Form 8609 will occur only after the Development Owner has complied with all procedures and requirements listed within the Cost Certification Procedures Manual. Regardless of the year of Application to the Department for Housing Tax Credits, the current year's Cost Certification Procedures Manual must be utilized when filing all cost certification materials. A separate Housing Credit Allocation shall be made with respect to each building within a Development which is eligible for a housing credit; provided, however, that where an allocation is made pursuant to a Carryover Allocation Document on a Development basis in accordance with the Code, §42(h)(1)(F), a housing credit dollar amount shall not be assigned to particular buildings in the Development until the issuance of IRS Form 8609s with respect to such buildings. The Department may delay the issuance of IRS Form 8609 if any Development violates the representations of the Application.

(f) In making a Housing Credit Allocation, the Department shall specify a maximum Applicable Percentage, not to exceed the Applicable Percentage for the building permitted by the Code, §42(b), and a maximum Qualified Basis amount. In specifying the maximum Applicable Percentage and the maximum Qualified Basis amount, the Department shall disregard the first-year conventions described in the Code, §42(f)(2)(A) and §42(f)(3)(B). The Housing Credit Allocation made by the Department shall not exceed the amount necessary to support the extended low income housing commitment as required by the Code, §42(h)(6)(C)(i).

(g) Development inspections shall be required to show that the Development is built or rehabilitated according to required plans and specifications. At a minimum, all Development inspections must include an inspection for quality during the construction process while defects can reasonably be corrected and a final inspection at the time the Development is placed in service. All such Development inspections shall be performed by the Department or by an independent Third Party inspector acceptable to the Department. The Development Owner shall pay all fees and costs of said inspections as described in ~~§50-49.2024~~ of this title. For

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

properties receiving financing through TX-USDA-RHS, the Department shall accept the inspections performed by TX-USDA-RHS in lieu of having other Third party Inspections. [2306.081]

(h) After the entire Development is placed in service, which must occur prior to the deadline specified in the Carryover Allocation Document and as further outlined in ~~§50-49.1516~~ of this title, the Development Owner shall be responsible for furnishing the Department with documentation which satisfies the requirements set forth in the Cost Certification Procedures Manual. For purposes of this title, and consistent with IRS Notice 88-116, the placed in service date for a new or existing building used as residential rental property is the date on which the building is ready and available for its specifically assigned function and more specifically when the first Unit in the building is certified as being suitable for occupancy in accordance with state and local law and as certified by the appropriate local authority or registered architect as ready for occupancy. The Cost Certification must be submitted for the entire Development; therefore partial Cost Certifications are not allowed. The Department may require copies of invoices and receipts and statements for materials and labor utilized for the new construction or rehabilitation and, if applicable, a closing statement for the acquisition of the Development as well as for the closing of all interim and permanent financing for the Development. If the Development Owner does not fulfill all representations and commitments made in the Application, the Department may make reasonable reductions to the tax credit amount allocated via the IRS Form 8609, may withhold issuance of the IRS Form 8609s until these representations and commitments are met, and/or may terminate the allocation, if appropriate corrective action is not taken by the Development Owner.

(i) The Board at its sole discretion may allocate credits to a Development Owner in addition to those awarded at the time of the initial Carryover Allocation in instances where there is bona fide substantiation of cost overruns and the Department has made a determination that the allocation is needed to maintain the Development's financial viability.

(j) The Department may, at any time and without additional administrative process, determine to award credits to Developments previously evaluated and awarded credits if it determines that such previously awarded credits are or may be invalid and the owner was not responsible for such invalidity. The Department may also consider an amendment to a Commitment Notice or Carryover Allocation or other requirement with respect to a Development if the revisions:

- (1) are consistent with the Code and the Housing Tax Credit Program;
- (2) do not occur while the Development is under consideration for tax credits;
- (3) do not involve a change in the number of points scored (unless the Development's ranking is adjusted because of such change);
- (4) do not involve a change in the Development's site; or
- (5) do not involve a change in the set-aside election.

~~§50-49.1718~~ Board Reevaluation, Appeals; Amendments, Housing Tax Credit and Ownership Transfers, Sale of Tax Credit Properties, Withdrawals, Cancellations.

(a) **Board Reevaluation.** [2306.6731(b)] Regardless of development stage, the Board shall reevaluate a Development that undergoes a substantial change between the time of initial Board approval of the Development and the time of issuance of a Commitment Notice or Determination Notice for the Development. For the purposes of this subsection, substantial change shall be those items identified in subsection (c)(3) of this section. The Board may revoke any Commitment Notice or Determination Notice issued for a Development that has been unfavorably reevaluated by the Board.

(b) **Appeals Process.** [2306.6715] An Applicant may appeal decisions made by the Department.

- (1) The decisions that may be appealed are identified in subparagraphs (A) through (C) of this paragraph.
 - (A) a determination regarding the Application's satisfaction of:
 - (i) Eligibility Requirements;
 - (ii) Disqualification or debarment criteria;
 - (iii) Pre-Application or Application Threshold Criteria;
 - (iv) Underwriting Criteria;
 - (B) the scoring of the Application under the Application Selection Criteria; and
 - (C) a recommendation as to the amount of housing tax credits to be allocated to the Application.
 - (D) Any Department decision that results in termination of an Application.
- (2) An Applicant may not appeal a decision made regarding an Application filed by another Applicant.
- (3) An Applicant must file its appeal in writing with the Department not later than the seventh day after the date the Department publishes the results of any stage of the Application evaluation process identified in ~~§50-49.9~~ of this title. In the appeal, the Applicant must specifically identify the Applicant's grounds for appeal, based on the original Application and additional documentation filed with the original Application. If the appeal

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

relates to the amount of housing tax credits recommended to be allocated, the Department will provide the Applicant with the underwriting report upon request.

(4) The Executive Director of the Department shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the Applicant is not satisfied with the Executive Director's response to the appeal, the Applicant may appeal directly in writing to the Board, provided that an appeal filed with the Board under this subsection must be received by the Board before:

(A) the seventh day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made; or

(B) the third day preceding the date of the Board meeting described by subparagraph (A) of this paragraph, if the Executive Director does not respond to the appeal before the date described by subparagraph (A) of this paragraph.

(5) Board review of an appeal under paragraph (4) of this subsection is based on the original Application and additional documentation filed with the original Application. The Board may not review any information not contained in or filed with the original Application. The decision of the Board regarding the appeal is final.

(6) The Department will post to its web site an appeal filed with the Department or Board and any other document relating to the processing of the appeal. [2306.6714(a)(4)]

(c) Amendment of Application Subsequent to Allocation by Board. [2306.6712 and 2306.6717(a)(4)]

(1) If a proposed modification would materially alter a Development approved for an allocation of a housing tax credit, or if the Applicant has altered any selection criteria item for which it received points, the Department shall require the Applicant to file a formal, written request for an amendment to the Application.

(2) The Executive Director of the Department shall require the Department staff assigned to underwrite Applications to evaluate the amendment and provide an analysis and written recommendation to the Board. The appropriate party monitoring compliance during construction in accordance with ~~§50-49.1819~~ of this title shall also provide to the Board an analysis and written recommendation regarding the amendment.

(3) For Applications approved by the Board prior to September 1, 2001, the Executive Director will approve or deny the amendment request. For Applications approved by the Board after September 1, 2001, the Board must vote on whether to approve the amendment. The Board by vote may reject an amendment and, if appropriate, rescind a Commitment Notice or terminate the allocation of housing tax credits and reallocate the credits to other Applicants on the Waiting List if the Board determines that the modification proposed in the amendment:

(A) would materially alter the Development in a negative manner; or

(B) would have adversely affected the selection of the Application in the Application Round.

(4) Material alteration of a Development includes, but is not limited to:

(A) a significant modification of the site plan;

(B) a modification of the number of units or bedroom mix of units;

(C) a substantive modification of the scope of tenant services;

(D) a reduction of three percent or more in the square footage of the units or common areas;

(E) a significant modification of the architectural design of the Development;

(F) a modification of the residential density of the Development of at least five percent; (G) an increase or decrease in the site acreage of greater than 10% from the original site under control and proposed in the Application; and

(H) any other modification considered significant by the Board.

(5) In evaluating the amendment under this subsection, the Department staff shall consider whether the need for the modification proposed in the amendment was:

(A) reasonably foreseeable by the Applicant at the time the Application was submitted; or

(B) preventable by the Applicant.

(6) This section shall be administered in a manner that is consistent with the Code, §42.

(7) Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and monitor regarding the amendment will be posted to the Department's web site.

(8) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants targeted in the original Application, the following procedure will apply. For amendments that involve a reduction in the total number of low income Units being served, or a reduction in the number of low income Units at any level of AMGI represented at the time of Application, evidence must be presented to the Department that includes written confirmation from the lender and syndicator that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request, however, any affirmative recommendation to the Board is contingent upon concurrence from the Real Estate Analysis Division that the Unit adjustment (or an alternative Unit adjustment) is necessary for the continued feasibility of the Development. Additionally, if it is determined by the Department that the allocation of credits

would not have been made in the year of allocation because the loss of low income targeting points would have precluded the Application from being competitive enough to warrant an allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (4% or 9%) for 24 months from the time that the amendment is approved.

(d) **Housing Tax Credit and Ownership Transfers.** [2306.6713] A Development Owner may not transfer an allocation of housing tax credits or ownership of a Development supported with an allocation of housing tax credits to any Person other than an Affiliate of the Development Owner unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer.

(1) Transfers will not be approved prior to the issuance of IRS Forms 8609 unless the Development Owner can provide evidence that a hardship is creating the need for the transfer (potential bankruptcy, removal by a partner, etc.). A Development Owner seeking Executive Director approval of a transfer and the proposed transferee must provide to the Department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the Department.

(2) A Development Owner seeking Executive Director approval of a transfer must provide the Department with documentation requested by the Department, including but not limited to, a list of the names of transferees and Related Parties; and detailed information describing the experience and financial capacity of transferees and related parties. All transfer requests must disclose the reason for the request, and specifically disclose if the transfer is requested because a Person active in the Development is being, or has been, removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement. The Development Owner shall certify to the Executive Director that the tenants in the Development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the Department. Not later than the fifth working day after the date the Department receives all necessary information under this section, the Department shall conduct a qualifications review of a transferee to determine the transferee's past compliance with all aspects of the Housing Tax Credit Program, LURAs; and the sufficiency of the transferee's experience with Developments supported with Housing Credit Allocations. If the viable operation of the Development is deemed to be in jeopardy by the Department, the Department may authorize changes that were not contemplated in the Application.

(3) As it relates to the Credit Cap further described in §49.6(d) of this section, the credit cap will only be waived in the following circumstances:

(A) in cases of transfers in which the syndicator, investor or limited partner is taking over the Development and not merely replacing the general partner; or

(B) in cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(e) **Sale of Certain Tax Credit Properties.** Consistent with 2306.6726, Texas Government Code, not later than two years before the expiration of the Compliance Period, a Development Owner who agreed to provide a right of first refusal under 2306.6725, Texas Government Code and who intends to sell the property shall notify the Department of its intent to sell.

(1) The Development Owner shall notify Qualified Nonprofit Organizations and tenant organizations of the opportunity to purchase the Development. The Development Owner may:

(A) during the first six-month period after notifying the Department, negotiate or enter into a purchase agreement only with a Qualified Nonprofit Organization that is also a community housing development organization as defined by the federal home investment partnership program;

(B) during the second six-month period after notifying the Department, negotiate or enter into a purchase agreement with any Qualified Nonprofit Organization or tenant organization; and

(C) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the Department or any Qualified Nonprofit Organization or tenant organization approved by the Department.

(2) Notwithstanding items for which points were received consistent with ~~§50-49.9~~(g) of this title, a Development Owner may sell the Development to any purchaser after the expiration of the compliance period if a Qualified Nonprofit Organization or tenant organization does not offer to purchase the Development at the minimum price provided by §42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)), and the Department declines to purchase the Development.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(f) **Withdrawals.** An Applicant may withdraw an Application prior to receiving a Commitment Notice, Determination Notice, Carryover Allocation Document or Housing Credit Allocation, or may cancel a Commitment Notice or Determination Notice by submitting to the Department a notice, as applicable, of withdrawal or cancellation, and making any required statements as to the return of any tax credits allocated to the Development at issue.

(g) **Cancellations.** The Department may cancel a Commitment Notice, Determination Notice or Carryover Allocation prior to the issuance of IRS Form 8609 with respect to a Development if:

(1) The Applicant or the Development Owner, or the Development, as applicable, fails to meet any of the conditions of such Commitment Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Applications process for the Development;

(2) any statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;

(3) an event occurs with respect to the Applicant or the Development Owner which would have made the Development's Application ineligible for funding pursuant to ~~§50.49.5~~ of this title if such event had occurred prior to issuance of the Commitment Notice or Carryover Allocation; or

(4) The Applicant or the Development Owner or the Development, as applicable, fails to comply with these Rules or the procedures or requirements of the Department.

(h) **Alternative Dispute Resolution Policy.** In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation, ~~and nonbinding arbitration.~~ Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR ~~procedure process,~~ the person may send a proposal to the Department's ~~General Counsel and~~ Dispute Resolution Coordinator (fax: 512-475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17. ~~The proposal should describe the dispute and the details of the process proposed (including proposed participants, third party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

~~§50.49.1819.~~ Compliance Monitoring and Material Non-Compliance.

(a) The Code, §42(m)(1)(B)(iii), requires the Department as the housing credit agency to include in its QAP a procedure that the Department will follow in monitoring Developments for compliance with the provisions of the Code, §42 and in notifying the IRS of any noncompliance of which the Department becomes aware. Detailed compliance rules ~~and procedures for monitoring~~ are set forth in Department Rule §60.1 of this title, ~~to be proposed and in the Owner's Compliance Manual prepared by the Department's Compliance Division, as amended from time to time.~~ Such procedure only addresses forms and records that may be required by the Department to enable the Department to monitor a Development for violations of the Code and the LURA and to notify the IRS of any such non-compliance. This procedure does not address forms and other records that may be required of Development Owners by the IRS more generally, whether for purposes of filing annual returns or supporting Development Owner tax positions during an IRS audit.

(b) ~~The Department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction or rehabilitation phase associated with any Development under this title. The Department will monitor under this requirement by requiring a copy of reports from all construction inspections performed for the lender and/or syndicator for the Development. Those reports must indicate that the Department may rely on those reports. The Department may provide those inspectors for the lender and/or syndicator with required documentation to be completed that will confirm satisfaction of the requirements of this rule. If necessary, the Department may obtain a Third Party inspection report for purposes of monitoring. The Development Owner must provide the Department with copies of all inspections made throughout the construction of the Development within fifteen days of the date the inspection occurred. The Department, or any Third Party inspector hired by the Department, shall be provided, upon request, any construction documents, plans or specifications for the Development to perform these inspections. If reports are not submitted to the Department or can not be relied upon, the Applicant will be responsible for payment of any necessary inspections. The monitoring level for each Development must be based on the amount of risk~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~associated with the Development. The Department shall use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each Development. After completion of a Development's construction phase, the Department shall periodically review the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. Developments having financing from TX-USDA-RHS will be exempt from these inspections, provided that the Development Owner provides the Department with copies of all inspections made by TX-USDA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred. [2306.081(a) to (c); 2306.6719]~~

~~(c) The Department will monitor compliance with all representations made by the Development Owner in the Application and in the LURA, whether required by the Code, Treasury Regulations or other rulings of the IRS, or undertaken by the Development Owner in response to Department requirements or criteria.~~

~~(d) The Development Owner must collect information and retain records for each qualified low income building in the Development, on a monthly basis (with respect to the first year of a building's Credit Period and on an annual basis, thereafter in accordance with IRS Regulation 1.42-5(b)(1) and (2)).~~

~~(e) The Development Owner will deliver to the Department no later than the last day in April each year, the current audited financial statements, in form and content satisfactory to the Department, itemizing the income and expenses of the Development for the prior year.~~

~~(f) Specifically, to evidence compliance with the requirements of the Code, §42(h)(6)(B)(iv) which requires that the LURA prohibit Development Owners of all tax credit Developments placed in service after August 10, 1993 from refusing to lease to persons holding Section 8 vouchers or certificates because of their status as holders of such Section 8 voucher or certificate. Development Owners must comply with Department rules under 10-TAC §1.14 of this title. [2306.6728 and 2306.269(b)(1) and (2)]~~

~~(g) Certification and Review.~~

~~(1) On or before February 1st of each year, the Department will send each Development Owner of a completed Development the Fair Housing Sponsor Report (form provided by the Department) to be completed by the Development Owner and returned to the Department on or before the first day of March of each year in the Compliance Period. Any Development for which the certification is not received by the Department, is received past due, or is incomplete, improperly completed or not signed by the Development Owner, will be considered not in compliance with the provisions of §42 of the Code and reported to the IRS on Form 8823, Low Income Housing Credit Agencies Report of Non-Compliance. The Fair Housing Sponsor Report, Part A "Owner's Certification of Program Compliance" shall cover the preceding calendar year and shall at a minimum cover the requirements under IRS Regulation 1.42-5(c) and §60.1 of this title, to be proposed.~~

~~(2) Review.~~

~~(A) The Department staff will review the Fair Housing Sponsor Report for compliance with the requirements of the Code, §42.~~

~~(B) The Department will monitor the Development for compliance under Section 42 and §60.1 of this title, to be proposed.~~

~~(C) The Department will perform on-site inspections of all buildings in each low income Development by the end of the second calendar year following the year the last building in the Development is placed in service and, for at least 20% of the low income Units in each Development, inspect the Units and review the low income certifications, the documentation the Development Owner has received to support the certifications, the rent records for each low income tenant in those Units, and any additional information that the Department deems necessary.~~

~~(D) At least once every three years, the Department will conduct on-site inspections of all buildings in the Development, and for at least 20% of the Development's low income Units, inspect the Units and review the low income certifications, the documentation supporting the certifications, and the rent records for the tenants in those Units.~~

~~(3) Exception. The Department may, at its discretion, enter into a Memorandum of Understanding with the TX-USDA-RHS, whereby the TX-USDA-RHS agrees to provide to the Department information concerning the income and rent of the tenants in buildings financed by the TX-USDA-RHS under its §515 program. Owners of such buildings may be excepted from the review procedures of subparagraph (B) or (C) of paragraph (2) of this subsection or both; however, if the information provided by TX-USDA-RHS is not sufficient for the Department to make a determination that the income limitation and rent restrictions of the Code, §42(g)(1) and (2), are met, the Development Owner must provide the Department with additional information. TX-USDA-RHS Developments~~

~~satisfy the definition of Qualified Elderly Development if they meet the definition for elderly used by TX-USDA-RHS, which includes persons with disabilities.~~

~~(h) Inspection provision. The Department retains the right to perform an on site inspection of any low income Development including all books and records pertaining thereto through either the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later. An inspection under this subsection may be in addition to any review under subsection (g)(2)(C) of this section.~~

~~(i) Inspection Standard. For the on-site inspections of buildings and low income Units, the Department shall review any local health, safety, or building code violations reported to, or notices of such violations provided by the Development Owner, and determine whether the Units satisfy local health, safety, and building codes or the uniform physical condition standards for public housing established by HUD (24 CFR 5.703). The HUD physical condition standards do not supersede or preempt local health, safety and building codes. Developments must continue to satisfy these codes and if the Department becomes aware of any violation of these codes, the violations must be reported to the IRS.~~

~~(j) The Department retains the right to require the Owner to submit tenant data in the electronic format as developed by the Department. The Department will provide general instruction regarding the electronic transfer of data.~~

~~(k) Notices to Owner. The Department will provide prompt written notice to the Development Owner if the Department does not receive the certification described in subsection (g)(1) of this section or discovers through audit, inspection, review or any other manner, that the Development is not in compliance with the provisions of the Code, §42 or the LURA. The notice will specify a correction period which will not exceed 90 days from the date of notice to the Development Owner, during which the Development Owner may respond to the Department's findings, bring the Development into compliance, or supply any missing certifications. The Department may extend the correction period for up to six months from the date of notice to the Development Owner if it determines there is good cause for granting an extension. If any communication to the Development Owner under this section is returned to the Department as unclaimed or undeliverable, the Development may be considered not in compliance without further notice to the Development Owner.~~

~~(l) Notice to the IRS.~~

~~(1) Regardless of whether the noncompliance is corrected, the Department is required to file IRS Form 8823 with the IRS. IRS Form 8823 will be filed not later than 45 days after the end of the correction period specified in the Notice to Owner (including any extensions permitted by the Department), but will not be filed before the end of the correction period. The Department will explain on IRS Form 8823 the nature of the noncompliance and will indicate whether the Development Owner has corrected the non-compliance or failure to certify.~~

~~(2) If a particular instance of non-compliance is not corrected within three years after the end of the permitted correction period, the Department is not required to report any subsequent correction to the IRS.~~

~~(3) The Department will retain records of noncompliance or failure to certify for six years beyond the Department's filing of the respective IRS Form 8823. In all other cases, the Department will retain the certification and records described in this section for three years from the end of the calendar year the Department receives the certifications and records.~~

~~(m) Notices to the Department. A Development Owner must comply with §50.18(d) of this title for the event listed in paragraph (1) of this subsection and must notify the division responsible for compliance within the Department in writing of the events listed in paragraphs (2) and (3) of this subsection.~~

~~(1) prior to any sale, transfer, exchange, or renaming of the Development or any portion of the Development. For Rural Developments that are federally assisted or purchased from HUD, the Department shall not authorize the sale of any portion of the Development;~~

~~(2) any change of address to which subsequent notices or communications shall be sent; or~~

~~(3) within thirty days of the placement in service of each building, the Department must be provided the in-service date of each building.~~

~~(n) Liability. Compliance with the requirements of the Code, §42 is the sole responsibility of the Development Owner of the building for which the credit is allowable. By monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Development Owner including the Development Owner's noncompliance with the Code, §42.~~

~~(o) These provisions apply to all buildings for which a housing tax credit is, or has been, allowable at any time. The Department is not required to monitor whether a building or Development was in compliance with the~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

requirements of the Code, §42, prior to January 1, 1992. However, if the Department becomes aware of noncompliance that occurred prior to January 1, 1992, the Department is required to notify the IRS in a manner consistent with subsection (j) of this section.

~~(p) Material Non Compliance. [2306.185(a)] In accordance with §50.5(b)(3) and (4) of this title, the Department will disqualify an Application for funding if the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of one or more other low income rental housing properties located in or outside the State of Texas is determined by the Department to be in Material Non Compliance on the date the Application Round closes. The Department will classify a property as being in Material Non Compliance when such property has a Non Compliance score that is equal to or exceeds 30 points in accordance with the methodology and point system set forth in this subsection, or if in accordance with §50.5(b)(4) of this title, the Department makes a determination that the non-compliance reported would equal or exceed a non-compliance score of 30 points if measured in accordance with the methodology and point system set forth in §60.1 of this title, to be proposed.~~

~~(q) Utility Allowances utilized during affordability period. The Department will monitor to determine whether rents comply with the published tax credit rent limits using the utility allowances established by the local housing authority. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.~~

§50.49.1920. Department Records, Application Log, IRS Filings.

(a) **Department Records.** At all times during each calendar year the Department shall maintain a record of the following:

- (1) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Commitment Notices during such calendar year;
- (2) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Carryover Allocation Documents during such calendar year;
- (3) the cumulative amount of Housing Credit Allocations made during such calendar year; and
- (4) the remaining unused portion of the State Housing Credit Ceiling for such calendar year.

(b) **Application Log.** [2306.6702(a)(3) and 2306.6709] The Department shall maintain for each Application an Application Log that tracks the Application from the date of its submission. The Application Log will contain, at a minimum, the information identified in paragraphs (1) through (9) of this subsection.

- (1) the names of the Applicant and all General Partners of the Development Owner, the owner contact name and phone number, and full contact information for all members of the Development Team;
- (2) the name, physical location, and address of the Development, including the relevant Uniform State Service Region of the state;
- (3) the number of Units and the amount of housing tax credits requested for allocation by the Department to the Applicant;
- (4) any Set-Aside category under which the Application is filed;
- (5) the requested and awarded score of the Application in each scoring category adopted by the Department under the Qualified Allocation Plan;
- (6) any decision made by the Department or Board regarding the Application, including the Department's decision regarding whether to underwrite the Application and the Board's decision regarding whether to allocate housing tax credits to the Development;
- (7) the names of individuals making the decisions described by paragraph (6) of this subsection, including the names of Department staff scoring and underwriting the Application, to be recorded next to the description of the applicable decision;
- (8) the amount of housing tax credits allocated to the Development; and
- (9) a dated record and summary of any contact between the Department staff, the Board, and the Applicant or any Related Parties.

(c) **IRS Filings.** The Department shall mail to the Internal Revenue Service, not later than the 28th day of the second calendar month after the close of each calendar year during which the Department makes Housing Credit Allocations, the original of each completed (as to Part I) IRS Form 8609, a copy of which was mailed or delivered by the Department to a Development Owner during such calendar year, along with a single completed IRS Form 8610, Annual Low Income Housing Credit Agencies Report. When a Carryover Allocation is made by the Department, a copy of the Carryover Allocation Agreement will be mailed or delivered to the Development Owner by the Department in the year in which the building(s) is placed in service, and thereafter the original

will be mailed to the Internal Revenue Service in the time sequence in this subsection. The original of the Carryover Allocation Document will be filed by the Department with IRS Form 8610 for the year in which the allocation is made. The original of all executed Agreement and Election Statements shall be filed by the Department with the Department's IRS Form 8610 for the year a Housing Credit Allocation is made as provided in this section. The Department shall be authorized to vary from the requirements of this section to the extent required to adapt to changes in IRS requirements.

~~§50.49.2021.~~ Program Fees, Refunds, Public Information Requests, Amendments of Fees and Notification of Fees, Extensions.

(a) **Timely Payment of Fees.** All fees must be paid as stated in this section. Any fees, as further described in this section, that are not timely paid will cause an Applicant to be ineligible to apply for tax credits and additional tax credits and ineligible to submit extension requests, ownership changes and Application amendments. Payments made by check, for which insufficient funds are available, may cause the Application, commitment or allocation to be terminated.

(b) **Pre-Application Fee.** Each Applicant that submits a Pre-Application shall submit to the Department, along with such Pre-Application, a non-refundable Pre-Application fee, in the amount of ~~\$105~~ per Unit. Units for the calculation of the Pre-Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Pre-Applications without the specified Pre-Application Fee in the form of a check will not be accepted. Pre-Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Pre-Application fee.

(c) **Application Fee.** Each Applicant that submits an Application shall submit to the Department, along with such Application, an Application fee. For Applicants having submitted a Pre-Application which met Pre-Application Threshold and for which a Pre-Application fee was paid, the Application fee will be ~~\$2015~~ per Unit. For Applicants not having submitted a Pre-Application, the Application fee will be ~~\$3020~~ per Unit. Units for the calculation of the Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Applications without the specified Application Fee in the form of a check will not be accepted. Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Application fee. [2306.6716(d)]

(d) **Refunds of Pre-Application or Application Fees.** [2306.6716(c)] The Department shall refund the balance of any fees collected for a Pre-Application or Application that is withdrawn by the Applicant or that is not fully processed by the Department. The amount of refund on Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 30% of the review, the site visit will constitute 45% of the review, and Threshold and Selection review will constitute 25% of the review. The Department must provide the refund to the Applicant not later than the 30th day after the date the last official action is taken with respect to the Application.

(e) **Third Party Underwriting Fee.** Applicants will be notified in writing prior to the evaluation of a Development by an independent external underwriter in accordance with ~~§50.49.9(d)(4)~~ of this title if such a review is required. The fee must be received by the Department prior to the engagement of the underwriter. The fees paid by the Development Owner to the Department for the external underwriting will be credited against the commitment fee established in subsection (f) of this section, in the event that a Commitment Notice or Determination Notice is issued by the Department to the Development Owner.

(f) **Commitment or Determination Notice Fee.** Each Development Owner that receives a Commitment Notice or Determination Notice shall submit to the Department, not later than the expiration date on the commitment notice, a non-refundable commitment fee equal to ~~5%4%~~ of the annual Housing Credit Allocation amount. The commitment fee shall be paid by check.

(g) **Compliance Monitoring Fee.** Upon receipt of the cost certification, the Department will invoice the Development Owner for compliance monitoring fees. The amount due will equal \$40 per tax credit unit. The fee will be collected, retroactively if applicable, beginning with the first year of the credit period. The invoice must be paid prior to the issuance of from 8609. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the beginning month of the compliance period. Upon the Development being placed in service, the Development Owner will pay a compliance monitoring fee in the form of a check equal to \$25 per tax credit Unit per year or \$100, whichever is greater. Payment of the first year's compliance monitoring fee must be received by the Department prior to the release of the IRS Form 8609 on the

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~Development. Subsequent anniversary dates on which compliance monitoring fee payments are due shall be determined by the date the Development was placed in service.~~

(h) **Building Inspection Fee.** The Building Inspection Fee must be paid at the time the Commitment Fee is paid. The Building Inspection Fee for all Developments is \$750. Inspection fees in excess of \$750 may be charged to the Development Owner not to exceed an additional \$250 per Development. Developments receiving financing through TX-USDA-RHS that will not have construction inspections performed through the Department will be exempt from the payment of an inspection fee.

(i) Tax Exempt Bond Credit Increase Request Fee. As further described in Section 49.12(d) of this section, requests for increases to the credit amounts to be issued on IRS Forms 8609 for Tax Exempt Bond Developments must be submitted with a request fee equal to one percent of the first year's credit amount.

(i) **Public Information Requests.** Public information requests are processed by the Department in accordance with the provisions of the Government Code, Chapter 552. The Texas Building and Procurement Commission (formerly General Services Commission) determines the cost of copying, and other costs of production.

(j) **Periodic Adjustment of Fees by the Department and Notification of Fees.** [2306.6716(b)] All fees charged by the Department in the administration of the tax credit program will be revised by the Department from time to time as necessary to ensure that such fees compensate the Department for its administrative costs and expenses. The Department shall publish each year an updated schedule of Application fees that specifies the amount to be charged at each stage of the Application process. Unless otherwise determined by the Department, all revised fees shall apply to all Applications in process and all Developments in operation at the time of such revisions.

(k) **Extension Requests.** All extension requests relating to the Commitment Notice, Carryover, ~~Closing of Construction Loan, Substantial Construction Commencement, Placed in Service or Cost Certification~~ requirements shall be submitted to the Department in writing and be accompanied by a non-refundable extension fee in the form of a check in the amount of \$2,500. Such requests must be submitted to the Department ~~no later than at least 20 days prior to the date for which an extension is being requested and will not be accepted any later than this deadline date.~~ The extension request shall specify a requested extension date and the reason why such an extension is required. Carryover extension requests shall not request an extended deadline later than December 1st of the year the Commitment Notice was issued. The Department, in its sole discretion, may consider and grant such extension requests for all items. If an extension is required at Cost Certification, the fee of \$2,500 must be received by the Department to qualify for issuance of Forms 8609, except for the Closing of Construction Loan and Substantial Construction Commencement. The Board may grant extensions, for the Closing of Construction Loan and Substantial Construction Commencement. The Board may waive related fees for good cause.

~~§50.49.2122.~~ **Manner and Place of Filing All Required Documentation.**

(a) All Applications, letters, documents, or other papers filed with the Department ~~must~~ will be received only between the hours of 8:00 a.m. and 5:00 p.m. on any day which is not a Saturday, Sunday or a holiday established by law for state employees.

(b) All notices, information, correspondence and other communications under this title shall be deemed to be duly given if delivered or sent and effective in accordance with this subsection. Such correspondence must reference that the subject matter is pursuant to the Tax Credit Program and must be addressed to the Housing Tax Credit Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, TX 78711-3941 or for hand delivery or courier to 507 Sabine, Suite 400, Austin, Texas 78701. Every such correspondence required or contemplated by this title to be given, delivered or sent by any party may be delivered in person or may be sent by courier, telecopy, express mail, telex, telegraph or postage prepaid certified or registered air mail (or its equivalent under the laws of the country where mailed), addressed to the party for whom it is intended, at the address specified in this subsection. Regardless of method of delivery, documents must be received by the Department no later than 5:00 p.m. for the given deadline date. Notice by courier, express mail, certified mail, or registered mail will be considered received on the date it is officially recorded as delivered by return receipt or equivalent. Notice by telex or telegraph will be deemed given at the time it is recorded by the carrier in the ordinary course of business as having been delivered, but in any event not later than one business day after dispatch. Notice not given in writing will be effective only if acknowledged in writing by a duly authorized officer of the Department.

(c) If required by the Department, Development Owners must comply with all requirements to use the Department's web site to provide necessary data to the Department.

§50.49.2223. Waiver and Amendment of Rules.

(a) The Board, in its discretion, may waive any one or more of these Rules if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for other good cause, as determined by the Board.

(b) The Department may amend this chapter and the Rules contained herein at any time in accordance with the Government Code, Chapter 2001, ~~as may be amended from time to time.~~

§50.49.2324. Deadlines for Allocation of Housing Tax Credits. [2306.6724]

(a) Not later than September 30 of each year, the Department shall prepare and submit to the Board for adoption the draft QAP required by federal law for use by the Department in setting criteria and priorities for the allocation of tax credits under the Housing Tax Credit program. (b) The Board shall adopt and submit to the Governor the QAP not later than November 15 of each year.

(c) The Governor shall approve, reject, or modify and approve the QAP not later than December 1 of each year. [2306.67022][~~§42(m)(1)~~]

(d) The Board shall annually adopt a manual, corresponding to the QAP, to provide information on how to apply for housing tax credits.

(e) Applications for Housing Tax Credits to be issued a Commitment Notice during the Application Round in a calendar year must be submitted to the Department not later than March 1.

(f) The Board shall review the recommendations of Department staff regarding Applications and shall issue a list of approved Applications each year in accordance with the Qualified Allocation Plan not later than June 30.

(g) The Board shall approve final commitments for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than July 31, unless unforeseen circumstances prohibit action by that date. In any event, the Board shall approve final commitments for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than September 30. Department staff will subsequently issue Commitment Notices based on the Board's approval. Final commitments may be conditioned on various factors approved by the Board, including resolution of contested matters in litigation.



**2005 QAP Working Group
Recommendations for Revisions to
the 2005 Qualified Allocation Plan
and Rules**

July 28, 2004

Multifamily Finance Production Division: 512.475.3340

INTRODUCTION

In January 2004, the Texas Department of Housing and Community Affairs (“the Department”) initiated the creation of a work group that would generate recommendations for the 2005 Qualified Allocation Plan and Rules (“QAP”) that govern the Housing Tax Credit Program. That group, the 2005 QAP Working Group (“the Working Group”), a group independent of the Department, collaborated for six months to provide staff with final recommendations of their preferred revisions to the QAP. The input of the 2005 QAP Working Group will be instrumental to Department staff in generating recommendations for QAP revisions to the Department’s Board.

Structure, Composition and Membership

The Working Group was structured as an open group to which members could join voluntarily throughout the entire six month period that the group convened. The group began in February with roughly 80 registered members and by the final meeting in June 2004, there were approximately 130 registered members. The meetings were held one day a month, generally for a full working day. While the group was open and therefore membership could not be defined, the Department attempted to ensure that the composition of the group adequately represented the many facets of tax credit development and affordable housing. Members included lenders, syndicators, developers (rural, urban, for profit, nonprofit, etc.), advocates, legislative representatives, neighborhood representatives, local officials, etc. In spite of the large number of registered members, meetings generally averaged 50 attendees.

Topics and Committees

An initial list of topics was approved by the Working Group at their first meeting. The group then categorized those topics and issues into common themes and created committees to address each area. Ultimately nine committees were created. Committee membership was voluntary. A Facilitator for each committee was identified; that facilitator took responsibility for coordinating meetings, sharing committee information and making presentations to the larger group.

A list of each of the Committees including their facilitator, members and topics covered follows. Note that there may have been other individuals involved in these committees – due to the open nature of the Group and the Committees membership and participation was fluid.

I. Scoring Committee

Facilitator: Patrick Barbolla

Members: Cindy Evans, Bobby Bowling, Barry Palmer, Michael Hartman, Patrick Barbolla, Jot Couch, Barry Kahn, Granger MacDonald, Bob Voelker, Jeanne Langendorf, Jonas Schwartz, John Henneberger, Betsy Julian, Anne Lott, Rowan Smith, Dick Kilday, Scott McGuire

Issues for Discussion and Recommendation: Energy Saving Devices - Moving from Threshold to Selection; Site Amendments - Changing Site after Award with No/Limited Impact on Pre-Application Points; Amenities – Threshold and Selection / Unit and Common; Point Reductions – Removal of Partners Clarified, New Suggestions for Reductions; Scoring component for Affirmatively Furthering Fair Housing; Regionalized Scoring; Historically Under Businesses (HUB) Point Legality; More Categories of Scoring to Create Greater Differentiation Between Applications; General Scoring Issues; Revising Right of First Refusal Language; and Minimum Threshold Score.

II. Public Input & Local Involvement Committee

Facilitator: Dan Markson

Members: Cindy Evans, Jeanne Talerico, Diana McIver, John Garvin, Dan Markson, Sally Gaskin, Janna Cormier, Cheryl Potashnik, Dominick Dina, Cynthia Bast, Jim Shearer, Judith McGlaughlin, Jeremy Mazur, Liza Gonzalez, Gordon Cook, Nina Nixon Mendez, Drew Cameron, Scott McGuire, Sandra Williams

Issues for Discussion and Recommendation: One Mile Tests (1 Year and 3 Year) Implementation including Ties for Bonds vs. 9%; Quantifiable Community Participation Points / Guidelines; and Notifications / Statewide Database/Registry for Neighborhood Organizations (including January 15th date and adding clarity for bond deals).

III. Special Needs & Populations Committee

It should be noted that there was concern from the group that this committee be sure to consider financial feasibility issues as they discuss the special needs populations.

Facilitator: Walter Moreau

Members: Michael Hartman, Walter Moreau, Diana McIver, Mike Clark, Granger MacDonald, Jot Couch, David Long, Jeanne Langendorf, Jonas Schwartz, Jim Shearer, Frances Pelley, John Henneberger, Jim Washburn

Issues for Discussion and Recommendation: Transitional Housing; Rent-to-Own Programs/ Tenant Homeownership Programs; Military Housing and HTCs; Set-Aside and/or Scoring Incentive for Migrant Housing; Social Service Points – How to Fund, Compliance; and Elderly Set-Aside.

IV. Financial Feasibility Committee

Facilitator: Michael Hartman

Members: Tom Gouris, Bobby Bowling, Wendy Maceo, Michael Hartman, Patrick Barbolla, Dick Kilday, Dan Markson, Chris Richardson, Sally Gaskin, Diana McIver, Mike Sugrue, Janna Cormier, Cheryl Potashnik, Barry Kahn, George Littlejohn, Mark Mayfield, Dale Cook, John Pitts, Betsy Julian, John Henneberger, Bob Voelker, Katherine Closmann, Lee Stevens, Jim Washburn, Drew Cameron, Anne Lott, Barry Palmer, Paul Patierno

Issues for Discussion and Recommendation: Low Income Targeting – Splitting out Rents and Incomes as 2 Exhibits/ Point Adjustments/Including a More Detailed Interpretation; Defining Financial Feasibility; Bedroom Mix (under Ineligible Building Type); Development Cost Caps per Unit; Mixed Income Points; and Leveraging Funds in General and How is Leveraging Defined.

V. Definitions Committee

Facilitator: Sox Johnson

Members: Michael Hartman, Patrick Barbolla, Sox Johnson, Brooke Boston, Cynthia Bast, Donna Chatham, John Garvin

Issues for Discussion and Recommendation: Definition of Bedroom and Unit; Definition of Affiliate and Related Party; Defining “Consultant”; and Caps on Unit Size.

VI. Regional Allocation / Affordable Housing Needs Committee

Facilitator: Rowan Smith

Members: Sarah Anderson, Bobby Bowling, Cindy Evans, Sox Johnson, Jim Shaw, Bob Voelker, Donna Chatham, Frances Pelley, Betsy Julian, Mark Mayfield, Jim Shearer, Gus

Garcia, Liza Gonzalez, Ike Akbari, Rowan Smith, Dick Kilday, Gordon Cook

Issues for Discussion and Recommendation: Affordable Housing Needs Score; Regional Allocation Formula – Rural/Exurban/Urban; Achieving Exurban Allocations; and Addressing how to determine which Regions will go Under or Over the Targeted Allocation Amount.

VII. Rural and Rehabilitation Committee

Facilitator: Dennis Hoover

Members: Gus Garcia, Barry Palmer, Barry Halla, Jim Shaw, Donna Chatham, Sox Johnson, Dennis Hoover, Granger MacDonald, Mark Mayfield, Anne Lott, Frances Pelley, Jim Washburn, Wendy Maceo, Ike Akbari

Issues for Discussion and Recommendation: Preservation and Rehabilitation Issues; and Leveraging with the 514 and 538 programs.

VIII. Threshold Criteria and Streamlining Committee

Facilitator: John Pitts

Members: Patrick Barbolla, John Pitts, George Littlejohn, Rowan Smith

Issues for Discussion and Recommendation: Applicant/Developer Experience – Altering the minimum requirement, Who qualifies and Looking at whole team; Eliminating Some Threshold Requirements and/or Moving Some Threshold Requirements to Carryover; Eliminating Documentation and Submission Requirements for Construction Loan Closing and Commencement; and Improving timing and process for staff responses / administration.

IX. Compliance and Utility Allowance Committee

Facilitator: Mike Clark

Members: Sara Newsom, Mike Clark, Jot Couch, Barry Kahn, Rowan Smith, Bert Magill, Ike Akbari, John Henneberger, Jim Beats

Issues for Discussion and Recommendation: Appeals on Compliance Scoring System and/or Material Noncompliance Determinations; Revisions to the Compliance Scoring System; and Discussion on Utility Allowances.

Process for Recommendations

The Working Group decided in its first meeting that the process to be used in generating recommendations, and ultimately a final report, would proceed as described in this section. First, each committee held ongoing meetings (via conference calls, meetings and email communication) to discuss their topics. Then, at each meeting of the larger Working Group, committee facilitators presented their committee's progress to date. Committees ultimately generated reports (generally reflecting a majority and minority position) from the committee to the Working Group that were presented at the May and June Working Group meetings. The Working Group then took action, by vote, on whether to approve, deny, or approve with amendments the recommendations of each committee. Topics were taken one at a time to ensure that each issue was discussed on its own merits. However, the Committees and the Working Group as a whole may not have made recommendations or comments on all issues originally identified for each committee.

RECOMMENDATIONS

The following recommendations reflect the final decisions made by the Working Group. Recommendations are organized by Committee, however it should be noted that the recommendations reflect not only the input of the committee, but the decision of the Working Group as a whole.

Since the Working Group's recommendations were made by vote, and not consensus, it should be noted that the recommendations do not necessarily reflect the preferences of all Working Group members. When possible, a minority opinion is provided. Even in instances of a minority report, it is possible that not all views of all members are reflected in these recommendations. Also be aware that due to the extensive and comprehensive discussions that took place, this report only reflects the results of the Working Group and does not reflect the dialogue and discussion behind each issue. After each committee title, the recommended changes are numerically listed and further referenced by the QAP reference (as based on the existing 2004 QAP). The order the items are provided tracks with the existing 2004 QAP. If specific language was approved, the draft of that language is also provided shown either as new language or reflecting "blacklined" revisions to the 2004 QAP. In instances where more than one committee made recommendations on a particular section of the QAP, the revisions are shown separately in each of the Committee's summaries; the revisions are not reflected cumulatively in the recommendations of either Committee.

The Working Group, through its other revisions, recommended that all dates reflecting the calendar year 2004 be updated to reflect calendar year 2005.

Department Disclaimer: These recommendations do **not** reflect the recommendations of Department staff nor do they represent the recommendations that staff will make to the Board. Staff will make its recommendations to the Board based on the input of the Working Group, other input received and based on its evaluation of necessary policy and administrative changes and improvements.

COMMITTEE I -SCORING COMMITTEE

Facilitator: Patrick Barbolla

On June 14, 2004, The 2005 Working Group ("WG") considered possible revisions to the scoring components of the Qualified Allocation Plan. In advance of the meeting, all members of the Working Group were provided with a document entitled "2005 Working Group Selection Scoring" that contained various proposals for scoring of tax credit applications. It was determined that the category or concept would be voted upon initially with the allocation of points to specific items deferred until the end of the meeting. It was further noted that while the group would review the document "2005 Working Group Selection Scoring", any member of the working group could suggest additional items for consideration or amendments. In effect, the meeting would be open to consider any and all ideas proposed by any person in attendance.

1. **§50.9(g)(1) – Financial Feasibility.** The WG voted unanimously to retain the existing section 50.9(g)(1) on Development Financial Feasibility. No minority opinion provided. No language revisions suggested.
2. **§50.9(g)(2) - Quantifiable Community Support.** [All suggested changes to this item are addressed by Committee II. Please refer to the summary for Committee II which are inclusive of all actions taken on this item.]
3. **§50.9(g)(3) – Development Location Characteristics.** The Group voted to retain the existing development location characteristics section with the one exception which was to amend subparagraph (D) as noted below. The Group also voted on deleting the "Exurban" Points at subparagraph (G) but this resulted in a tie vote, thus the motion failed. Note, however, the subsequent vote related to Exurban Points under number 5 of this Committee's summary. No minority opinion provided. Language recommended:

"(D) the Development is located in a census tract ~~in which has~~with a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census) equal to or exceeding 80% of the MFI for the county in which the Development is located, ~~that is higher than the MFI for the county in which the census tract is located, as established by HUD.~~ This comparison shall be made using the most recent data available from both sources as of as of October 1 of the year preceding the applicable program year. In those years when the U.S. Census does not publish median family income information at the census tract level, the most recent U.S. Census MFI available for the tract shall be multiplied by the change between HUD's published data for the county MFI as of the year in which the Census MFI was published and the county MFI as of October 1 of the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county."

4. **§50.9(g)(4) – Site Location Characteristics.** The group voted to retain the existing language with the exception of removing the negative points associated with a development adjacent to or within 300 feet of an Interstate Highway. No minority opinion provided. Language recommended:

~~"(iii) Developments located adjacent to or within 300 feet of an Interstate Highway including frontage and service roads will have 1 point deducted from their score."~~

5. **§50.9(g)(5) – Housing Needs Characteristics.** The Group voted to remove the Affordable Housing Needs Score (AHN) from the QAP. In the event that the Board retain the AHN scoring points, the Group recommends deleting the “Exurban” points currently found §50.9(g)(3)(G). The group would like to be sure that only one of those two items – either the AHN Score or the Exurban Points – remain in the 2005 QAP. No minority opinion provided. Language recommended:

~~“(5) Housing Needs Characteristics. Each Application, dependent on the city or county where the Development is located, will yield a score based on the Uniform Housing Needs Scoring Component. If a Development is in an incorporated city, the city score will be used. If a Development is outside the boundaries of an incorporated city, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each city and county will be published in the Reference Manual. (7 points maximum).”~~

6. **§50.9(g)(6) – Support and Consistency with Local Planning.** The Group acknowledged that there is a problem with awarding points for letters from State Representatives and Senators. As a matter of practice, many members of the legislature will not issue letters of support. Based on the language in the legislation, a development located in a district where the member will not issue any letters of support places such development at a competitive disadvantage if the same service region has members that routinely issue letters of support. The Group acknowledged that the solution to this issue is a legislative amendment that protects the rights of the legislature to have a meaningful input while not penalizing developments that are unable to obtain letters of support. The Group voted to change subparagraph (A) relating to consistency with the consolidated plan to add points for support from local officials. Additionally, the group recommends deletion of the reference to the Attorney General Opinion in subparagraph (C) and to the local points under (C)(ii). No minority opinion provided. Language recommended:

~~“(A) Evidence from either a city manager, city council member for the location of the development, mayor, or county commissioner or county judge in support of the development shall qualify for 3 points. Evidence from the local municipal authority stating that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or a letter from the local municipal authority stating that there is no local plan and that the city supports the Development (3 points).”~~

~~**Excerpted from (C):** “The Governing Board has directed the Department to request an opinion from the Attorney General on whether recent legislation permits scoring for input from officials other than state officials. If the Attorney General renders an opinion that only input from state officials may be scored, then city and county input will not be scored.”~~

~~**Excerpted from (C)(ii):** “(ii) from the Mayor, City Council member for the area, County Judge, County Commissioner for the area, or a resolution from the City Council or County Commission (support letters or resolutions are 3 points each, maximum of 3 points; opposition letters or resolutions are 3 points each, maximum of 3 points).”~~

7. **§50.9(g)(7)(B) – Development Characteristics, Cost per Square Foot.** The Group voted to retain the existing language at section 50.9(g)(7)(B) regarding costs per square foot, but with the exception that the \$73 per square foot cost limitation for projects that are only partially transitional housing for the homeless will only apply to the transitional units. No minority opinion provided. Language recommended:

“(B) Cost per Square Foot. For this exhibit, costs shall be defined as construction costs, including site work, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule of the Application. Developments do not exceed \$73 per square foot for Qualified Elderly and Transitional Developments, and \$62 for all other Developments. For Transitional Developments, on the Transitional Units in the Development are eligible for the higher cost per square foot (9 points).”

8. **§50.9(g)(7)(C) – Development Characteristics, Unit Amenities.** The Group made a revision to the Unit Amenities regarding the SEER for the air conditioning as noted in the language below. No minority opinion provided. Language recommended:

“(xvii) ~~14~~2 SEER HVAC or evaporative coolers in dry climates (3 points);”

9. **§50.9(g)(7)(D) – Development Characteristics, Common Amenities.** The Group made several revisions to the Common Amenities as noted in the language below. No minority opinion provided. Language recommended:

“(I) Full perimeter fencing with controlled gate access (3 points)
(#) Full perimeter fencing without controlled gate access (2 points)
(II) Gazebo w/sitting area (1 point)
(III) Accessible walking path (1 point)
(IV) Community gardens (1 point)
(V) Community laundry room and/or laundry hook-ups in Units (no hook-up fees of any kind may be charged to a tenant for use of the hook-ups (1 point);
(VI) Public telephone(s) available to tenants 24 hours a day (2 points);
~~(VII) A service coordinator office (1 point);~~
(VIII) Barbecue grills and picnic tables - at least one for every 50 Units (1 point)
(IX) Covered pavilion w/barbecue grills and tables (2 points)
(X) Swimming pool (3 points)
(XI) Furnished fitness center (2 points)
(XII) Equipped Business Center (computer and fax machine) or Equipped Computer Learning Center (2 points)
(XIII) ~~Game/TV/Furnished~~ Community room (1 point)
(XIV) Library (separate from the community room) (1 point)
(XV) Enclosed sun porch or covered community porch/patio (2 points)
(XVI) Service coordinator office in addition to leasing offices (1 point)
(XVII) Senior Activity Room (Arts and Crafts, ~~Health Screening,~~ etc.) - Only Qualified Elderly Developments Eligible (2 points)
(#) Health Screening Room - Only Qualified Elderly Developments Eligible (1 point);

- (XVIII) Secured Entry (elevator buildings only) - (1 point)
- (XIX) Horseshoe, Putting Green or Shuffleboard Court - Only Qualified Elderly Developments Eligible (1 point)
- (XX) Community Dining Room w/full or warming kitchen - Only Qualified Elderly Developments Eligible (3 points)
- (XXI) Two Children's Playgrounds Equipped for 5 to 12 year olds, two Tot Lots, or one of each - Only Family Developments Eligible (2 points), or one point for one playground or one tot lot.
- (XXII) Sport Court (Tennis, Basketball or Volleyball) - Only Family Developments Eligible (2 points)
- (XXIII) Furnished and staffed Children's Activity Center - Only Family Developments Eligible (3 points)"

10. **§50.9(g)(7)(F) – Development Characteristics, Mixed Income Developments.** The Group recommends reducing the point range structure for mixed income developments. No minority opinion provided. Language recommended:

"(F) The Development is a mixed-income Development comprised of both market rate Units and qualified tax credit Units. Points will be awarded to Developments with a Unit based Applicable Fraction which is no greater than: [2306.6710(b)(1)(C); 2306.111(g)(3)(E)]

- (i) 80% (74 points); or,
- (ii) 85% (63 points); or,
- (iii) 90% (42 points); or
- (iv) 95% (21 points)."

11. **§50.9(g)(8) – Sponsor Characteristics, HUB Points.** The points for material participation and ownership by a certified Historically Underutilized Business were recommended for deletion due to the perceived abuses in the award of points for this item. A subsequent motion was made to retain the points for HUB ownership and participation but with the recommendation that abuses to current system be remedied. The motion failed. No minority opinion provided. Language recommended:

~~"(8) Sponsor Characteristics. Evidence that a HUB, as certified by the Texas Building and Procurement Commission, has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission that the Person is a HUB at the close of the Application Acceptance Period. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2004 and renewable after that date. (3 points)"~~

12. **§50.9(g)(9) – Developments Targeting Families with Children.** The Group recommends revising this item to allow two-bedroom units to qualify as meeting this requirement but at a greater percentage. No minority opinion provided. Language recommended:

"(9) Developments Targeting Tenant Populations of Individuals with Children. The Rent Schedule of the Application must show that ~~40%~~30% or more of the Units in the Development have two or more bedrooms~~more than 2 bedrooms~~ (1 point)."

13. **§50.9(g)(10) – Supportive Services.** The Group voted to retain the language as exists regarding supportive services. No minority opinion provided. No language revisions suggested.

14. **§50.9(g)(11) – Tenant Characteristics.** The Group took two actions regarding this section. By vote, the group approved a revision that only developments dedicating 100% of their units for transitional housing for the homeless would qualify for points under this section. Additionally, the Group approved a proposal to reduce the points allowed for this section from 22 to 4. No minority opinion provided. Language recommended:

~~"(F) Points will be awarded as follows:~~

~~(i) If all Units in the Development are designed solely for transitional housing for homeless persons, 4 points~~7 points will be awarded; ~~or~~

~~(ii) If at least 25% of the Units in the Development are designed for transitional housing for homeless persons, 5 points will be awarded."~~

15. **§50.9(g)(12) and (13) – Income Levels of the Tenants.** The Group voted to replace both of the current paragraphs (12) and (13) with the language proposed below to simplify the procedure. As noted later in this report, reference to 30% of AMGI is based on the higher of local area median income or statewide median income. The Group also specifically voted to remove any requirement that additional subsidy or funding sources be provided for units earmarked for households at the 30% level. No minority opinion provided. Language recommended:

New Proposed Language: "(a) 12 points if 80% of the development is set-aside for 50% rent/incomes, or (b) 12 points if 10% of the development is set-aside at 30% rent/incomes, or (c) 8 points if 40% of the development is set-aside for 50% and/or 30% rent/incomes."

16. **§50.9(g)(14) – Leveraging.** The Group voted to delete the second and third sentences of subparagraph A which provided a list of acceptable types of leveraging sources. The Group also voted to allow points under this section even if the development is awarded points for low income targeting. The advisability of allowing points under both category A and B as well as striking the clause "non-governmental" from the voucher language were discussed, but no votes were taken. It was also noted that the existing language contains contradictory language regarding use of TDHCA HOME funds.

~~"(14) Leveraging from local and private resources. An Application may qualify for points under only one of subparagraphs (A) or (B) of this paragraph. However, if an Applicant has requested points under paragraph (13) of this section, the Application is not eligible to receive points under this paragraph. (maximum of 14 points) [2306.6710(b)(1)(E)]~~

~~(A) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a local unit of government or a nonprofit organization, which is not related to the Applicant. Such funds can include Community Development Block Grant funds, HOPE VI, local HOME (not funded from the~~

Department), a local housing trust, Affordable Housing Program from the Federal Home Loan Bank or Tax Increment Financing, HUD Section 202, HUD Section 811 and HUD Section 8 and must be in the form of a grant or a forgivable loan. In-kind contributions such as donation of land or waivers of fees such as building permits, water and sewer tap fees, or similar contributions that benefit the Development will be acceptable to qualify for these points. Points will be determined on a sliding scale based on the amount per Unit from outside sources. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from the Department's HOME or Housing Trust Fund sources will qualify under this category. Use normal rounding. No funds from TDHCA's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. (up to 14 points).

(i) A contribution of \$500 to \$1,000 per Low Income Unit receives 4 points; or

(ii) A contribution of \$1,001 to \$3,500 per Low Income Unit receives 8 points; or

(iii) A contribution of \$3,501 to \$6,000 per Low Income Unit receives 14 points; or

(B) Evidence that the proposed Development is partially funded by development-based Housing Choice or rental assistance vouchers from a governmental or non-governmental entity for a minimum of five years. Such entity cannot have an identity of interest with the Applicant with the exception of Applications involving Public Housing Authorities. Evidence at the time the Application is submitted must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from the Department's HOME or Housing Trust Fund sources will qualify under this category. Use normal rounding. (up to 14 points).

(i) Development-Based Vouchers for 3% to 5% of the total Units receives 4 points; or

(ii) Development-Based Vouchers for 6% to 8% of the total Units receives 8 points; or

(iii) Development-Based Vouchers for 9% to 10% of the total Units receives 14 points."

17. **§50.9(g) – Points for Tax Credits Per Bedroom or Per Unit.** Two proposals were originally submitted for consideration that would create a scoring component for the

efficient use of tax credits. Under both proposals points would be allowed for lower tax credits requested. The Group voted to retain the existing position which does not allow points for the efficient use of tax credits. No minority opinion provided. No language revisions suggested.

18. **§50.9(g) – Points for Affirmatively Furthering Fair Housing.** The topic of scoring for furthering fair housing has received significant debate and discussion. While this report does not go into extensive detail, a more detailed discussion can be obtained by reviewing the materials presented at the May Working Group meeting as well as pages 26 - 28 of the “Working Group Selection Scoring Issues” document presented at the June meeting. Both of these documents are available on the Department’s website. Ultimately, several motions were made on this issue. The proposed language, that was not approved, is provided so that it fully reflects the minority opinion.

The WG voted not to adopt the following proposal: "(A) Applicants will receive points by demonstrating that the proposed development will affirmatively further the goals of the Fair Housing Act. This can be accomplished by demonstrating: That the proposed location of the development will expand affordable housing choice outside areas of minority concentration for low income families with children and people with disabilities. A site will qualify for points under this provision if it is located in a census tract in which the percentage of persons of a particular racial or ethnic minority is no more than 10% and the total minority population is no more than 20%. TDHCA will identify those areas for which points can be awarded under this factor."

The WG voted not to adopt the following proposal: “Allow points for location of developments in either: (1) areas where the percentage of minorities is 20% less than city's minority population, or (2) areas where the percentage of minorities is 20% greater than the city's minority population, if and only if, the development could prove revitalization and there were affordable housing opportunities in non-racially impacted areas.”

The WG voted not to adopt the following proposal: "AFFIRMATIVELY FURTHERING FAIR HOUSING. Applicants will receive points by demonstrating the extent to which the proposed development will affirmatively further the goals of the Fair Housing Act. This can be accomplished by demonstrating with objective data and analysis the following:

- (i) The extent to which the proposed development will address the impediments to fair housing with respect to affordable housing which were identified in the State's most recent Analysis of Impediments to Fair Housing Choice [5 points].
- (ii) The extent to which the proposed location of the development will expand affordable housing choice outside predominately low income, minority areas. [5 points]."

The WG voted not to adopt the following proposal: “Furthering Affirmative Fair Housing. The development shall be eligible for up to 4 points by establishing that its development will further the goal of Affirmative Fair Housing. The Department shall evaluate the Applicant’s explanation of how the project’s development will further the goal of Fair Housing and award points as appropriate.”

As a last vote, the Group failed to endorse a proposal that the Department create a scoring item for affirmatively furthering fair housing that addressed concerns of the group members that certain areas of the state (El Paso among others) with high minority populations would be penalized by awarding points for the development location in non-minority areas. No language revisions suggested.

19. **§50.9(g) – Cumulative Ranking of Scores.** By vote the Group voted not to implement an adjustment to the scoring that would rank the point total in conformity with the nine priorities specified in Senate Bill 264. The language that was rejected was as follows:

"In adopting the 2005 Qualified Allocation Plan, the scoring components of the Plan rank in descending order of points allowed as the nine highest scoring categories of point totals the categories noted below with no other category or item having a greater point total than the lowest ranking point total of the ninth category in this list:

1. Development Financial Feasibility;
2. Quantifiable Community Participation from Neighborhood Organizations;
3. Income level of tenants;
4. The size and quality of the units;
5. The commitment of development funding by local political subdivisions;
6. The level of community support based on written statements from state elected officials;
7. The rent level of the unit;
8. The cost of the development by square foot, and
9. The services to be provided to the tenants of the development.

After the vote deciding not to rank as noted above, the Group's consensus was that the point totals should remain as reflected in the 2004 QAP unless specifically modified by the Group in language drafted throughout this Committee summary.

Subsequent to the final meeting, John Garvin, Executive Director of the Texas Affiliation of Affordable Housing Providers, forwarded Department staff an email requesting that the votes from five individuals who were in attendance at the time of that vote and originally voted against the ranking concept be changed to show their support. While a "per person" vote was not taken and therefore the impact of these vote changes can not be categorically determined, it is likely that these vote changes would have caused the ranking proposal to be accepted as the majority and would have been the formal recommendation of the Working Group.

20. **§50.18(c)(8) – Amendments Relating to Low Income Units.** The Group approved a procedure, and penalties, for developers who propose to target low income units and then seek to be released from the commitment to serve the lowest income households. The Group worded this proposal to only penalize the appropriate parties and specifically excludes the syndicator. No minority opinion provided. Language recommended:

Creation of New paragraph (8): "In the event that the developer seeks to be released for the commitment to serve the income level of tenants targeted in the original application, the following procedure would apply. For amendments that involve a reduction in the total number of low income units being served, or a reduction in the number of low income units at each level of AMGI represented at the time of

application, evidence must be presented to the Department that includes written confirmation from the lender and syndicator that the development is infeasible without the adjustment in units. The Board may or may not approve the amendment request, however, any approval by the Board is contingent upon concurrence from the Real Estate Analysis Division that the unit adjustment (or an alternative unit adjustment) is necessary for the continued feasibility of the development. Additionally, if it is determined by the Department that the allocation of credits would not have been made in the year of allocation because the loss of low income targeting points would have precluded the application from being competitive enough to warrant an allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the applicant and all persons or entities with any ownership interest in the application (excluding any tax credit purchaser/syndicator), from participation in the HTC program (4% or 9%) for 24 months from the time that the amendment is approved."

II. COMMITTEE II – PUBLIC INPUT / LOCAL INVOLVEMENT

Facilitator: Dan Markson

1. **§50.9(8) – Overall Level of Notification.** While the Working Group did not pass specific language revisions for this item, they did approve, by vote, that applicants should only be required to notify in one of the following three methods: signage, newspaper or mailing notification to nearby residents). Each of these three methods is already described in detail in the QAP – the only revision is that whereas applicants must currently do the newspaper and then additionally either the signage or mailing alternative, they would now be able to pick only one of the three.
2. **§50.9(f)(8)(B) – Notification.** Clarifies the level of evidence for notifications and that the evidence should be that it was mailed, not necessarily received. The Group also recommends deleting the language that limits the notification to only Pre-Application for those that have done Pre-Application notifications; essentially this expands notification to Application for all applicants even if they already notified at Pre-Application. The level of detail of the information provided in the notifications is also recommended to be reduced. These changes were approved within two different discussions, but are provided here together. Because these were approved in two different discussions, there is one item that is contradictory: one recommendation that was approved was to delete item (VIII), but then a subsequent approved recommendation was to revise the language at item (VIII). The proposal below denotes the deletion, however, should the deletion not be accepted by the Department, the Working Group recommends that it be revised as noted in the Alternate Language below. No minority opinion provided. Language recommended:

“(B) Evidence of notification meeting the requirements identified in clause (i) of this subparagraph to all of the individuals and entities identified in clause (ii) of this subparagraph. Evidence of such notifications shall include a copy of the exact letter and other materials that were sent to the individual or entity and proof of mailing, delivery in the form of a signed certified mail receipt, signed overnight mail receipt or confirmation letter from said official. Proof of notification must not be older than three months from the first day of the Application Acceptance Period.[2306.6704] ~~If evidence of these notifications was submitted with the Pre-Application Threshold for the same Application and satisfied the Department’s review of Pre-Application Threshold, then no additional notification is required at Application.~~

- (i) Each such notice must include, at a minimum, all of the following:
 - (I) The Applicant’s name, address, individual contact name and phone number;
 - (II) The Development name, address, city and county;
 - (III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
 - (IV) Statement of whether the Development proposes new construction or rehabilitation;
 - (V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.);
 - (VI) The approximate~~total~~ number of Units and ~~total number of~~ low income Units;

~~(VII) The percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;~~

~~(VIII) The number of Units and proposed rents (less utility allowances) for the low income Units and the number of Units and proposed rents for any market rate Units; and~~

(IX) The expected completion date if credits are awarded.

(ii) Notification must be sent to all of the following individuals and entities. Officials to be notified are those officials in office at the time the Application is submitted."

Alternate Language for §50.9(f)(8)(B)(i)(VIII) if Deletion not Accepted: "(VIII) The number of Units and proposed rents (less utility allowances) for the low income Units and the number of Units that are effective at the time of the Pre-Application which are subject to change as annual changes in the area median income occur and the proposed rents for any market rate Units; and"

3. **§50.9(f)(8)(B)(ii)(I) – Clerk and Neighborhood Notifications.** Recommends that the first level of notification be made to local officials and local planning departments in lieu of city and county clerks; that the notification be permitted to be made later than last year's QAP permitted; and that the zip code notification language be deleted. Clarification was added that the statement of "knowing no neighborhood organizations" should be part of the application. No minority opinion provided. Language recommended:

"(I) Local Elected Official City and County Clerks and a municipality with a planning or other comparable department and Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. Evidence must be provided that a letter requesting information on neighborhood organizations and meeting the requirements of "Local Elected Official Clerk and a municipality with a planning or other comparable department Notification" as outlined in the Application was sent no later than February 10, 2005 January 15, 2004 to the local elected official and in a municipality with a planning or other comparable department to the official in that department responsible for mapping and neighborhood organization planning city clerk and county clerk for the city and county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, the notification must be made to the city council member or county commissioner representing that district; if the development is located in a jurisdiction that has at-large local elected officials, the notification must be made to the mayor or county judge for the jurisdiction. A copy of the reply letter or other official third-party documentation from the local elected official and municipality with a planning department city and county clerks must be provided. For urban/exurban areas, all entities identified in the letters from the local elected official and in a municipality with a local planning department from the appropriate official whose boundaries include the proposed development city and county clerks whose listed address has the same zip code as the zip code for the Development must be provided with written notification, and evidence of that notification must be provided. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters from the city and county clerks with those adjacent zip codes must also be provided with written notification, and evidence of that notification must be provided. For rural areas, all entities identified in the letters from the city and county clerks whose listed address is within a half mile of the Development site must be provided

~~with written notification, and evidence of that notification must be provided.~~ If the Applicant can provide evidence that the proposed Development is not located within the boundaries of an entity on a list from the clerk(s), then such evidence in lieu of notification may be acceptable. If no reply letter is received from the city or county clerk by February 25, 2004, then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of any neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site, the Applicant must notify those organizations. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the Development is proposed to be located, the Applicant must attest to that fact in the format provided by Department as part of the application."

4. **§50.9(g)(2) and (2)(A) & (B) – Quantifiable Community Participation (QCP).** The Group expanded how the term “on record” is defined for purposes of meeting the requirement for this exhibit and deleted the requirement that the QCP letter must be addressed to the Director of Multifamily. No minority opinion was provided on these items. The Group also adds the requirement that 51% of the neighborhood organization’s members must live within a mile of the development site. No minority opinion was provided for this either, although approval was by a narrow margin. Subsequently at a later meeting, comment was again made that the requirement was going to be administratively difficult for the development community and the Department. While no later vote was taken to remove this language, the group requested that the report reflect that there are positive and negative repercussions to this language. It should also be noted that at the May Meeting the group approved adding language that expanded the QCP points to community and civic organizations, however at the June Meeting the group voted to remove those additions. Language recommended:

“(2) Quantifiable Community Participation from Neighborhood Organizations. Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. As an option to be considered on record with the state, a letter to include contact name with a mailing address and telephone number, a copy of the signed by-laws or 501(c) documentation, name and position of officers, and a written description or map of the Neighborhood Organization’s geographical boundaries must be send to the Department to place the Neighborhood Organization on record.

(A) Receipt of Input. Letters must be received by the Department no later than April 30, 2005~~4~~, and only, for scoring purposes, directly from neighborhood organizations or with the Application. Letters must be addressed to the Texas Department of Housing and Community Affairs, ~~“Attention: Director of Multifamily Finance Production Division (Neighborhood Input)”~~. Letters received after April 30, 2005~~4~~ will be summarized and provided for the Board’s information and consideration, but will not affect the score for the Application. Separate from scoring, the Department urges all persons and organizations that wish to provide input to the Department to do so well before (and, preferably earlier than ten days before) the day of a Board meeting when a final decision must be made so the input may be carefully considered. Board decisions often cannot be delayed and late input is difficult for the Board and Department to fully consider.

(B) Neighborhood Organizations. For the purposes of the scoring of this exhibit, neighborhood organizations are organizations that are on record with the county or state in which the development is proposed to be located as of March 1 of the

application year and that have a primary purpose of working to affect matters related to the welfare of the neighborhood and 51% of the Neighborhood Organization's members must live in the neighborhood within one mile surrounding and containing that contains the proposed development site, not including governmental entities."

5. **§50.9(g)(2)(C) – Quantifiable Community Participation Scoring.** The Group clarifies that the signatory's mailing address must be provided. The Group discussed whether a neighborhood organization needed to have reasons and/or a description of their process in order to earn the points for this item. The majority of the group voted to leave the language as is regarding the process and reasons, however the minority view was that the organization did not need to provide reasons or process because that is not required by the legislation. The Group additionally approved language that the organization must provide the Department with minutes of the meeting where their decision was made as well as a tape of the meeting; it was agreed that the Department would not be obligated to listen to the tape, but would have it for backup if needed. In this section at the May meeting, the Group originally approved language that adjusts the scoring range for the points for QCP specifically creating two ranges of points – neighborhood organizations achieving higher scores and community or civic organizations achieving lower scores. By removing the community and civic organizations from this item, the scoring dichotomy was no longer applicable. Language recommended:

"(C) Scoring of Input. For scoring purposes, each neighborhood organization may submit one letter that represents the organization's input. The letter must identify the specific Development and be signed by the chairman of the board, chief executive office or comparable head of the organization and include the signer's mailing address and phone number. The letter must state and provide documentation which shows that it is from a neighborhood organization; that it is on record with the state or county in which the Development is proposed to be located; and that the organization's boundaries contain the proposed Development site. The letter must also provide the total number of members of the organization and a brief description of the process used to determine the members' position. Minutes of the meeting, as well as a taped record of the meeting, at which support, opposition or neutrality was determined must be included in this documentation. To be accurately scored, the letter must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development and provide specific evidence supporting that input. It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the city and county clerks under subsection (f)(8)(B)(ii)(I) of this section, if the organization provides evidence that the proposed Development site is within the organization's boundaries and that it is on record with the county or state. It is also possible that neighborhood organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring.

(i) Applicants that accurately certify that they do not know of any neighborhood organizations that are on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development, and/or for which no letters eligible for scoring were received, will be awarded the maximum number of points allowed by this exhibit. ~~higher of zero points or the average number of points received by all Applications for this exhibit.~~

6. **§50.9(g)(2)(D) – Quantifiable Community Participation Evaluation.** The group agreed that the language in paragraph (D) regarding false statements be deleted from this section of the QAP and moved to another more general area. No minority opinion provided. Language recommended:

~~**Deletion:** "To protect the integrity of the Department's processes and decisions, evidence of false statements or misrepresentations from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including possible referral to local district and county attorneys."~~

Insert at §50.9(c): "(c) Adherence to Obligations. All representations, undertakings and commitments made by an Applicant in the application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be enforceable even if not reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the LURA. To protect the integrity of the Department's processes and decisions, evidence of false statements or misrepresentations from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including possible referral to local district and county attorneys."

7. **§50.9(g)(6)(B) – Evidence of Public Meeting.** This item is revised to show that either minutes and a tape, or a full transcript, must be provided to receive points. No minority opinion provided. Language recommended:

"(B) Evidence that the Applicant has hosted a public meeting to which the neighborhood and other interested persons have been invited. Evidence must include copies of the method of notification used and either minutes of the meeting along with a taped record of the meeting, or a full transcript denoting a verbatim record of the meeting; and, as well as a list of meeting attendees. (6 points)."

Two items which were not approved by the Working Group, but were proposed by the Committee and therefore would be considered minority opinions included deleting the requirement that the neighborhood organization include their number of members and their process and deleting the language that states that the neighborhood organizations notified may not necessarily also qualify for the QCP points. Because each of these issues were denied by vote the recommendation is for no change to be made.

III. COMMITTEE III – SPECIAL NEEDS POPULATIONS

Facilitator: Walter Moreau

No proposals were submitted by this Committee. Therefore, the Working Group did not take any formal action or approval any recommendations generated from this Committee for inclusion in the final report.

IV. COMMITTEE IV – FINNACIAL FEASIBILITY

Facilitator: Michael Hartman

1. **Comprehensive QAP Revision on Rent and Income Limits.** The Working Group agreed that the rent and income limits for 30% units, as referred to throughout the QAP, should be based upon the **greater** of either the local Area Median Family Income (AMFI) or the statewide AMFI. This revision should apply not only to the rent schedule and underwriting, but also to the low income targeting evaluation. Essentially, the recommendation is to be carried through the entire QAP, application submission and Department review. The Group noted that the Department will have to provide these income limits by number of people because they are not published by HUD. No minority opinion provided. Revised language not specifically provided.
2. **Rule Revision on Market Studies.** The Group had concerns regarding market analysts that provide deficient market studies. They recommend that the Market Analysis Rules and Guidelines (10 TAC §1.33) be revised to indicate that if noted deficiencies appear for a second consecutive year in market studies prepared by a particular analyst, then the Department must move swiftly to remove that analyst from the approved list. Furthermore, they recommend that the market study analyst for a particular Application should continue to be engaged by the Applicant. The developer on a particular development will have crucial insight into a particular market and needs to be free to work with the analyst in assessing the needs of the market. In this way, the Applicant can adjust to the needs of the market before the Application is filed. No minority opinion provided. Revised language not specifically provided.
3. **§50.3(47) on Ineligible Building Types.** The Group agrees that the bedroom mix for a particular development should be determined solely by the needs of the market and that the developer should set the bedroom mix (one, two, three and four bedroom) as well as the type of development (single family, townhome, garden apartments, etc.) based upon its analysis of the market supported by a third-party market analysis. Therefore, the group recommends deleting subparagraphs (E) and (G) of the definition for Ineligible Building Type. Language recommended below.

The minority opinion of the committee regarding this issue was approved by the Working Group as their official Minority Opinion. That opinion is that certain Board members perceive abuses in credit demands by the developers that build four-bedroom units and to address this issue the Board placed limits on the bedroom mix (as opposed to setting a maximum limit on credits per unit). The minority opinion is that if the Board is not receptive to entirely deleting the limitation placed on the bedroom mix, then as an alternative the Board should consider setting a limit on credits per unit instead of on bedroom mixes.

Under separate discussion the group voted on whether the term “new construction” should be added to the restriction on elevators in elderly developments which would mean that rehabilitation of elderly developments would not require elevators. This motion failed.

“(47) **Ineligible Building Types** - Those Developments which are ineligible, pursuant to this QAP, for funding under the Housing Tax Credit Program, as follows:

(A) Hospitals, nursing homes, trailer parks, dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §§42(i)(3)(B)(iii) and (iv)) are not eligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible for Housing Tax Credits if the Development involves the conversion of the building to a non-transient multifamily residential development.

(B) Any Qualified Elderly Development of two stories or more that does not include elevator service for any Units or living space above the first floor.

(C) Any Qualified Elderly Development with any Units having more than two bedrooms.

(D) Any Development with building(s) with four or more stories that does not include an elevator.

~~(E) Any Development proposing new construction, other than a Development (new construction or rehabilitation) composed entirely of single family dwellings, having any Units with four or more bedrooms.~~

(F) Any Development that violates the Integrated Housing Policy of the Department.

~~(G) Any Development involving new construction (other than a Qualified Elderly Development, a single family development or a transitional housing development) in which any of the designs in clauses (i) through (iii) of this subparagraph are proposed. For purposes of this limitation, a den, study or other similar space that could reasonably function as a bedroom will be considered a bedroom.~~

~~(i) more than 60% of the total Units are one bedroom Units; or~~

~~(ii) more than 45% of the total Units are two bedroom Units; or~~

~~(iii) more than 35% of the total Units are three bedroom Units.”~~

4. **Discussion on Cost Caps per Unit.** The Group concurred, by vote, that the Department should not set a cap on costs per unit because there is no “typical” cost per unit. Costs vary greatly by type of unit (single family, townhome, garden-style, three-story, etc.), by size of units, and a host of other variables. The group felt that cost caps would diminish the quality of construction and potentially lead to the construction of inferior units that will not last through the end of the Extended Use Period. No minority opinion provided. Revised language not specifically provided.

5. **Comprehensive QAP Revision on Unit Limitations.** The Group recommends that all unit limitations throughout the QAP be divisible by four since townhouses are often built as fourplexes. No minority opinion provided. Revised language not specifically provided.

V. COMMITTEE V – DEFINITIONS

Facilitator: Sox Johnson

Definitions Committee recommendations were rolled into the presentation, discussion and recommendations made by Committee VII on Rural and Rehabilitation Issues. Please refer to the summary for Committee VII.

VI. COMMITTEE VI – REGIONAL ALLOCATION /
AFFORDABLE HOUSING NEEDS SCORE

Facilitator: Bobby Bowling and Rowan Smith

1. The group discussed the extent to which the bond/4% developments should be represented in the formula. After discussion, the group voted on either having the regional allocation formula adjusted to remove 100% of the bond/4% amount from the formula, or on removing only the value of the bonds/credits (which is the equivalent of roughly 20% of the bond amount). The group approved, and formally recommends, that the second option (the value of roughly 20%) be applied in the 2005 calculation of the formula. The minority opinion was that the formula be adjusted to remove 100% of the bond/4% amount.
2. By vote, the group recommends that all PHA funds (including section 8 and operating subsidies) be removed from consideration in the formula.

VII. COMMITTEE VII – RURAL / REHAB
(ALSO COVERED COMMITTEE V ON DEFINITIONS)

Facilitator: Dennis Hoover and Sox Johnson

1. **Interpretation and Handling of Regional Allocation and Defining Rural, Urban and Exurban Areas.** After discussion, the group identified three options for voting. Briefly: Option 1 proposed definitions for rural, urban and exurban that are tied purely to geographic location. Option 2 used this first option but also added an exception that allowed an increased unit cap in areas whose median income is less than \$25,000. Option 3 defines rural and exurban and then also states that developments exceeding a given unit cap are moved from rural into urban/exurban, thereby making the designation not entirely geographically based. The Working Group by vote, approved Option 3 as the majority opinion and approved Option 1 as the minority opinion. While revised language is not specifically provided a summary of the recommendation is provided.

The group approved their Majority Recommendation as Option 3, which is summarized as follows:

- ³ The Department will continue to allocate housing funds to the 13 regions in the manner prescribed in 2306.111(d) that provides that the funding shall be based on the need for housing assistance and the availability of housing resources.
- ³ Within each region, the funding shall initially be allocated between Rural and Urban/Exurban areas based on the need/availability formula.
- ³ “Rural areas” as defined in 2306.6702(12) shall be used but clarification should be added that any new construction developments exceeding 76 units shall not qualify for the rural allocation, but instead will compete in the Urban/Exurban Allocation.
- ³ The allocation of funds between Urban and Exurban shall be based on the population ratio that Urban bears to Exurban within that region. “Urban Regions” are high growth regions with populations in excess of 1,000,000 people. An “Urban City” is a city with a population equal to or greater than 250,000. The Exurban area is the area outside of the Urban City. An “exurban community” can be located in either a (1) Rural Area or (2) a non-urban city or (3) an unincorporated area with an Urban Region. The Exurban allocation is a separate funding allocation and does not impact the Rural Allocation.

The group approved the following recommended definition additions/revisions to support this Majority Opinion that would be added to §50.3.

“(#) Urban Area - An area that is located inside the boundaries of a metropolitan statistical area with a population of more than one million and that is also inside the boundaries of a city or place with a population of more than 250,000.”

"(#) Exurban Area - an area that is located:

- (A) Inside the boundaries of a metropolitan statistical area with a population of less than one million and that is also inside the boundaries of a city or place with a population of less than 250,000.
- (B) Outside of a rural area in a city or place with a population of more than 20,000.
- (C) Inside the rural area in a city or place with a population of less than 20,000 if the new construction development exceeds the 96 unit cap for rural developments. "

(70) Rural Area - An area that is located:

- (A) Inside the boundaries of a city or place with a population of less than 20,000 and does not share a boundary with a city or place having a population of more than 20,000; or outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;
- (B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or
- (C) in an area that is eligible for new construction or rehabilitation funding for Programs by TX-USDA-RHS.

The group approved their Minority Opinion as Option 1, which is summarized as follows:

- ³ Creates a definition for Urban Area as "an area that is located inside the boundaries of a metropolitan statistical area with a population of more than one million and that is also inside the boundaries of a city or place with a population of more than 250,000.
- ³ Creates a definition of Exurban Area as "an area that is located outside an urban area in a city or place with a population of less than 250,000; or outside of a rural area in a city or place with a population of more than 20,000."
- ³ Revises the definition of Rural Area to "an area that is located inside the boundaries of a city or place with a population of less than 20,000 and does not share a boundary with a city or place having a population of more than 20,000; or in an area that is eligible for new construction or rehabilitation funding for programs by TX-USDA-RHS.

2. **§50.6(e) – Size Limitations on Rural Developments.** The Group approved a new Rural Allocation size limit of 96 units. The minority recommendation was a tie between 80 and 104 units. Language recommended:

"(2) Rural Developments involving new construction will be limited to 9676 Units. Developments exceeding 96 Units will be attributed to the Urban/Exurban Allocation, unless the Market Analysis clearly documents that larger developments are consistent with the comparables in the community and that there is significant demand for additional Units. Rural Developments involving only rehabilitation do not have a size limitation."

3. **§50.7(a) – Regional Allocation Language Relating to the USDA 538 Program.** The Group approved a revision to the paragraph on Regional Allocation that relates to the 538 Program. No minority opinion provided. Language recommended:

~~“Developments financed through TX-USDA-RHS’s 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside.”~~

4. **§50.7(b) – Set Aside for USDA.** The group voted on whether to increase the USDA set-aside from 5% to 10%. This motion failed. On that same topic, the group then approved by vote to keep the 5% regional allocation for USDA but also approved the concept that an additional 5% of the At-Risk Set-Aside be targeted for USDA. (It is not clear whether this was approved as 5% of 15%, yielding a total increase of only 0.75%; or 5% of the total set-aside and therefore 1/3 of the At-Risk Set-Aside.) No minority opinion provided. Revised language not specifically provided.

5. **§50.8(c) –Pre-Application.** The group voted on, and decided not to include, the USDA 514 Program in the pre-application exception. This item is revised to show that applications under the USDA 514 Program also are not required to participate in the Pre-Application process. No minority opinion provided. Language recommended:

~~“Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria, and if requested by the Applicant, evaluated in regard to the inclusive capture rate as restricted under §1.32(g)(2) of this title. Any Application from a TX-USDA-RHS 515 Development (including new construction and only for rehabilitation) is exempted from the Pre-Application Evaluation Process and will automatically receive the Pre-Application points further outlined in §50.9(g) of this title. is not eligible to receive points for submission of a Pre-Application. Applications involving New Construction that are associated with a TX-USDA-RHS Development are not exempt from Pre-Application and are eligible to compete for the Pre-Application points further outlined in §50.9(g) of this title. An Application that has not received confirmation from the state office of RHS of its financing from TX-USDA-RHS may qualify for Pre-Application points, but such points shall be withdrawn upon the Development’s receipt of TX-USDA-RHS financing. Pre-Applications that are found to have Administrative Deficiencies will be handled in accordance with §50.9(d)(3) of this title.”~~

6. **§50.9(d)(4) – Subsequent Evaluation of Prioritized Applications.** The Group voted to make the following revision. No minority opinion provided. Language recommended:

~~“Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation within a region, for which there are no eligible feasible applications, will be redistributed as provided in §50.7(c) Redistribution of Credits. will go to the Urban/Exurban Regional Allocation for that region and will not be shifted to Rural Developments in another region.”~~

7. **§50.9(g)(1)b – USDA language in Financial Feasibility Exhibit.** This item is revised for clarification regarding the acceptable form from USDA. No minority opinion provided. Language recommended:

"For developments receiving financing from TX-USDA-RHS, the form entitled "Sources and Uses Comprehensive Evaluation for Multi-Family Housing Loans" or other form deemed acceptable by the Department shall meet the requirements of this section. (28 points)."

8. **§50.9(g)(18)(A) – Regarding Penalty Points.** This item is revised for clarification that the penalty points should not be deducted for extensions associated with developments that have USDA as a lender. No minority opinion provided. Language recommended:

"No penalty points will be deducted for extensions that were requested on developments that involved rehabilitation or in which the Department is the primary lender. No penalty points will be deducted for extensions that were requested on Developments that involve TX-USDA-RHS as a lender if TX-USDA-RHS is the cause for the Applicant not meeting the deadline."

9. **§50.10(c) – Forward Commitments.** The Working Group voted to continue the Rural Rescue activity within the Forward Commitment language for another year. No minority opinion provided. No revision necessary.

10. **§50.19(g)(3) – Exception on Compliance Monitoring.** This item is revised for clarification regarding the Memorandum of Understanding for Compliance with USDA. No minority opinion provided. Language recommended:

"(3) Exception. The Department may, at its discretion, enter into a Memorandum of Understanding with the TX-USDA-RHS, whereby the TX-USDA-RHS agrees to provide to the Department information concerning the income and rent of the tenants in buildings financed by the TX-USDA-RHS under its §514 or §515 programs. Owners of such buildings may be excepted from the review procedures of subparagraph (B) or (C) of paragraph (2) of this subsection or both; however, if the information provided by TX-USDA-RHS is not sufficient for the Department to make a determination that the income limitation and rent restrictions of the Code, §42(g)(1) and (2), are met, the Development Owner must provide the Department with additional information. TX-USDA-RHS Developments satisfy the definition of Qualified Elderly Development if they meet the definition for elderly used by TX-USDA-RHS , which includes persons with disabilities."

11. **Addition of Ineligibility Criteria:** The Group voted to approve the addition of a new ineligibility criteria that would identify applicants who fail to make loan repayments to the Department as being ineligible for funds. No minority opinion provided. Language recommended:

"The Applicant, Development Owner, Developer, or any Guarantor, or any Affiliate of such entity has been a Principal of any entity that failed to make all loan payments in accordance with the original terms of the loan to the Department or was otherwise in default with any provisions of any loans from the Department."

VIII. COMMITTEE VIII – THRESHOLD /STREAMLINING

Facilitator: Patrick Barbolla and John Pitts

1. **§50.9(f)(4)(B)(iii) – Provision of Disposals and Dishwashers as Threshold.** The group recommends that dishwashers and disposals should not be a threshold requirement on developments involving the rehabilitation of existing elderly developments. No minority opinion provided. Language recommended:

“(iii) Dishwasher and Disposal (not required for TX-USDA-RHS Developments or Developments involving the rehabilitation of existing elderly properties);”

2. **§50.9(f)(9)(B) – Organization Documentation for Threshold.** The group recommends that the only organizational document that should be required at application for threshold is a reservation of name for a to-be-formed entity or evidence of authority to do business in Texas for existing entities. All other items should be required after award. No minority opinion provided. Language recommended:

“(B) Each entity shown on an organizational chart as described in subparagraph (A) of this paragraph that has 10% or more ownership interest in the Development Owner, Developer or Guarantor, shall provide the following documentation, as applicable:

(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas, a certificate of reservation of the entity name from the Texas Secretary of State; or

(I) a certificate of reservation of the entity name from the Texas Secretary of State or from the state in which the entity is to be formed if different from Texas; and

(II) executed letter(s) of intent to organize signed by a representative of each organization that is a party to the proposal or a copy of the draft organizational documents for the entity to be formed including Articles of Incorporation, Articles of Organization or Partnership Agreement with a signed notation from a representative of each organization acknowledging intent to organize.

(ii) For existing entities whether formed in or outside of the state of Texas, evidence that the entity has the authority to do business in Texas or has applied for such authority.

(I) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State; and

(II) for entities formed in a state other than Texas a certificate of authority to do business in Texas or an application for a certificate of authority,

(III) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement.

(iii) the Applicant must provide evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents. A cover sheet must be placed before the copy of the organizational documents, identifying the relevant document(s) where the evidence of authority to sign is to be found and specifying exactly where the applicable information exists within all relevant documents by page number or by section and subsection if the pages are not numbered.”

Addition to §50.13 (creation of new subsection (c)):

“(c) Documentation Submission Requirements at Commitment of Funds. No later than the date the Commitment Notice is executed by the Applicant and returned to the Department with the appropriate Commitment Fee as further described in §50.21(f) of this title, the following documents must also be provided to the Department. Failure to provide these documents may cause the Commitment to be withdrawn.

(1) Organizational Documents. For each Applicant all of the following must be provided:

(A) Evidence that the entity has the authority to do business in Texas;

(B) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State;

(C) Copies of the entity’s governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement; and

(iii) the Applicant must provide evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents.”

3. **§50.9(g)(18)(A), §50.15(a) and §50.21(k) – Extensions.** The group recommends an extension of time for the construction loan closing to September 1st for all financing requiring governmental approval such as FHA-insured loans, HUD, USDA, etc. By extending the deadline and removing the penalty, the group feels that the Department will encourage development that would generally be less feasible to seek out other financing alternatives that may take more time. Additionally, the group approved a revision to §50.21(k) that allows extension requests to be filed up to the applicable deadline date. No minority opinion provided. Language recommended:

“(A) [2306.6710(b)(2)] Penalties will be imposed on an Application if the Applicant has requested extensions of Department deadlines, and did not meet the original submission deadlines, relating to developments receiving a housing tax credit commitment made in the application round preceding the current round. Extensions that will receive penalties are those extensions related to the submission of the carryover and the closing of the construction loan as identified in §50.21 of this title. For each extension request made, the Applicant will be required to pay a \$2,500 extension fee as provided in §50.21(k) of this title and will receive a 2 point deduction for not meeting the Carryover deadline and a 5 point deduction for not meeting the closing of the construction loan deadline. Subsequent extension requests after the first extension request made for each development from the preceding round for these two deadlines will not result in a further point reduction than already described. No penalty points will be deducted for extensions that were requested on developments that involved rehabilitation or in which the Department is the primary lender. No penalty points, or fee, are applied for extensions on the closing of the construction loan that involve an initial September 1 extension made for Developments in which the financing requires governmental approval as further described in §50.15(a) of this title.”

Revisions to §50.15(a): “(a) Closing of the Construction Loan. The Development Owner must submit evidence of having closed the construction loan. The evidence must be submitted no later than June 1 of the year after the execution of the Carryover Allocation Document, and no later than 14 days after the closing of the construction loan for Tax Exempt Bond Developments, with the possibility of an extension as described in §50.21 of this title. For Developments in which the financing requires governmental approval (e.g. FHA-insured loans, HUD loans, TX-USDA-RHS loans), an extension to September 1 of the year after the execution of the Carryover Allocation Document will be granted if the Development Owner provides a letter from the lender that indicates at a minimum that the Development Owner is requesting financing that is insured or made by a federal source, that the loan application is active and made in good faith, and that provides an estimate of when loan approval is expected. At the time of submission of the documentation, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual. The Carryover Allocation will automatically be terminated if the Development Owner fails to meet the aforementioned closing deadline (taking into account any extensions), and has not had an extension approved, and all credits previously allocated to that Development will be recovered and become a part of the State Housing Credit Ceiling for the applicable year. Owners of Tax Exempt Bond Developments will be fined \$2,500 if this requirement is not fulfilled.”

Revisions to §50.21(k): “(k) Extension Requests. All extension requests relating to the Commitment Notice, Carryover, Closing of Construction Loan, Substantial Construction Commencement, Placed in Service or Cost Certification requirements shall be submitted to the Department in writing and be accompanied by a non-refundable extension fee in the form of a check in the amount of \$2,500. Those extensions on the closing of the construction loan that involve an initial September 1 extension made for Developments in which the financing requires governmental approval as further described in §50.15(a) of this title will not be required to submit the \$2,500 fee. Such requests must be submitted to the Department no later than at least 20 days prior to the date for which an extension is being requested and will not be accepted any later than this deadline date. The extension request shall specify a requested extension date and the reason why such an extension is required. Carryover extension requests shall not request an extended deadline later than December 1st of the year the Commitment Notice was issued. The Department, in its sole discretion, may consider and grant such extension requests for all items except for the Closing of Construction Loan and Substantial Construction Commencement. The Board may grant extensions, for the Closing of Construction Loan and Substantial Construction Commencement. The Board may waive related fees for good cause.”

4. **§50.12(d) – Credit Amounts for Bond Developments.** The group recommends permitting increases to bond amounts as long as they do not exceed the amount permitted under Internal Revenue Code §42(m)(2)(d); the amount of credits should not be contingent on whether the cost increases were unavoidable or unforeseeable. Additionally, they recommend that increases greater than 110% of the original credit amount on the Determination Notice be approved by the Board, but that all other increases of a lesser amount be approved administratively. It should be noted that the language in the 2004 QAP currently only refers to §42(m)(2)(D) and does not restrict the increases to unavoidable or unforeseeable cost increases (this was in the 2003 QAP and removed for 2004). No minority opinion provided. Language recommended:

"The Determination Notice issued by the Department and any subsequent IRS Form(s) 8609 will reflect the amount of tax credits for which the Development is determined to be eligible in accordance with this subsection, and the amount of tax credits reflected in the IRS Form 8609 may be greater or less than the amount set forth in the Determination Notice, based upon the Department's and the bond issuer's determination as of each building's placement in service. Any increase of tax credits, from the amount specified in the Determination Notice, at the time of each building's placement in service will only be permitted if it is determined by the Department, as required by Code §42(m)(2)(D), that the Tax Exempt Bond Development does not receive more tax credits than the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period, ~~and increases to the amount of tax credits that exceed 110% of the amount of credits reflected in the Determination Notice are contingent upon approval by the Board. Increases to the amount of tax credits that do not exceed 110% of the amount of credits reflected in the Determination Notice shall be approved administratively with approval from the Executive Director.~~"

5. **§50.16(a) – Cost Certification.** The group recommends that a title policy or 'nothing further certificate' be required with the cost certification documents and that it be dated on or after the date of substantial completion. No minority opinion provided. Language recommended:

Proposed to be Added to the end of paragraph (a): "At the time the Cost Certification documentation is provided, a title policy or 'nothing further certificate' must be provided dated on or after the date of substantial completion."

6. **QAP Addition Regarding Housing Sponsor Report.** The group recommends that the Threshold Criteria be updated to require that Applicants who have an ownership interest in existing properties in the Department's inventory must have submitted the Housing Sponsor Report on all of those properties. They recommend that the reports must all be submitted within 90 days of the submission of the application, but that if it is not provided it should not trigger termination. No minority opinion provided. Revised language not specifically provided.

Minority Opinion: One item was proposed, but failed upon voting to garner approval of the Working Group. This is noted as a minority item. It was the suggestion that the application documentation for the nonprofit set-aside applicants should only include an IRS determination letter and that all other documentation should be provided after the award is made.

IX. COMMITTEE IX – COMPLIANCE AND UTILITY ALLOWANCES

Facilitator: Mike Clark

Mike Clark, the facilitator for this Committee, has reported that the work of this committee was outside the scope of the QAP. They will give input regarding compliance issues as the Compliance Rule is developed. Because the utility allowance issues are national in scope, no action is recommended for the QAP. The group does not recommend any revisions to the QAP.

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
August 19, 2004

Action Items

Request approval of the proposed amended 2005 HOME Rules to be released in draft form for public comment.

Required Action

Approve the proposed amended 2005 HOME Rules for release as a draft.

Background and Recommendations

Attached are the proposed Draft HOME Rules that reflect comments provided through a roundtable discussion open to the public on July 20, 2004, written public input, and staff's recommendations for revisions. The document provided reflects the proposed amendments in "blackline" version showing the proposed changes from the HOME Rules currently in effect which were last amended by the Board on April 14, 2003. The "blackline" version shows new language as underlined and deleted language with a line running through it. Upon approval by the Board, the amended Draft Rules will be published in the *Texas Register* and released to the public for comment. Public hearings will be held on the proposed amended Draft Rules, as well as the other rules before the Board at this meeting, from approximately September 27 to October 8, 2004. The final rule will come before the Board in November 2004.

The primary changes that are proposed were to ensure consistency with Texas Government Code, updates to the federal HOME rules at 24 CFR Part 92, provide guidance on the management of Open Application Cycles by the Department and adds language that ensures consistency with other multifamily rules to the extent that HOME will be used for multifamily development.



Proposed 2005 HOME Rule

Title 10, Part 1, Chapter 53 Texas Administrative Code

§53.50. Scope

The rules in this chapter apply to the use and distribution of HOME Investment Partnerships Program (HOME) funds. The United States Department of Housing and Urban Development (HUD) provides HOME funds to the State pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 United States Code §§12701-12839) and HUD regulations at 24 Code of Federal Regulations (CFR) Part 92. The State's HOME Program is designed to:

- (1) expend at least 95% of the funds received for the benefit of non-participating small cities and rural areas that do not receive HOME funds directly from HUD.
- (2) focus on the areas with the greatest housing need described in the State Consolidated Plan;
- (3) provide funds for home ownership and rental housing through acquisition, new construction, rehabilitation, reconstruction, tenant-based rental assistance, and pre-development loans;
- (4) promote partnerships among all levels of government and the private sector, including non-profit and for-profit organizations; and
- (5) provide low, very low, and extremely low income Texans with affordable, decent, safe and sanitary housing.

§53.51. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Activity--A form of assistance by which HOME funds are used to provide incentives to develop and support affordable housing and homeownership through acquisition, new construction, reconstruction, and rehabilitation of housing.
- (2) Administrative Deficiencies--The absence of information or a document from the application which is important to a review and scoring of the application as required in this rule.

- (3) Applicant--An eligible entity which is preparing to submit or has submitted an application for HOME funds and is designated in the application to assume contractual liability and legal responsibility as the Recipient executing the written agreement with the Department.
- (4) Board--The governing board of the Texas Department of Housing and Community Affairs.
- (5) CFR--Code of Federal Regulations.
- (6) Colonia--A geographic area located in a county some part of which is within 150 miles of the international border of this state that:
 - (A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code; or
 - (B) has the physical and economic characteristics of a Colonia, as determined by the Texas Water Development Board.
- (7) Community Housing Development Organization (CHDO)--A private nonprofit organization that satisfies the requirements of 24 CFR 92.2 and is certified as such by the Department.
- (8) Community Housing Development Organization Pre-Development Loan—A form of assistance in which funds are made available as loans to cover those costs outlined in 24 CFR 92.301.

(9) Competitive Application Cycle--A Notice of Funding Availability that has a fixed deadline by which applications must be submitted. Applications will be reviewed for threshold and scoring criteria in accordance with the rules for application review published in the NOFA.

(9)(10) Consolidated Plan--The State Consolidated Plan prepared in accordance with 24 CFR Part 91, which describes the needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs and is subject to approval annually by HUD.

(10)(11) Demonstration Fund--A reserve fund for use alone or in combination and coordination with other programs administered by the Department. This Fund will be available for out of cycle applications, innovative programs brought to the Department for consideration and emergency programs. Additionally, this fund may be used with other programs administered by the Department as outlined in the Consolidated Plan, as approved by the Board.

(11)(12) Department--The Texas Department of Housing and Community Affairs.

(12)(13) Development- Projects that have a construction component, either in the form of new construction or the rehabilitation of multi-unit or single family residential housing that meet the affordability requirements.

(13)(14) Expenditure--Approved expense evidenced by documentation submitted by the Recipient to the Department for purposes of drawing funds from HUD's

Integrated Disbursement and Information System (IDIS) for work completed, inspected and certified as complete, and as otherwise required by the Department.

(14)(15) Family- Includes but is not limited to the following types of families as defined in 24 CFR 5.403:

- (A) A family with or without children;
- (B) An elderly family;
- (C) A near elderly family;
- (D) A disabled family;
- (E) A displaced family;
- (F) The remaining member of a tenant family; and
- (G) A single person who is not an elderly or displaced person or a person with disabilities or the remaining member of a tenant family.

(15)(16) Homebuyer Assistance--Down payment, ~~and~~ closing costs, and gap financing assistance provided to eligible homebuyers. Minor rehabilitation may be combined with Homebuyer Assistance.

(16)(17) HOME--The HOME Investment Partnerships Program at 42 United States Code §§12701-12839 and the regulations promulgated thereafter at 24 CFR Part 92.

(17)(18) Household--One or more persons occupying a housing unit.

(18)(19) HUD--The United States Department of Housing and Urban Development, or its successor.

(19)(20) IDIS--Integrated Disbursement and Information System established by HUD.

(20)(21) Income Eligible Families:

- (A) Low-Income Families--Families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.
- (B) Very Low-Income Families-- Families whose annual incomes do not exceed 50% of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size.
- (C) Extremely Low Income Families--Families whose annual incomes do not exceed 30% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(21)(22) Match--Eligible forms of non-federal contributions to a program or project in the forms specified in 24 CFR 92.220.

(22)(23) NOFA--Notice of Funding Availability, published in the Texas Register.

(23)(24) Nonprofit organization--A public or private organization that:

- (A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3), a charitable, nonprofit corporation, or Section 501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and

(D) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement.

~~(C) has a tax exemption ruling from the Internal Revenue Service under the Internal Revenue Code of 1986, §501 (c), as amended.~~

(25) Open Application Cycle—A Notice of Funding Availability that does not have a fixed deadline by which applications must be submitted. Applications will be reviewed in accordance with the rules for application review published in the NOFA.

~~(24)~~(26) Owner-Occupied Housing Assistance--A form of assistance for the purpose of rehabilitating or reconstructing existing owner-occupied housing.

~~(25)~~(27) Participating Jurisdiction (PJ)--Any state or unit of general local government, including consortia as specified in 24 CFR 92.101, designated by HUD in accordance with 24 CFR 92.105.

~~(26)~~(28) Program--Funds provided in the form of a contract to an eligible Applicant for the purpose of administering more than one Project or assisting more than one household.

~~(27)~~(29) Program Income--Gross income received by the Department or program administrators directly generated from the use of HOME funds or matching contributions as further described in 24 CFR 92.2.

~~(28)~~(30) Project--A site or an entire building (including a manufactured housing unit), or two or more buildings, together with the site or sites on which the building or buildings are located, that are under common ownership, management, and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking under 24 CFR 92.2.

~~(29)~~(31) Recipient--A successful applicant that has been awarded funds by the Department to administer a HOME program, including a State Recipient, Subrecipient, for-profit entity, nonprofit entity, or CHDO.

~~(30)~~(32) Rental Housing Development-- A project for the acquisition, new construction, reconstruction or rehabilitation of multi-family or single family rental housing, or conversion of commercial property to rental housing.

~~(31)~~(33) Rural Area--A project located within an area which:

- (A) is situated outside the boundaries of a primary metropolitan statistical area (PMSA) or a metropolitan statistical area (MSA);
- (B) within the boundaries of a primary metropolitan statistical area (PMSA) or a metropolitan statistical area (MSA), if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or
- (C) in an area that is eligible for funding by the Texas-United States Department of Agriculture-Rural Housing Service (TX-USDA-RHS).

~~(32)~~(34) Single Family Housing Development-- A form of assistance to make funds available to HOME eligible Applicants including non-profit organizations, CHDOs, units of general local government, for-profit housing organizations, sole proprietors and public housing agencies for the purpose of constructing single family affordable housing units for homeownership.

~~(33)~~(35) Special Needs--Those individuals or categories of individuals determined by the Department to have unmet housing needs consistent with 42 USC §12701 et seq. and as provided in the Consolidated Plan.

~~(34)~~(36) State Recipient-- A unit of general local government designated by the Department to receive HOME funds.

~~(35)~~(37) Subrecipient-- A public agency or nonprofit organization selected by the Department to administer all or a portion of the Department's HOME program. A public agency or nonprofit that receives HOME funds solely as a developer or owner of housing is not a Subrecipient. The Department's selection of a Subrecipient is not subject to the procurement procedures and requirements.

~~(36)~~(38) Tenant-Based Rental Assistance (TBRA)--A form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance also includes security deposits and utility deposits and allowances for rental of dwelling units.

~~(37)~~(39) Unit of General Local Government--A city, town, county, or other general purpose political subdivision of the State; a consortium of such subdivisions recognized by HUD in accordance with 24 CFR 92.101 and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction. An urban county is considered a unit of general local government under the HOME Program.

§53.52. Applicant Requirements

- (a) Eligible Applicants. The following organizations or entities are eligible to apply for HOME eligible activities:
 - (1) nonprofit organizations;
 - (2) CHDOs;
 - (3) units of general local government;
 - (4) for-profit entities and sole proprietors; and

- (5) public housing agencies.
- (b) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:
 - (1) Previously funded Recipient(s) whose HOME funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;
 - (2) Applicants who have not satisfied all eligibility requirements described in subsection (f) of this title and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved (relating to Applicant Requirements);
 - (3) Applicants that have failed to make payment on any loans or fee commitments made with the Department;
 - ~~(3) Applicants who have submitted incomplete applications;~~
 - (4) Applicants that have been otherwise barred by HUD and/or the Department;
 - (5) Applicant or developer, or their staff, that violate the state revolving door policy; and
 - (6) Applicants that may be ineligible in accordance with those requirements at 49.5 of this title.
- (c) Restrictions on Communication.
 - (1) The Applicant or other person that is active in the ownership or control of the proposed Activity, or individual employed as a lobbyist or in another capacity on behalf of the application, may not communicate with any Board member with respect to the application during the period of time starting with the time an application is submitted until the time the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application.
 - (2) Applicants are restricted from communication with Department staff as described in this subsection. The Applicant or a Related Party, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor, that is active in the ownership or control of the application, or individual employed as a lobbyist or in another capacity on behalf of the application, may communicate with an employee of the Department with respect to the application so long as that communication satisfies the conditions established under subparagraphs (A) through (E) of this paragraph. Communication with Department employees is unrestricted during any board meeting or public hearing held with respect to that application.
 - (A) The communication must be restricted to technical or administrative matters directly affecting the application;
 - (B) The communication must occur or be received on the premises of the Department during established business hours;

- (C) Communication with the Executive Director, the Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Single Family Finance Production, the Director of Portfolio Management and Compliance, and the Director of Real Estate Analysis of the Department must only be in written form which includes electronic communication through the Internet; and
 - (D) Communication with other Department staff may be oral or in written form which includes electronic communication through the Internet; and
 - (E) A record of the communication must be maintained by the Department and included with the application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication.
- (d) Noncompliance. Each application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applications found to be in Material Noncompliance, or otherwise violating the compliance rules of the Department, will be terminated.
- (e) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in §49.6 of this title, 24 CFR Part 92 of the HUD HOME program rules, and any additional items included in the NOFA for rental housing developments.
- ~~(1) Floodplain. Any Development proposing new construction located within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain. No Developments proposing rehabilitation will be permitted in the 100 year floodplain unless they already are constructed in accordance with the policy stated in this paragraph for new construction or are able to provide evidence of flood insurance on the buildings and the contents of the units.~~
- ~~(2) Ineligible Building Types. Applications involving Ineligible Building Types will not be eligible for an award. Those buildings or facilities which are ineligible are as follows:~~
- ~~(A) Hospitals, nursing homes, trailer parks and dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units) are ineligible. However, structures formerly used as hospitals, nursing homes or~~

~~dormitories are eligible if the Development involves the conversion of the building to a non-transient multifamily residential development.~~

~~(B) Any elderly development of two stories or more that does not include elevator service for any Units or living space above the first floor.~~

~~(C) Any elderly development with any units having more than two bedrooms.~~

~~(D) Any Development with building(s) with four or more stories that does not include an elevator.~~

~~(E) Any Development proposing new construction, other than a Development (new construction or rehabilitation) composed entirely of single family dwellings, having any Units with four or more bedrooms.~~

~~(3)(1)~~ Limitations on the Size of Developments. Developments involving new construction will be limited to 2502 Units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit restrictions. The minimum number of units shall be 4 units under all Development programs.

~~(4) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.~~

(f) Eligibility requirements. An Applicant must satisfy each of the following requirements in order to be eligible to apply for HOME funding and as more fully described in the NOFA, when applicable:

(1) provide evidence of its ability to carry out the Program in the areas of financing, acquiring, rehabilitating, developing or managing affordable housing developments;

(2) demonstrate fiscal, programmatic, and contractual compliance on previously awarded Department contracts or loan agreements;

(3) resolve any previous audit findings, unless deemed irresolvable by the Department, and/or outstanding monetary obligations with the Department;

(4) demonstrate reasonable HOME Program expenditure and project performance on ~~open~~ contract(s), as determined through program monitoring. ~~Evidence of expenditure and project identification is submitted with the application, and is reconciled with the Department's IDIS reports during the application review process;~~ and

(5) demonstrate satisfactory performance otherwise required by the Department and set out in the application guidelines.

(g) If indicated by the Department, Recipients must comply with all requirements to utilize the Department's website to provide necessary data to the Department.

(h) For funds being used for Rental Housing Developments, the Recipient must establish a reserve account consistent with §2306.186, Texas Government Code, and as further described in §1.37 Chapter 60 of this title.

§53.53. Application Limitations

An eligible Applicant may apply for several eligible activities provided that the total amount requested does not exceed the funding limits established in this section. The Department reserves the right to reduce the amount requested in an application based on program or project feasibility, underwriting analysis, or availability of funds:

- (1) Award amount for Owner-Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance shall not exceed \$500,000 per Activity, per NOFA, except as may be otherwise allowed by the Board.
- (2) Award amount for Development activities shall not exceed \$1.5 million, except as may be recommended by staff and otherwise ~~allowed~~approved by the Board.
- (3) Award amount for CHDO Operating Expenses shall not exceed in any fiscal year operating expenses in each fiscal year up to 50% of the CHDO's total annual operating expenses in that fiscal year, or \$50,000, whichever is greater.
- (4) Per unit subsidy for all HOME-assisted housing may not exceed the per-unit dollar limits established by HUD under §221(d)(3) of the National Housing Act which are applicable to the area in which the housing is located, and published by the Department.
- (5) Award amount for Disaster Relief shall not exceed \$500,000.00 per State declared disaster, or as may be otherwise allowed by the Board. Only one application per affected unit of local government may be submitted for each designated disaster. Public housing authorities (PHA's) and Nonprofit organizations may only act as an Applicant, in lieu of the unit of local government, if they are so designated by the affected unit of local government. Award amount for designated Applicants may not exceed \$500,000 per State declared disaster, or as may be otherwise allowed by the Board.
- (6) Award amount for CHDO Predevelopment Loans may not exceed \$50,000 per application. Applicants may submit only one application per NOFA to cover eligible costs, as defined under §53.54(f) of this rule.

§53.54. Program Activities

- (a) Owner-Occupied Housing Assistance: Assisted homeowners must be income eligible and must occupy the property as their principal residence. Housing assisted with HOME funds must meet all applicable codes and standards, as specified in the application guide. In addition, housing that is reconstructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR 92.251(a).
- (b) Homebuyer Assistance: HOME funds utilized for Homebuyer Assistance are subject to the Department's recapture ~~restrictions~~provisions as approved by HUD in the Consolidated Plan and as outlined in the application guidelines. The eligible uses for Homebuyer Assistance are down-payment assistance, closing cost assistance, and gap financing, ~~and homebuyer counseling~~. The total assistance

provided per eligible homebuyer may not exceed the limits as determined or allowed by the Board.

- (c) Rental Housing Development: All eligible applicants that satisfy the requirements of §53.52 of this title may develop affordable rental housing. Eligible Activities include acquisition, new construction, and rehabilitation. Owners of rental units assisted with HOME funds must comply with income and rent restrictions pursuant to 24 CFR 92.252 and keep the units affordable for a period of time, depending upon the amount of HOME assistance provided. Housing assisted with HOME funds must meet all applicable codes and standards, as specified in the application guide. In addition, housing that is newly constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR 92.251(a).
- (d) Tenant-Based Rental Assistance: Provides rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant Based Rental Assistance also includes security and utility deposits for rental of dwelling units. Recipients must comply with 24 CFR 92.209 and 92.216.
- (e) Single Family Housing Development: Newly constructed housing must meet all applicable codes and standards, as specified in the application guide. In addition, housing that is newly constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR 92.251(a). If eligible, Aan-eligible Applicant that applies for Single Family Housing Development may also apply for Homebuyer Assistance.
- (f) CHDO Pre-Development Loans: The Department may set-aside up to 10% of the annual CHDO 15% Set-Aside for pre-development loans in accordance with 24 CFR 92.300(c). Applicants for Funds for pre-development loans will be required to have a summary description of a are available only when provided in conjunction with a proposed Development and be able to show the necessary development experience to apply, as outlined in the NOFA or application materials. Pre-Development Loan funds may application and may only be used for activities such as project-specific technical assistance, site control loans, and project-specific seed money. Pre-development loans must be repaid from construction loan proceeds or other project income. In accordance with 24 CFR 92.301, the Department may elect to waive pre-development loan repayment, in whole or in part, if there are impediments to project development that the Department determines are reasonably beyond the control of the CHDO.
- (g) Set-Asides: other activities deemed eligible under set-asides defined by the Department and outlined in the Consolidated Plan.

§53.55. Prohibited Activities

In accordance with 24 CFR 92.214, HOME funds may not be used to:

- (1) provide a project reserve account for replacements or increases in operating costs, or operating subsidies;

- (2) provide TBRA for existing Section 8 Programs;
- (3) provide non-federal matching contributions for other programs;
- (4) provide assistance to Public Housing Agency owned or leased projects;
- (5) carry out Public Housing Modernization;
- (6) provide pre-payment of low-income housing mortgages under 24 CFR Part 248;
- (7) provide assistance to a project previously assisted with HOME funds during the period of affordability;
- (8) provide funds to reimburse an Applicant for acquisition costs for a property already owned by the Applicant, and
- (9) pay for any cost that is not eligible under 24 CFR 92.206-92.209.
- (10) pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.

§53.56. Distribution of Funds

In accordance with 24 CFR 92.201(b)(1), the Department makes every effort to distribute HOME funds throughout the state according to the Department's assessment of the geographic distribution of housing needs, as identified in the Consolidated Plan. Funds shall also be allocated in accordance with §2306.111(d) and (g), Texas Government Code. The Department receives HOME funds for areas of the state which have not received Participating Jurisdiction (PJ) status from HUD. §2306.111(c) of the Texas Government Code requires the Department to award at least 95% of HOME Program funds to entities in nonparticipating jurisdictions. All funds not set aside under this section may shall be used for the benefit of persons with disabilities who live in areas other than nonparticipating areas.

- (1) CHDO Set-Aside. In accordance with 24 CFR 92.300, not less than 15% of the HOME allocation will be set aside by the Department for CHDO eligible activities. CHDO set-aside projects are owned, developed, or sponsored by the CHDO, and result in the development of rental units or homeownership. Development includes projects that have a construction component, either in the form of new construction or the rehabilitation of existing units. If an insufficient number of qualified applications are received by the deadline, the Department reserves the right to hold additional competitions in order to meet federal set-aside requirements.
- (2) Special Needs ~~Set-Aside~~. In accordance with the Consolidated Plan, funds will be available to eligible Applicants, as defined in §53.52(a) of this title (relating to Applicant Requirements), with a documented history of working with special needs populations and with relevant housing related experience. Applicants may submit applications for: Owner-Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance. If an insufficient number of qualified applications are received, the Department reserves the right to transfer

funds remaining in accordance with paragraph (6) of this subsection regarding Redistribution.

- (3) Other Set-Asides. In accordance with the Consolidated Plan, funds will be available to eligible Applicants, as defined in §53.52(a) of this title (relating to Applicant Requirements), for those eligible activities outlined under Set-Asides.
- (4) Administrative Funds. In accordance with 24 CFR 92.207 up to 10% of ~~the a PJ's HOME~~ Department's HOME allocation plus 10% of any program income received may be used for eligible and reasonable planning and administrative costs. Administrative and planning costs may be incurred by the Department, PJ, State Recipient, Subrecipient, nonprofit entity, or CHDO.
- (5) CHDO Operating Expenses. In accordance with 24 CFR 92.208 up to 5% of a PJ's ~~the~~ Department's HOME allocation may be used for the operating expenses of CHDOs. ~~CHDO Applicants awarded funds for set-aside activities may be eligible for operating expenses. The Department may award CHDO Operating Expenses in conjunction with the award of CHDO Funds, or through a separate application cycle not tied to a specific Activity.~~
- (6) Redistribution. In an effort to commit HOME funds in a timely manner, the Department may reallocate funds set-aside in accordance with the Consolidated Plan, at its own discretion, to other regions or activities if:
 - (A) the Department fails to receive a sufficient number of applications from a particular region or Activity;
 - (B) no applications are submitted for a region; or
 - (C) applications for a region or Activity do not meet eligibility requirements or minimum threshold scores (when applicable), or are financially infeasible as applicable.
- (7) Marginal Applications. When the remainder of the allocation within a region is insufficient to completely fund the next ranked application in the region or Activity, it is within the discretion of the Department to:
 - (A) fund the next ranked application for the partial amount, reducing the scope of the application proportionally;
 - (B) make necessary adjustments to fully fund the application; or
 - (C) transfer the remaining funds to other regions or activities.
- (8) HOME Demonstration Fund. The Department, with Board approval, may reserve HOME funds to combine and coordinate with other programs administered by the Department as outlined in the Consolidated Plan, or for housing activities the Department is permitted to fund under applicable law.

§53.57. Allocation Plan

The allocation plan created by the Department based on the funding allocation outlined in the Department's Consolidated Plan, after a full accounting of available funds has been determined. ~~will be based on the funding recommendations in the Consolidated Plan.~~

§53.58. Application Process

- (a) An Applicant must submit a completed application to be considered for funding, along with an application fee determined by the Department and outlined in the NOFA. Applications containing false information and applications not received by the deadline will be disqualified. Disqualified Applicants are notified in writing. All applications must be received by the Department by 5:00 p.m. on the date identified in the NOFA, regardless of method of delivery.
- (b) Applications received by the Department in response to an Open Application Cycle NOFA will be handled in the following manner.
 - (1) The Department will accept applications on an ongoing basis, until such date when the Department makes notice to the public that the Open Application Cycle has been closed. All applications must be received during business hours (8:00 a.m. to 5:00 p.m.) on any business day. The Department may limit the eligibility of applications in the NOFA.
 - (2) Each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a “received date” based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits in three review phases, as applicable. Applications will continue to be prioritized for funding based on their “received date” unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier “received date” but that did not timely complete a phase of review.
 - (A) Phase One will begin as of the received date. Applications not being considered under the CHDO Set-Aside will be passed through to Phase Two upon receipt. Phase One will only entail the review of the CHDO Certification package. The Department will ensure review of these materials and issue notice of any deficiencies on the CHDO Certification package within 30 days of the received date. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into Phase Two and will continue to be prioritized by their received date. Applications with deficiencies not cured within ten business days, will be retained in Phase One until all deficiencies have been addressed/resolved by the Applicant to the Department’s satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to Phase Two. Applications that have not proceeded out of Phase One within 90 days of the received date will be terminated and must reapply for consideration of funds.
 - (B) Phase Two will include a review of all application requirements. The Department will ensure review of materials required under the NOFA and will issue notice of any deficiencies as to threshold and eligibility within 45 days of the date it enters Phase Two. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into Phase Three and will continue to be prioritized by their received date. Applications with deficiencies not cured within ten business days, will be retained in Phase Two

until all deficiencies have been addressed/resolved by the Applicant to the Department's satisfaction. Only upon satisfaction of all deficiencies, and of threshold and eligibility requirements will the Application be forwarded to Phase Three. Applications that have not proceeded out of Phase Two within 120 days of the date it entered Phase Two will be terminated and must reapply for consideration of funds. Application submitted for non-development Activities will not go through a Phase Three evaluation.

- (C) Phase Three will include a comprehensive review for material noncompliance and financial feasibility by the Department. Financial feasibility reviews will be conducted by the Real Estate Analysis (REA) Division consistent with 10 TAC §1.32, Underwriting Rules and Guidelines. REA will create an underwriting report that identifying staff's recommended loan terms, the loan or grant amount and any conditions to be placed on the development. The Department will ensure financial feasibility review and issue notice of any required deficiencies for that feasibility review within 45 days of the date it enters Phase Three. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into "Recommended Status" and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within ten business days, will be retained in Phase Three until all deficiencies have been addressed/resolved by the Applicant to the Department's satisfaction. Only upon resolution of all deficiencies will the Application be forwarded to the Department's Executive Awards Review and Advisory Committee for final approval before recommendation to the Board. Any application that has not finished Phase Three within 120 days of the date it entered Phase Three will be terminated and must reapply for consideration of funds.
- (D) Upon completion of the applicable final review Phase, applications will be presented to the Executive Awards Review and Advisory Committee (the Committee). If satisfactory, the Committee will then recommend the award of funds to the Board, as long as HOME funds are still available for this Activity under the applicable NOFA. If the Application is recommended at least 14 days prior to the next Board meeting, it will be placed on the next Board meeting's agenda. If the Application is recommended with less than 14 days before the next Board meeting, the recommendation will be placed on the subsequent months Board meeting agenda. Applications which are not recommended by the committee will be either returned to Department Staff or terminated.
- (E) Because applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HOME funds before an application has completed all phases of its review. In the case that all HOME funds are committed before an application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for 90 days in its current phase. If new HOME funds become available, applications will continue onward with their review without losing their received date priority. If HOME funds do not become

available within 90 days of the notification, the Applicant will be notified that their application is no longer under consideration. The applicant must reapply to be considered for future funding. If on the date an application is received by the Department, no funds are available under this NOFA, the applicant will be notified that no funds exist under the NOFA and the application will not be processed.

- (F) The Department may decline to fund any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any application.
- (c) Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. Administrative Deficiencies given to Applications submitted under an Open Application Cycle NOFA will be handled in the manner described under Part B of this Section. Applications submitted under a Competitive Application Cycle NOFA will be treated in the following manner.
- (1) If Administrative Deficiencies are not cured to the satisfaction of the Department within five business days of the deficiency notice date, then five points shall be deducted from the application score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within seven business days from the deficiency notice date, then the application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement an application in any manner after the filing deadline, except in response to a direct request from the Department.
- ~~(b) Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within eight business days of the deficiency notice date, then five points shall be deducted from the application score for each additional day the~~

~~deficiency remains unresolved. If deficiencies are not clarified or corrected within ten business days from the deficiency notice date, then the application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement an application in any manner after the filing deadline, except in response to a direct request from the Department.~~

(d) Alternative Dispute Resolution Policy. Alternative Dispute Resolution Policy. In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, and Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator (fax: (512) 475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.

~~(d)In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation and nonbinding arbitration. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR process, the person may send a proposal to the Department's General Counsel and Dispute Resolution Coordinator. The proposal should describe the dispute and the details of the process proposed (including proposed participants, third party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

§53.59. Process for Awards

(a) The Department will publish a NOFA in the *Texas Register* and on the Department's website. The NOFA may be published as either an Open or Competitive Application Cycle. The NOFA will establish and define the terms and conditions for the submission of applications, and may set a deadline for receiving applications under a Competitive Application Cycle. The NOFA will also indicate the approximate amount of available funds.

~~(a)The Department will publish a NOFA in the Texas Register. The NOFA will establish a deadline for receiving applications and indicate the approximate amount of available funds.~~

(b) Selection Procedures for non-development aActivities, such as, Owner Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance.

(1) Applications must comply with all applicable HOME requirements or regulations established in 24 CFR Part 92 and in these rules. Applications that do not comply with such requirements are disqualified. Disqualified Applicants are notified in writing.

(2) Applications are ranked from highest scores to lowest in their respective regions or Activity according to HOME Program scores. All funds not subject to the Regional Allocation Formula may be awarded on a first-come, first-serve basis.

(3) Applications must meet or exceed a minimum score determined by Department's staff for that meet or exceed a minimum score, of 60% of as determined by Department's staff, of the total HOME Program score established for the respective activities to be are considered for funding.

(4) In event of a tie between two or more Applicants, the Department, reserves the right to determine which application will receive a recommendation for funding. This decision will be or if all tied Applicants will receive a partial recommendation for funding, based on housing need factors and feasibility of the proposed project identified in the application. Tied Applicants may also receive a recommendation for partial funding,

~~(4)(5)~~

(6) Applicants will be notified of their score in writing no later than seven calendar days after all applications received have been scored. Subsequently, the recommendation regarding their application will be made available on the Department's website at least 7 calendar days prior to the Board meeting at which the awards may be approved.

~~(5)Applicants will be notified at least 7 calendar days prior to the date of the Board meeting of the status of their application.~~

~~(6)(7)~~ Applications receiving a favorable staff recommendation are then presented to the Board for approval, pending the availability of HOME funds for each Activity.

(7) Applicants may appeal staff's decision regarding their applications in accordance with §1.7 of this title.

(c) Selection Procedures for Development activities, such as, Single Family Housing Development and Rental Housing Development.

(1) Applications must comply with all applicable HOME requirements or regulations established in 24 CFR Part 92, and in these rules. Applications that do not comply with HOME requirements are disqualified. Disqualified Applicants are notified in writing.

(2) Rental Housing Developments will undergo a review as follows in accordance with the rules set out previously in this section and as prescribed in the NOFA. :

~~(A) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to comply with the threshold criteria required under §50.9(f) of this title, which are those required for the Housing Tax Credit Program.~~

~~(B) Scoring Evaluation. For an application to be scored, the application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the scoring criteria identified in the NOFA.~~

~~(C)(A) Financial Feasibility Evaluation. After the application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division consistent with §53.56 of this title. The Department shall underwrite an application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title.~~

(3) Single Family Housing Developments will undergo a review as follows:

(A) ~~For a~~ Applicants that meet or exceed a minimum score, ~~of 60% of as determined by Department's staff, of~~ the total HOME Program scoring points established for each Development Activity to be ~~are~~ considered for funding. Applicants not meeting or exceeding the minimum score established in the subparagraph of this paragraph are disqualified and are notified in writing. Development applications are ranked from highest to lowest scores according to HOME Program scores on a statewide basis.

(B) Applications meeting the HOME Program requirements established in subparagraph (A) of this paragraph must receive an underwriting analysis by the Department.

(4) A site visit will be conducted as part of the HOME Program Development feasibility review. Applicants must receive recommendation for approval from the Department to be considered for HOME funding by the Board.

~~(5) In event of a tie between two or more Applicants, the Department reserves the right to determine which application will receive a recommendation for funding, or if all tied Applicants will receive a partial recommendation for funding, based~~

~~on housing need factors and feasibility of the proposed project identified in the application.~~ In event of a tie between two or more Applicants, the Department reserves the right to determine which application will receive a recommendation for funding. This decision will be based on housing need factors and feasibility of the proposed project identified in the application. Tied Applicants may also receive a partial recommendation for funding.

~~(5)(6)~~

~~(6)(7)~~ Each Development application will be notified of its score in writing no later than seven calendar days after all applications received have been scored. Subsequently, the recommendation regarding their application will be made available on the Department's web site at least 7 calendar days prior to the Board meeting at which the awards ~~will~~may be approved.

~~(7)(8)~~ Applications receiving a favorable staff recommendation are then presented to the Board for approval, pending the availability of HOME funds for such Activity.

~~(8)(9)~~ Even after, Board approval for the award of HOME Development Activity funds ~~is~~may be conditional upon a completed loan closing and any other conditions deemed necessary by the Department.

~~(9)(10)~~ Applicants may appeal staff's decision regarding their applications in accordance with §1.7 of this title.

§53.60. General Selection Criteria

At a minimum, the following criteria are utilized in evaluating the applications for HOME funds. The applicable criteria are further delineated in the application guidelines and NOFA, which are part of the application package.

- (1) Needs Assessment--Whether the proposed project meets the demographic, economic, and special need characteristics of the population residing in the target area and the need that the HOME program is designed to address, using qualitative and quantitative information, market studies, if appropriate, and other source documentation as delineated in the application guidelines, which are part of the application.
- (2) Program Design--Whether the proposed project meets the needs identified in the needs assessment, whether the design is complete ~~(including timeline for program implementation and service delivery)~~; and whether the project fits within the community setting. Information required includes, but is not limited to: community involvement; support services and resources; scope of program; income and population targeting; marketing, fair housing and relocation plans, as applicable.
- (3) Capability of Applicant--Whether the Applicant has the capacity to administer and manage the proposed program/project, demonstrated through previous experience either by the Applicant, cooperating entity or key staff (including other contracted service providers), in program management, property

management, acquisition, rehabilitation, construction, real estate finance counseling and training or other activities relevant to the proposed program, and the extent to which Applicant has the capability to manage financial resources, as evidenced by previous experience, documentation of the Applicant or key staff, and existing financial control procedures.

(4) Financial Feasibility. Applications for funding will be reviewed for financial feasibility based on the Department's underwriting standards for development activities and as outlined in the NOFA or application materials for non-development activities. The review will be based on the supporting financial data provided by Applicants and third party reports submitted with the application.

~~(4) Financial Design. Whether the proposed program budget includes eligible forms of matching contributions in accordance with 24 CFR 92.220, as may be amended.~~

§53.61. Program Administration

- (a) Agreement. Upon approval by the Board, Applicants receiving HOME funds shall enter into, execute, and deliver to the Department all written agreements between the Department and Recipient, including land use restriction agreements and compliance agreements as required by the Department.
- (b) Amendments. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any HOME written agreement provided that:
 - (1) in the case of a modification or amendment to the dollar amount of the award, such modification or amendment does not increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; and
 - (2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award.
 - (3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decrease the benefits to be received by the Department, in the estimation of the Executive Director, will be presented to the Board for approval.
- (c) Deobligation.
 - (1) The Department reserves the right to deobligate funds in the following situations:
 - (A) Recipient has any unresolved compliance issues on existing or prior contracts with the Department.
 - (B) Recipient fails to set-up programs/projects or expend funds in a timely manner.

- (C) Recipient defaults on any agreement by and between Recipient and the Department.
 - (D) Recipient misrepresents any facts to the Department during the HOME application process, award of contracts, or administration of any HOME contract.
 - (E) Recipient's inability to provide adequate financial support to administer the HOME contract or withdrawal of significant financial support.
 - (F) Recipient is not in compliance with 24 CFR Part 92, or these rules.
 - (G) Recipient declines funds.
 - (H) Recipient fails to expend all funds awarded.
- (2) The Department, with approval of the Board, may elect to reassign funds following the Deobligation Policy, adopted by the Board on January 17, 2002, in the order prioritized as follows:
- (A) Successful appeals (as allowable under program rules and regulations), or
 - (B) Disaster Relief (disaster declarations or documented extenuating circumstances such as imminent threat to health and safety), or
 - (C) Special Needs, or
 - (D) Colonias, or
 - (E) Other projects/uses as determined by the Executive Director and/or Board including the next year's funding cycle for each respective program.
- (d) Waiver. Upon determination of good cause, the Department, upon approval of the Board, may waive all or any part of these rules that are within the discretion of the State.
- (e) Additional Funds. In the event the Department receives additional funds from HUD, the Department, with Board approval, may elect to distribute funds to other Recipients.
- (f) Accounting Requirements. Within 60 days following the conclusion of a contract issued by the Department the recipient shall provide a full accounting of funds expended under the terms of the contract. Failure of a recipient to provide full accounting of funds expended under the terms of a contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the recipient.

§53.62. Community Housing Development Organization (CHDO) Certification

- (a) Definitions and Terms. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Applicant--A private nonprofit organization that has submitted a request for certification as a Community Housing Development Organization (CHDO) to the Department. An Applicant for the CHDO set aside must be a CHDO

certified by the Department or as otherwise certified or designated as described in subsection (d) of this section.

- (2) Articles of Incorporation--A document that sets forth the basic terms of a corporation's existence and is the official recognition of the corporation's existence. The documents must evidence that they have been filed with the Secretary of State.
- (3) Bylaws--A rule or administrative provision adopted by a corporation for its internal governance. Bylaws are enacted apart from the articles of incorporation. Bylaws and amendments to bylaws must be formally adopted in the manner prescribed by the organization's articles or current bylaws by either the organization's board of directors or the organization's members, whoever has the authority to adopt and amend bylaws.
- (4) Community--For urban areas, the term "community" is defined as one or several neighborhoods, a city, county, or metropolitan area. For rural areas, "community" is defined as one or several neighborhoods, a town, village, county, or multi-county area, but not the whole state.
- (5) Low income --An annual income that does not exceed eighty percent (80%) of the median income for the area, with adjustments for family size, as defined by the U.S. Department of Housing and Urban Development (HUD).
- (6) Memorandum of Understanding (MOU)--A written statement detailing the understanding between parties.
- (7) Neighborhood--A geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.
- (8) Nonprofit organization--Any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that:
 - (A) is organized under State or local laws,
 - (B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,
 - (C) complies with standards of financial accountability acceptable to the Secretary of the United States Department of Housing and Urban Development, and
 - (D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.
- (9) Resolutions--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or

persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws.

~~(b)~~(A) Application Procedures for Certification of CHDO. An Applicant requesting certification as a CHDO must submit an application for CHDO certification in a form prescribed by the Department. The CHDO application must be submitted with an application for HOME funding under the CHDO set ~~aside.~~ aside, and be recertified on an annual basis. The application must include documentation evidencing the requirements of this subsection.

~~(4)~~(10) An Applicant must have the following required legal status at the time of application to apply for certification as a CHDO:

(A) Organized as a private nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by:

- (i) Charter, or
- (ii) Articles of Incorporation.

(B) The Applicant must be registered with the Secretary of State to do business in the State of Texas.

(C) No part of the private nonprofit organization's net earnings inure to the benefit of any member, founder, contributor, or individual, as evidenced by:

- (i) Charter, or
- (ii) Articles of Incorporation.

(D) The Applicant must have the following tax status:

- (i) A current tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3), a charitable, nonprofit corporation, or Section 501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective while certified as a CHDO; or
- (ii) Classification as a subordinate of a central organization non-profit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and
- (iii) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement under this subparagraph.

(E) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's:

- (i) Articles of Incorporation,
- (ii) Charter,

- (iii) Resolutions, or
 - (iv) Bylaws.
- (F) The Applicant must have a clearly defined service area. The Applicant may include as its service area an entire community as defined in subsection (a)(4) of this section, but not the whole state. Private nonprofit organizations serving special populations must also define the geographic boundaries of its service areas. This subparagraph does not require a private nonprofit organization to represent only a single neighborhood.

(2)(11) An Applicant must have the following capacity and experience:

- (A) Conforms to the financial accountability standards of 24 CFR 84.21, "Standards of Financial Management Systems" as evidenced by:
 - (i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department,
 - (ii) certification from a Certified Public Accountant, or
 - (iii) HUD approved audit summary.
- (B) Has a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:
 - (i) resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds, or
 - (ii) contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization.
- (C) Has a history of serving the community within which housing to be assisted with HOME funds is to be located as evidenced by:
 - (i) statement that documents at least one year of experience in serving the community, or
 - (ii) for newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year of experience in serving the community; and
 - (iii) The CHDO or its parent organization must be able to show one year of serving the community prior to the date the participating jurisdiction provides HOME funds to the organization. In the statement, the organization must describe its history (or its parent organization's history) of serving the community by describing activities which it provided (or its parent organization provided), such as, developing new housing, rehabilitating existing stock and managing housing stock, or delivering non-housing services that have had lasting benefits for the community, such as counseling,

food relief, or childcare facilities. The statement must be signed by the president or other official of the organization.

(3)(12) An Applicant must have the following organizational structure:

- (A) The Applicant must maintain at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations in the Applicant's service area. Low-income neighborhoods are defined as neighborhoods where 51 percent or more of the residents are low-income. Residents of low-income neighborhoods do not have to be low income individuals themselves. If a low-income individual does not live in a low-income neighborhood as herein defined, the low-income individual must certify that he qualifies as a low-income individual. This certification is in addition to the affidavit required in clause (ii) of this subparagraph. For the purpose of this subparagraph, elected representatives of low-income neighborhood organizations include block groups, town watch organizations, civic associations, neighborhood church groups, Neighbor Works organizations and any organization composed primarily of residents of a low-income neighborhood as herein defined whose primary purpose is to serve the interest of the neighborhood residents. Compliance with this subparagraph shall be evidenced by:
- (i) written provision or statement in the organizations By-laws, Charter or Articles of Incorporation,
 - (ii) affidavit in a form prescribed by the Department signed by the organization's Executive Director and notarized, and
 - (iii) current roster of all Board of Directors, including names and mailing addresses. The required one-third low-income residents or elected representatives must be marked on list as such.
- (B) The Applicant must provide a formal process for low-income, program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects. The formal process should include a system for community involvement in parts of the private nonprofit organization's service areas where housing will be developed, but which are not represented on its boards. Input from the low-income community is not met solely by having low-income representation on the board. The formal process must be in writing and approved or adopted by the private nonprofit organization, as evidenced by:
- (i) organization's By-laws,
 - (ii) Resolution, or
 - (iii) written statement of operating procedures approved by the governing body. Statement must be original letterhead, signed by the Executive Director and evidence date of board approval.

(C) A local or state government and/or public agency cannot qualify as a CHDO, but may sponsor the creation of a CHDO. A private nonprofit organization may be chartered by a State or local government, but the following restrictions apply:

- (i) The state or local government may not appoint more than one-third of the membership of the organization's governing body.
- (ii) The board members appointed by the state or local government may not, in turn, appoint the remaining two-thirds of the board members.

(iii) No more than one-third of the governing board members may be public officials. Public officials include elected officials, appointed public officials, employees of the participating jurisdiction, or employees of the sponsoring state or local government, and individuals appointed by a public official. Elected officials include, but are not limited to, state legislators or any other statewide elected officials. Appointed public officials include, but are not limited to, members of any regulatory and/or advisory boards or commissions that are appointed by a State official.

~~(iii) No more than one-third of the governing board members may be public officials. Public officials include elected officials, appointed public officials, public employees, and individuals appointed by a public official. Elected officials include, but are not limited to, state legislators or any other statewide elected officials. Appointed public officials include, but are not limited to, members of any regulatory and/or advisory boards or commissions that are appointed by a State official. Public employees include, but are not limited to, employees of State governmental entities or departments of State government.~~

(iv) Public officials who themselves are low-income residents or representatives do not count toward the one-third minimum requirement of community representatives in subparagraph (A) of this paragraph.

(v) Compliance with clauses (i)-(iv) of this subparagraph shall be evidenced by:

- (I) organization's By-laws,
- (II) Charter, or
- (III) Articles of Incorporation.

(D) If the Applicant is sponsored or created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the Applicant's governing body, and the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members, as evidenced by the Applicant's:

- (i) By-laws,
- (ii) Charter, or
- (iii) Articles of Incorporation.

(E) An Applicant may be sponsored or created by a for-profit entity provided the for-profit entity's primary purpose does not include the development or management of housing, as evidenced in the for-profit organization's By-laws. If an Applicant is associated or has a relationship with a for-profit entity or entities, the Applicant must prove it is not controlled, nor receives directions from individuals, or entities seeking profit as evidenced by:

- (i) organization's By-laws, or
- (ii) Memorandum of Understanding (MOU).

~~(4)~~(13) Religious organizations cannot qualify as a CHDO, but may sponsor the creation of wholly secular private nonprofit organizations. If Applicant is sponsored by a religious organization, the following restrictions apply.

- (A) The Applicant must prove that it is not controlled by the religious organization.
- (B) The developed housing must be used exclusively for secular purposes and the housing owned, developed or sponsored by the Applicant must be made available to all persons regardless of religious affiliations or beliefs.
- (C) There are no limits on the proportion of the board that may be appointed by the religious organization.
- (D) Compliance with these clauses (i)-(iii) of this subparagraph shall be evidenced by:
 - (i) organization's By-laws,
 - (ii) Charter, or
 - (iii) Articles of Incorporation.

~~(e)~~(b) An application for Community Housing Development Organization (CHDO) Certification will only be accepted if submitted with an application to the Department for HOME funds. If all requirements under this section are met, the Applicant will be certified as a CHDO upon the award of HOME funds by the Department. A new application for CHDO certification must be submitted to the Department with each new application for HOME funds under the CHDO set aside.

~~(d)~~(c) If an Applicant submits an application for CHDO certification for a service area that is located in a local Participating Jurisdiction, the Applicant must submit evidence of the local taxing jurisdiction or local Participating Jurisdiction certification or designation of the Applicant as a CHDO.

~~(d)~~ In the case of an Applicant applying for HOME funds (See 5% Disability requirement at §53.56 of this Title) from the Department to be used in a Participating Jurisdiction, where neither the Participating Jurisdiction nor the local taxing entity certifies CHDOs outside of the local HOME application process, the Certification process described in this section applies.

~~(e)~~In the case of an Applicant applying for HOME funds (CHDO set aside) from the Department to be used in a Participating Jurisdiction, where neither the

~~Participating Jurisdiction nor the local taxing entity certifies CHDOs outside of the local HOME application process, the Certification process described in this section applies.~~

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
August 19, 2004

Action Items

Request approval of the proposed amended 2005 Housing Trust Fund Rules to be released in draft form for public comment.

Required Action

Approve the proposed amended Housing Trust Fund Rules for release as a draft.

Background and Recommendations

Attached are the proposed amended 2005 Draft Housing Trust Fund Rules that reflect comments provided through a roundtable discussion open to the public on July 12, 2004, written public input, and staff's recommendations for revisions. The document provided reflects the proposed amendments in "blackline" version showing the proposed changes from the Housing Trust Fund Rules currently in effect which were last amended by the Board on April 14, 2003. The "blackline" version shows new language as underlined and deleted language with a line running through it. Upon approval by the Board, the amended Draft Rules will be published in the *Texas Register* and released to the public for comment. Public hearings will be held on the proposed amended Draft Rules, as well as the other rules before the Board at this meeting, from approximately September 27 to October 8, 2004. The final rule will come before the Board in November 2004.

The primary changes that are proposed are to ensure consistency with Texas Government Code, provide the Department with the ability to use an Open Application Cycle to award funding and add language that ensures consistency with other multifamily rules to the extent that Housing Trust Fund will be used for multifamily development.



2005 HOUSING TRUST FUND RULES

TITLE 10, PART 1, CHAPTER 51 TEXAS ADMINISTRATIVE CODE

§51.1. Purpose.

This Chapter clarifies the use and administration of the Housing Trust Fund. The fund is created pursuant to Texas Government Code 2306.201.

§51.2. Program Goals and Objectives.

Use of the Housing Trust Fund is limited to providing:

- (1) assistance for individuals and families of low, very low income and extremely low income;
- (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low, very low income and extremely low income; and
- (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low, very low income and extremely low income.

§51.3. Definitions.

The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Administrative Deficiencies-- The absence of information or a document from the Application which is important to a review and scoring of the Application as required in this rule.

~~(2) Affordable Housing--Housing for which low, very low, and extremely low income families are not required to pay more than 30% of an area's median income.~~

~~(3)~~(2) Applicant -- An eligible entity which is preparing to submit or has submitted an application for Housing Trust Fund assistance and is assuming contractual liability and legal responsibility by executing the written agreement with the Department.

~~(4)~~(3) Board--The governing board of the Department.

~~(5)~~(4) Capacity Building--Educational and organizational support assistance to promote the ability of community housing development organizations and nonprofit organizations to maintain, rehabilitate and construct housing for low, very low, and extremely low income persons and families. This activity may include but is not limited to:

- (A) organizational support to cover expenses for training, technical and other assistance to the board of directors, staff, and members of the nonprofit organizations or community housing development organizations;
- (B) technical assistance and training related to housing development, housing management, or other subjects related to the provision of housing or housing services; or

Texas Department of Housing and Community Affairs
Housing Trust Fund Rules

(C) studies and analyses of housing needs.

~~(6)(5)~~ Community Housing Development Organizations-- A nonprofit organization that satisfies the requirements of Section 53.63 of this title.

~~(6)~~ Competitive Application Cycle-- A Notice of Funding Availability that has a fixed deadline by which applications must be submitted. Applications will be reviewed for threshold and scoring criteria in accordance with the rules for application review published in the ~~NOFA~~ Notice of Funding Availability (NOFA).

(7) Department--The Texas Department of Housing and Community Affairs.

(8) Eligible Applicants--Local units of government, public housing authorities, community housing development organizations, nonprofit organizations, for profit entities, and persons and families of low, very low, and extremely low income.

(9) Extremely Low Income-- Families whose annual incomes do not exceed 30% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size. ~~In accordance with Rider 3, and published by the Department, those counties where the median family income is lower than the state average median family income, applicants targeting households at or below 30% of the median income of the area may use the average state median family income based on number of persons in a household.~~

(10) Housing Development Costs-- The total of all costs incurred, or to be incurred, by the Development Owner in acquiring, constructing, rehabilitating and financing a Development as determined by the Department based on the information contained in the Applicant's application. Such costs include reserves and any expenses attributable to commercial areas.

(11) Housing Development--Any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards consistent with those prescribed in the Housing Trust Fund Property Standards, found in the Program Guidelines, for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by persons and families of low, very low, and extremely low income, and persons with special needs. The term may include buildings, structures, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances.

(12) HUD—The United States Department of Housing and Urban Development, or its successor.

(13) Local Units of Government--A county; an incorporated municipality; a special district; a council of governments; any other legally constituted political subdivision of the state; a public, nonprofit housing finance corporation created under the Local Government Code, Chapter 394; or a combination of any of the entities described here.

(14) Low Income Persons and Families-- Families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(15) Nonprofit Organization--Any public or private, nonprofit organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

Texas Department of Housing and Community Affairs
Housing Trust Fund Rules

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3), a charitable, nonprofit corporation, or Section 501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and

(D) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement.

~~(B) has a tax exemption ruling from the Internal Revenue Service under the Internal Revenue Code of 1986, Section 501(c)3 or (c)4, as amended.~~

(16) NOFA—Notice of Funding Availability, published in the Texas Register.

(17) Open Application Cycle—A Notice of Funding Availability that does not have a fixed deadline by which applications must be submitted. Applications will be reviewed in accordance with the rules for application review published in the NOFA.

~~(17)~~(18) Person with Special Needs-

(A) persons with disabilities, persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, the elderly, victims of domestic violence, persons living in Colonias, and migrant farm workers, any of whom also meets the income guidelines of a person of low, very low or extremely low income.

(B) Housing Trust Funds may also awarded through persons legally responsible for caring for an individual described by subparagraph (A.)

~~(A) any persons legally responsible for caring for an individual described by subparagraph (A) and meets the income guidelines of a person of low, very low or extremely low income.~~

~~(18)~~(19) Public Agency—A branch of National, State or Local Government.

~~(19)~~(20) Public Housing Authority--A housing authority established under the Texas Local Government Code, Chapter 392.

~~(20)~~(21) Recipient--Community housing development organization, nonprofit organization, for profit entity, local unit of government, or public housing authority that is approved by the Department to receive and administer housing trust funds in accordance with these rules.

~~(21)~~(22) Rental Housing Development--A project for the acquisition, new construction, reconstruction or rehabilitation of multi-family or single family rental housing, or conversion of commercial property to rental housing.

~~(22)~~(23) Rural Project-- An area that is located:

(A) outside the boundaries of a PMSA or MSA; or

(B) within the boundaries of a PMSA or MSA area, if the statistical area has a population of not more than 20,000, and does not share boundaries with an urbanized area; or

(C) in an area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS.

~~(23)~~(24) State--The State of Texas.

~~(24)~~(25) Statute--Texas Government Code 2306.

~~(25)~~(26) Very low Income Persons and Families-- Families whose annual incomes do not exceed 60% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

§51.4. Allocation of Housing Trust Funds.

- (a) Funds shall be allocated to achieve broad geographic dispersion by awarding funds in accordance with Section 2306.111(d) ~~through and~~ (g), Texas Government Code.
- (b) The Department shall utilize its best efforts to target housing trust funds allocated each fiscal year to housing assistance for individuals and families earning less than 60% of median family income.
- (c) Bond indenture requirements governing expenditure of bond proceeds deposited in the housing trust fund shall govern and prevail over all other allocation requirements established in this section. However, the Department shall distribute these funds in accordance with the requirements of this section to the extent possible.

§51.5. Basic Eligible Activities.

The Department shall make grants and loans from the Housing Trust Fund to Eligible Applicants for purposes consistent with Section 51.2 of this title and Section 2306.202 of Texas Government Code.

§51.6. Ineligible Activities and Restrictions.

~~(a)~~ Displacement of Existing Affordable Housing. Housing Trust Funds shall not be utilized on a development that has the effect of permanently displacing low, very low, and extremely low income persons and families. Low-Income persons who may be temporarily displaced by the rehabilitation of affordable housing may be eligible for compensation of moving and relocation expenses as permitted under Chapter 2306 of the Texas Government Code and this title. Residents of a development to be rehabilitated by Housing Trust Funds must be provided the opportunity to lease and occupy a comparable affordable dwelling unit in the development upon completion of the development. The landlord must provide all persons and families affected by the rehabilitation with:

~~(1) Notice in writing within a reasonable time indicating the right to remain in the dwelling unit or the need to relocate; and~~

~~(2)(1) payment of the costs of temporary relocation, including moving costs and any increase in rent.~~

- (b) If a Housing Trust Fund recipient violates the permanent dislocation provision of this subsection, that recipient risks loss of Housing Trust Funds and the landlord/developer must pay the affected tenant's costs and all moving expenses.
- (c) Restrictions on Communication.
 - (1) The Applicant or other person that is active in the ownership or control of the proposed activity, or individual employed as a lobbyist or in another capacity on behalf of the application, may not communicate with any Board member with respect to the application during the period of time starting with the time an application is submitted until the time the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application.
 - (2) Applicants are restricted from communication with Department staff as described in this subsection. The Applicant or other person that is active in the ownership or control of the Development, or individual employed as a lobbyist or in another capacity on behalf of the application, may communicate with an employee of the Department with respect to the Development so long as that communication satisfies the conditions established under

Texas Department of Housing and Community Affairs
Housing Trust Fund Rules

subparagraphs (A) through (E) of this paragraph. Communication with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

- (A) The communication must be restricted to technical or administrative matters directly affecting the Application;
 - (B) The communication must occur or be received on the premises of the Department during established business hours;
 - (C) Communication with the Executive Director, the Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Single Family Finance Production, the Director of Portfolio Management and Compliance, and the Director of Real Estate Analysis of the Department must only be in written form which includes electronic communication through the Internet;
 - (D) Communication with other Department staff may be oral or in written form which includes electronic communication through the Internet; and
 - (E) A record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication.
- (d) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:
- (1) Previously funded recipient(s) whose Housing Trust Funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;
 - (2) Applicants who have not satisfied all threshold requirements described in this title, and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved;
 - (3) Applicants who have submitted incomplete applications;
 - (4) Applicants that have been otherwise barred by the Department;
 - (5) Applicant or developer, or their staff, who that violate the state revolving door policy; and
 - (6) Any applicant who would otherwise be considered ineligible under §49.5 of this title.
- (e) The Department will not recommend an application for funding if it includes a principal who is or has been:
- (1) Barred, suspended, or terminated from procurement in a state or federal program and listed in the List of Parties Excluded from Federal Procurement of Non-procurement Programs;
 - (2) The subject of enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity; ~~or~~
 - (3) If the applicant has unresolved compliance or audit findings related to previous or current funding agreements with the Department; or
 - (4) Has breached a contract with a public agency.
- (f) Material Noncompliance. Each Application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applications found to be in Material Noncompliance, ~~or otherwise violating the compliance rules of the Department~~, will be terminated.

(g) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in §49.6 of this title and any additional items included in the NOFA for rental housing developments. The following restrictions apply to Rental Housing Developments only.

~~(1) Floodplain. Any Development proposing new construction located within the 100-year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100-year floodplain. No Developments proposing rehabilitation will be permitted in the 100-year floodplain unless they already are constructed in accordance with the policy stated above for new construction or are able to provide evidence of flood insurance on the buildings and the contents of the units.~~

~~(2) Ineligible Building Types. Applications involving Ineligible Building Types will not be eligible for an award. Those buildings or facilities which are ineligible are as follows:~~

~~(A) Hospitals, nursing homes, trailer parks and dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units) are ineligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible if the Development involves the conversion of the building to a non-transient multifamily residential development.~~

~~(B) Any elderly development of two stories or more that does not include elevator service for any Units or living space above the first floor.~~

~~(C) Any elderly development with any units having more than two bedrooms.~~

~~(D) Any Development with building(s) with four or more stories that does not include an elevator.~~

~~(E) Any Development proposing new construction, other than a Development (new construction or rehabilitation) composed entirely of single family dwellings, having any Units with four or more bedrooms.~~

(3)(h) Limitations on the Size of Developments. Developments involving new construction will be limited to 2520 Units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit restrictions. The minimum number of units shall be 4 units under all Development programs.

~~(1) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.~~

§51.7. Application Procedure and Requirements.

(a) In distributing funds, the Department will release a NOFA and/or request for proposals that identifies the uses of the available funds and the specific criteria that will be utilized in evaluating applicants.

(b) Applicants must submit a complete application to be considered for funding, along with an application fee determined by the Department and outlined in the NOFA. Applications containing false information will be disqualified. Applications submitted under a Competitive Application Cycle must be received by the application deadline or they will be disqualified. Disqualified Applicants will be notified in writing. All applications must be received by the Department by 5:00 p.m. regardless of method of delivery.

Texas Department of Housing and Community Affairs
Housing Trust Fund Rules

- ~~(b) Applications containing false information and Applications not received by the deadline will be disqualified. Disqualified applicants are notified in writing. All Applications must be received by the Department by 5:00 p.m. on the date identified in the NOFA, regardless of method of delivery.~~
- (c) Applications received by the Department in response to an Open Application Cycle NOFA for housing development activities will be handled in the following manner.
- (1) The Department will accept applications on an ongoing basis, until such date when the Department makes notice to the public that the Open Application Cycle has been closed. All applications must be received during business hours and no later than 5:00 p.m. on any business day. The Department may limit the eligibility of applications in the NOFA.
 - (2) Each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a “received date” based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits in three review phases. Applications will continue to be prioritized for funding based on their “received date” unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier “received date” but that did not timely complete a phase of review.
- (A) Phase One will begin as of the received date. Applications not being considered as CHDOs will be passed through to Phase Two upon receipt. Phase One will only entail the review of the CHDO Certification package. The Department will ensure review of these materials and issue notice of any deficiencies on the CHDO Certification package within 30 days of the received date. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into Phase Two and will continue to be prioritized by their received date. Applications which do not resolve all deficiencies ten business days will be retained in Phase One until all deficiencies have been addressed/resolved by the Applicant to the Department’s satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to Phase Two. Applications that have not proceeded out of Phase One within 90 days of the received date will be terminated and must reapply for consideration of funds.
- (B) Phase Two will include a review of all application requirements. The Department will ensure review of all application materials required under the NOFA and issue notice of any deficiencies on the application’s satisfaction of threshold and eligibility within 45 days of the date it enters Phase Two. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into Phase Three and will continue to be prioritized by their received date. Applications which do not resolve all deficiencies within ten business days, will be retained in Phase Two until all deficiencies have been addressed/resolved by the Applicant to the Department’s satisfaction. Only upon resolution of all deficiencies will the Application be forwarded to Phase Three. Applications that have not left Phase Two within 120 days of the date it entered Phase Two will be terminated and must reapply for consideration of funds.
- (C) Phase Three will include a comprehensive review for material noncompliance and financial feasibility by the Department. Financial feasibility reviews will be conducted by the Department’s Real Estate Analysis (REA) Division consistent with 10 TAC §1.32, Underwriting Rules and Guidelines. REA will draft an underwriting report that will identify staff’s recommended loan terms, the loan or grant amount and any conditions to be placed on the development. The Department will ensure financial feasibility review and issue notice of any required deficiencies for that feasibility review within 45 days of the date it enters Phase Three. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into “Recommended Status” and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within ten business days, will be retained in

Phase Three until Applicant resolves all deficiencies to the Department's satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to the Department's Executive Award Review and Advisory Committee for final approval before recommendation to the Board. Any application that has not left Phase Three after 120 days of the date it entered Phase Three will be terminated and must reapply for consideration of funds.

- (D) Upon completion of Phase Three, applications will be presented to the Executive Awards Review and Advisory Committee (the Committee). If satisfactory, the Committee will then recommend the award of funds to the Board, as long as funds are still available for this activity under the applicable NOFA. If Phase Three is completed at least 14 days prior to the next Board meeting, it will be placed on the next Board meeting's agenda. If Phase Three is completed with less than 14 days before the next Board meeting, the recommendation will be placed on the following month's Board meeting agenda.
- (E) Because applications are prioritized by "received date," it is possible that the Department will expend all available funds before an application has been completely reviewed. If all funds are committed before an application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for 90 days in its current phase. If new funds become available applications already under review will continue with their review without losing their received date status. If new funds do not become available within 90 days of the notification, the applicant will be notified that their application is no longer under consideration and in the event of future funding, they would be required to reapply. If on the date an application is received by the Department, no funds are available under this NOFA, the applicant will be notified that no funds remain under the NOFA and that the application will not be processed.
- (F) The Department may decline to consider any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. Beyond the use of the "received date", staff will make selections based upon the need for housing in the community where the development is located, the effectiveness with which the proposed use of funds would aid in continuing to provide affordable housing, the general feasibility of the proposed transaction, and the credibility of the applicant. The Department is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the Department's best interest to refrain from funding any application. The Department strives, through its terms, to maximize the return on its funds while ensuring the financial feasibility of a development. The Department reserves the right to negotiate individual elements of any application.
- (d) Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. Administrative Deficiencies given to Applications submitted under an Open Application Cycle NOFA will be handled in the manner described under Part B of this Section. Applications submitted under a Competitive Application Cycle NOFA will be treated in the following manner.
- ~~(e) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. The Department staff may request clarification or correction in a deficiency notice in~~

~~the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within eight business days of the deficiency notice date, then five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within ten business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period.~~

(1) If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then five points shall be deducted from the application score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within seven business days from the deficiency notice date, then the application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement an application in any manner after the filing deadline, except in response to a direct request from the Department.

(e) Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner.

~~(d) Rental Housing Developments will undergo a review as follows:~~

- ~~(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to comply meet with the threshold criteria defined by the NOFA and any Threshold Criteria that may be applicable to the Housing Trust Fund as defined by Chapter 2306 of the Texas Government Code required under Section 50.9(f) of this title, which are those required for the Housing Tax Credit Program.~~
- (2) Scoring Evaluation. For an Application to be scored, the Application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the scoring criteria identified in the NOFA.
- (3) Financial Feasibility Evaluation. After the Application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, Section 1.32 of this title.

(f) All applications for housing development activities will be reviewed in the following manner:

~~(4)~~(1) A site visit will be conducted. Applicants must receive recommendation for approval from the Department to be considered for funding by the Board.

~~(5) Each Rental Housing Development Application will be notified of their score in writing no later than seven days after all applications received have been scored. Subsequently, the recommendation regarding their Application will be made on the Department's web site at least 7 days prior to the Board meeting where the awards will be approved.~~

~~(6)~~(2) After, Board approval for the award of Development activity funds is conditional upon a completed loan closing and any other conditions deemed necessary by the Department.

(e)(g) Applications other than Rental Housing Developments will be reviewed and evaluated in accordance with the NOFA for that activity.

(h) Applicants may appeal staff's decisions regarding their applications consistent with Section 1.7 of this title.

(i) Alternative Dispute Resolution Policy. [Alternative Dispute Resolution Policy](#). In accordance with [Section 2306.082, Texas Government Code](#), it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the [Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code](#), to assist in resolving disputes under the Department's jurisdiction. As described in [Chapter 154, Civil Practices and Remedies Code](#), ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator (fax: (512) 475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.

~~(h)(i) In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation and nonbinding arbitration. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR process, the person may send a proposal to the Department's General Counsel and Dispute Resolution Coordinator. The proposal should describe the dispute and the details of the process proposed (including proposed participants, third party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

§51.8. Criteria for Funding.

(a) In considering applications for funding, the Department considers the following requirements under Section 2306.203(e), Texas Government Code, and such others as may be enumerated during the funding cycle:

(1) Minimum Eligibility Criteria. To be considered for funding, an Applicant must first demonstrate that it meets each of the following threshold criteria:

(A) The application is consistent with the requirements established in this rule [and the NOFA](#).

(B) The applicant provides evidence of its ability to carry out the proposal in the areas of financing, acquiring, rehabilitating, developing or managing [an](#) affordable housing development.

(C) The proposal addresses and identifies a housing need. This assessment will be based on statistical data, surveys and other indicators of need as appropriate.

- (2) Evaluation Factors. The criteria used to rank-evaluate applications, as more fully reflected in the NOFA, will include at a minimum the:
 - (A) leveraging of federal funds including the extent to which the project will leverage State funds with other resources, including federal resources, and private sector funds;
 - (B) cost-effectiveness of a proposed development; and
 - (C) extent to which individuals and families of very low income and extremely low income are served by the development.
- (b) The Board has final approval on all recommendations for funding.
- (c) Eligible Applicants that have been approved for funding and that require a material change in the project description must provide a written request for the material change to the Department prior to implementing the change.
 - (1) A material change may include, but is not limited to, the following:
 - (A) Change in project site;
 - (B) Change in the number of units or set asides; and
 - (C) Increase in funding.
 - (2) Failure to comply with this subsection may result in the termination of funding to the applicant.
- (d) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Housing Trust Fund development proposal or written agreement provided that:
 - (1) in the case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or \$50,000, whichever is greater; and
 - (2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award.
- ~~(d) The Executive Director of the Department may approve nonmaterial changes in the project description and in the scope of work to be performed for clarification and necessary administrative adjustments, provided that any such change does not increase the dollar amount of the original award of funds.~~

§51.9. Other Program Requirements.

- (a) Employment opportunities. In connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment shall be given to low, very low, and extremely low income persons residing within the area in which the project is located.
- (b) Conflict of Interest.
 - (1) Conflict Prohibited. No person described in paragraph (2) of this subsection who exercises or has exercised any functions or responsibilities with respect to Housing Trust Fund activities under the Statute or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a Housing Trust Fund assisted activity, or have an interest in any Housing Trust Fund contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

- (2) Persons Covered. The conflict of interest provisions of paragraph (1) of this subsection apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of the Recipient.
- (c) Right to Inspect and Monitor.
 - (1) The Department may, at any time, inspect and monitor the records and the work of the project so as to ascertain the level of project completion, quality of work performed, inventory levels of stored material, compliance with the approval plans and specifications, property standards, and program rules and requirements.
 - (2) Any unsatisfactory findings in the inspection may result in a reduction in the amount of funds requested or termination of funding.
 - (3) Within 45 days of completion of any construction, and before the release of any retainage funds, Recipients are required to notify the Department of the completion by submitting a certificate of completion and any other documents required by program guidelines, including, but not limited to, the following:
 - (A) Architect's Certification of Substantial Compliance;
 - (B) Recipient's Certificate of Substantial Completion; and
 - (C) Recipient's and supplier's Release of Lien and warrantee.
 - (4) The Department performs a final close-out visit and assists owners in preparing for long-term compliance requirements upon completion of project development.
- (d) Compliance.
 - (1) Recipient must maintain compliance with each of its written agreements with the Department.
 - (2) Restrictions are stated and enforced through a regulatory agreement.
 - (3) These restrictions include, but are not limited to the following:
 - (A) Rent restrictions;
 - (B) Record keeping and reporting; and
 - (C) Income targeting of tenants.
 - (4) The Department monitors compliance with project restrictions and any other covenants by Recipient in any Housing Trust Fund agreement. An annual per unit compliance fee of \$25.00 is may be charged for this review.
 - (5) Prior to the leasing of any units, project owners are provided guidance and training by the Department to assist project owners in adhering to restriction and reporting requirements.
- (e) For funds being used for multifamily rental properties, the recipient must establish a reserve account consistent with Section 2306.186, Texas Government Code, and as further described in Chapter ~~601.37~~ of this title.
- (f) Accounting Requirements. Within 60 days following the conclusion of a contract issued by the Department the recipient shall provide a full accounting of funds expended under the terms of the contract. Failure of a recipient to provide full accounting of funds expended under the terms of a contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the recipient.

§51.10. Citizen Participation.

- (a) The Department holds at least one public hearing annually, and additional public hearings prior to consideration of any proposed significant changes to these rules, to solicit comments from the

public, eligible applicants, and Recipients on the Department's rules, guidelines, and procedures for the Housing Trust Fund.

- (b) The Department considers the comments it receives at public hearings. The Board annually reviews the performance, administration, and implementation of the Housing Trust Fund in light of the comments it receives. The Board also reviews funding goals and set-asides relating to Allocation of Housing Trust Funds.
- (c) Applications for Housing Trust Funds are public information and the Department shall afford the public an opportunity to comment on proposed housing applications prior to making awards.
- (d) Complaints will be handled in accordance with the Department's complaint procedures of Section 1.2 of this title.

§51.11. Records to be Maintained.

- (a) Recipients are required, at least on an annual basis, to submit to the Department information required under Chapter 60 of this title, which may include, but is not limited to:
 - (1) such information as may be necessary to determine whether a project is benefiting low, very low, and extremely low income persons and families;
 - (2) the monthly rent or mortgage payment for each dwelling unit in each structure assisted;
 - (3) such information as may be necessary to determine whether Recipients have carried out their housing activities in accordance with the requirements and primary objectives of the Housing Trust Fund and implementing regulations;
 - (4) The size and income of the household for each unit occupied by a low, very low, or extremely low income person or family;
 - (5) Data on the extent to which each racial and ethnic group and households have applied for and benefited from any project or activity funded in whole or in part with funds made available under the Statute. This data shall be updated annually; and
 - (6) A final statement of accounting upon completion of the project.
- (b) Recipients shall maintain records pertinent to the tenant's files for a period of at least three years.
- (c) Recipients shall maintain records pertinent to funding awards including but not limited to project costs and certification work papers for a period of at least five years.
- (d) Recipient shall maintain records in an accessible location.

§51.12. Waiver.

The Board may, in its discretion, waive any one or more of the rules set forth in this chapter to accomplish its legislative mandates or for other compelling circumstances.

Board Action Summary
Real Estate Analysis Division
August 19, 2004

Action Item

Draft 2005 Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines.

Required Action

The Board approve for publication the Draft 2005 Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines and authorize the distribution and public hearing on the draft rules concurrent with the Department's uniform hearing schedule. These rules are codified in 10TAC §1.31- 1.37

Background

The Department conducted workshops and held hearings on a major overhaul of the underwriting rules two years and removed them from the QAP. The purpose of the removal from the QAP was to facilitate the application of these rules with all of the Department's multifamily programs. The draft rules being presented today, by contrast, include only a few changes resulting from three main sources of input: legislative changes, public input at two roundtable meetings and several open forums and staff input. The legislative changes are in regard to section 1.37, the Reserve for Replacement rule and guidelines.

Other substantive changes included in this draft based on public and internal comment are as follows:

- Inclusion of a definition and additional underwriting criteria for workout developments (**§1.31 (b)(28), § 13(g)(4)**);
- Consolidation and streamlining of the requirements of the underwriting report including the removal of evaluation of affordability and experience of development team members of a review of any appraisal provided in the application (**§1.32 (b)**);
- Revisions to the process for communication of differences between the Underwriter's and applicant's costs and expenses to require contact only if the bottom line is affected (**§1.32 (d)**);
- Inclusion of a new method for estimating property tax expense based on an anticipated cap rate established by the local tax assessor or 11% if none has been established (**§1.32 (d)(2)(H)**);
- Inclusion of a new requirements for transactions using a variable rate of interest for their conventional debt (**§1.32 (d)(4)(A)(i)**);
- Clarification of the underwriter's use of the PCA (**§1.32 (d)(4)(B)**);
- Clarification of the underwriter's adjustment to the inclusive capture rate (**§1.33 (e)(15)(D)**); and
- Cleanup of the Environmental Site Assessment rules to add requirements for noise studies, lead based paint, drinking water and asbestos containing materials (**§1.35**).

Recommendation

Approve the publication of the Draft 2005 Underwriting, Market Analysis, Appraisal, Environmental Site Assessment , Property Condition Assessment, and Reserve for Replacement Rules and Guidelines and authorize the distribution and public hearing on the draft rules concurrent with the Department's uniform hearing schedule



TITLE 10

PART 1

CHAPTER 1

SUBCHAPTER B UNDERWRITING, MARKET ANALYSIS, APPRAISAL, ENVIRONMENTAL SITE ASSESSMENT, ~~AND~~ PROPERTY CONDITION ASSESSMENT AND RESERVE FOR REPLACEMENT RULES AND GUIDELINES

§1.31. GENERAL PROVISIONS..... 1
§1.32. UNDERWRITING RULES AND GUIDELINES..... 3
§1.33. MARKET ANALYSIS RULES AND GUIDELINES. 16
§1.34. APPRAISAL RULES AND GUIDELINES. 20
§1.35. ENVIRONMENTAL SITE ASSESSMENT RULES AND GUIDELINES..... 20
§1.36. PROPERTY CONDITION ASSESSMENT RULES AND GUIDELINES..... 21
§1.37. RESERVE FOR REPLACEMENT RULES AND GUIDELINES

§1.31 General Provisions.

(a) Purpose. The Rules in this subchapter apply to the underwriting, market analysis, appraisal, environmental site assessment, ~~and~~ property condition assessment, and reserve for replacement standards employed by the Texas Department of Housing and Community Affairs (the “Department” or “TDHCA”). This chapter provides rules for the underwriting review of an affordable housing development’s financial feasibility and economic viability. In addition, this chapter guides the underwriting staff in making recommendations to the Executive Award and Review Advisory Committee (“the Committee”), Executive Director, and TDHCA Governing Board (“the Board”) to help ensure procedural consistency in the award determination process. Due to the unique characteristics of each development the interpretation of the rules and guidelines described in this subchapter is subject to the discretion of the Department and final determination by the Board.

(b) Alternative Dispute Resolution Policy. In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures (“ADR”) under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator (fax: (512) 475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.~~In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures (“ADR”) under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation and nonbinding arbitration. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested Persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other Person would like to engage the Department in an ADR process, the Person may send a proposal to the Department's General Counsel and Dispute Resolution Coordinator (Chris Wittmayer, Email: ewittmay@tdhea.state.tx.us; Fax: (512) 475 3978). The proposal should describe the dispute and the~~

~~details of the process proposed (including proposed participants, Third Party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

(c) Definitions. Many of the terms used in this subchapter are defined in ~~Chapter 50 of this title~~ (the Department's Housing Tax Credit Program Qualified Allocation Plan and Rules, known as the "QAP"), as proposed. Those terms that are not defined in the QAP or which may have another meaning when used in subchapter B of this title, shall have the meanings set forth in this subsection unless the context clearly indicates otherwise.

(1) Affordable Housing - Housing that has been funded through one or more of the Department's programs or other local, state or federal programs or has at least one unit that is restricted in the rent that can be charged either by a Land Use Restriction Agreement or other form of Deed Restriction ~~or by natural market forces at the equivalent of 30% of 100% of an area's median income as determined by the United States Department of Housing and Urban development ("HUD").~~

~~(2) Affordability Analysis—An analysis of the ability of a prospective buyer or renter at a specified income level to buy or rent a housing unit at specified price or rent.~~

~~(2) Bank Trustee - a bank authorized to do business in this state, with the power to act as trustee.~~

(3) Cash Flow - The funds available from operations after all expenses and debt service required to be paid has been considered.

(4) Credit Underwriting Analysis Report - Sometimes referred to as the "Report." A decision making tool used by the Department and Board, described more fully in §1.32(a) and (b) of this subchapter.

(5) Comparable Unit - A unit of housing that is of similar ~~type, design,~~ quality of construction, age, size, number of rooms, location, utility structure, and other discernable characteristics that can be used to compare and contrast from a proposed or existing unit. ~~Other considerations may include access to amenities and supportive services on and off the property.~~

~~(6) Contract Rent - Maximum Rent Limits based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.~~

(67) DCR - Debt Coverage Ratio. Sometimes referred to as the "Debt Coverage" or "Debt Service Coverage." A measure of the number of times loan principal and interest are covered by Net Operating Income.

(78) Development - Sometimes referred to as the "Subject Development." Multi-unit residential housing that meets the affordability requirements for and requests or has received funds from one or more of the Department's sources of funds.

(89) EGI - Effective Gross Income. The sum total of all sources of anticipated or actual income for a rental Development less vacancy and collection loss, leasing concessions, and rental income from employee-occupied units that is not anticipated to be charged or collected.

~~(10) ESA - Environmental Site Assessment. An environmental report that conforms with the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E 1527) and conducted in accordance with the Department's Environmental Site Assessment Rules and Guidelines in §1.35 of this subchapter as it relates to a specific Development.~~

~~(11) First Lien Lender - a lender whose lien has first priority.~~

(912) Gross Program Rent - Sometimes called the "Program Rents." Maximum Rent Limits based upon the tables promulgated by the Department's division responsible for compliance by program and by county or Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA").

~~(10) HUD—The United States Department of Housing and Urban Development. The department of the US Government responsible for major housing and urban development programs, including programs that are redistributed through the State such as HOME and CDBG.~~

~~(11) Local Amenities—Include, but are not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, entertainment centers, etc.~~

~~(12) Housing Tax Credit(s)—Sometimes referred to as "LIHTC" or "Tax Credit(s)." A financing source allocated by the Department as determined by the QAP. The Tax Credits are typically sold through syndicators to raise equity for the Development.~~

(13) Market Analysis - Sometimes referred to as a Market Study. An evaluation of the economic conditions of supply, demand and rental rates or pricing conducted in accordance with the Department's Market Analysis Rules and Guidelines in §1.33 of this subchapter as it relates to a specific Development.

(14) Market Analyst - An individual or firm providing market information for use by the Department.

(15) Market Rent - The unrestricted rent concluded by the Market Analyst for a particular unit type and size after adjustments are made to Rent Comparable Units.

(16) NOI - Net Operating Income. The income remaining after all operating expenses, including replacement reserves and taxes have been paid.

(17) Primary Market - Sometimes referred to as “Primary Market Area” or “Submarket.” The area defined by political/geographical boundaries from which a proposed or existing Development is most likely to draw the bulk of its prospective tenants or homebuyers.

(18) PCA - Property Condition Assessment. Sometimes referred to as “Physical Needs Assessment,” “Project Capital Needs Assessments,” “Property Condition Report” or “Property Work Write-up.” An evaluation of the physical condition of the existing property and evaluation of the cost of rehabilitation conducted in accordance with the Department’s Property Condition Assessment Rules and Guidelines in §1.36 of this subchapter as it relates to a specific Development.

(19) Rent Comparable Unit - A unit of housing, not characterized as Affordable Housing, that is of similar quality of construction, age, size, number of rooms, location, utility structure, and other discernable characteristics that can be used to compare and contrast from a proposed or existing unit.

~~(1920)~~ Rent Over-Burdened Households - Non-elderly households paying more than 35% of gross income towards total housing expenses (unit rent plus utilities) and elderly households paying more than 40% of gross income towards total housing expenses.

(21) Reserve Account - an individual account;

(A) Created to fund any necessary repairs for a multifamily rental housing development; and

(B) Maintained by a First Lien Lender or Bank Trustee.

~~(2022)~~ Supportive Housing - Sometimes referred to as “Transitional Housing.” Rental housing intended solely for occupancy by individuals or households transitioning from homelessness or abusive situations to permanent housing and typically consisting primarily of efficiency units.

~~(2123)~~ Sustaining Occupancy - The occupancy level at which rental income plus secondary income is equal to all operating expenses and mandatory debt service requirements for a Development.

~~(2224)~~ TDHCA Operating Expense Database - Sometimes ~~called-referred to as~~ the “TDHCA Database.” This is a consolidation of recent actual operating expense information collected through the Department’s Annual Owner Financial Certification process and published on the Department’s web site.

~~(23) Third Party - A Third Party is a Person which is not an Affiliate, Related Party, or Beneficial Owner of the Applicant, General Partner(s), Developer, or Person receiving any portion of the developer fee or contractor fee.~~

~~(2425)~~ Underwriter - The author(s), as evidenced by signature, of the Credit Underwriting Analysis Report.

~~(2526)~~ Unstabilized Development - A Development that has not maintained a 90% occupancy level for at least 12 consecutive months.

~~(2627)~~ Utility Allowance(s) - The estimate of tenant-paid utilities, based either on the most current HUD Form 52667, “Section 8, Existing Housing Allowance for Tenant-Furnished Utilities and Other Services”, provided by the local entity responsible for administering the HUD Section 8 program with most direct jurisdiction over the majority of the buildings existing or a documented estimate from the utility provider proposed in the Application. Documentation from the local utility provider to support an alternative calculation can be used to justify alternative Utility Allowance conclusions but must be specific to the subject Development and consistent with the building plans provided.

(28) Work Out Development - A financially distressed Development seeking a change in the terms of Department funding or program restrictions based upon market changes.

§1.32. Underwriting Rules and Guidelines.

(a) General Provisions. The Department, through the division responsible for underwriting, produces or causes to be produced a Credit Underwriting Analysis Report (the “Report”) for every Development recommended for funding through the Department. The primary function of the Report is to provide the Committee, Executive Director, the Board, Applicants, and the public a comprehensive analytical report and recommendations necessary to make well informed decisions in the allocation or award of the State’s

limited resources. The Report in no way guarantees or purports to warrant the actual performance, feasibility, or viability of the Development by the Department.

(b) Report Contents. The Report provides an organized and consistent synopsis and reconciliation of the application information submitted by the Applicant. At a minimum, the Report includes:

- (1) Identification of the Applicant and any Principals of the Applicant;
- (2) Identification of the funding type and amount requested by the Applicant;
- (3) The Underwriter's funding recommendations and any conditions of such recommendations;
- ~~(4) Evaluation of the affordability of the proposed housing units to prospective residents;~~
- ~~(5) Review and analysis of the Applicant's operating proforma as compared to industry information, similar Developments previously funded by the Department, and the Department guidelines described in this section;~~
- ~~(6) Analysis of the Development's debt service capacity;~~
- ~~(7) Review and analysis of the Applicant's development budget as compared to the estimate prepared by the Underwriter under the guidelines in this section;~~
- (8) Evaluation of the commitment for additional sources of financing for the Development;
- ~~(9) Review of the experience of the Development Team members;~~
- (10) Identification of related interests among the members of the Development Team, Third Party service providers and/or the seller of the property;
- ~~(11) Analysis of the Applicant's and Principals' financial statements and creditworthiness including a review of the credit report for each of the Principals in for-profit Developments subject to the Texas Public Information Act;~~
- ~~(12) Review of the proposed Development plan and evaluation of the proposed improvements and architectural design;~~
- ~~(13) Review of the Applicant's evidence of site control and any potential title issues that may affect site control;~~
- ~~(14) Identification and analysis of the site which includes review of the independent site inspection report prepared by a TDHCA staff member;~~
- ~~(15) Review of the Phase I Environmental Site Assessment in conformance with the Department's Environmental Site Assessment Rules and Guidelines in §1.35 of this subchapter or soils and hazardous material reports as required;~~
- ~~(16) Review of market data and market Market study Study information and any valuation information available for the property in conformance with the Department's Market Analysis Rules and Guidelines in §1.33 of this subchapter.~~
- ~~(17) Review of the appraisal, if required, for conformance with the Department's Appraisal Rules and Guidelines in §1.34 of this subchapter; and,~~
- ~~(18) Review of the Property Condition Assessment, if required, for conformance with the Department's Property Condition Assessment Rules and Guidelines in §1.36 of this subchapter.~~

(c) Recommendations in the Report. The conclusion of the Report includes a recommended award of funds or allocation of Tax Credits based on the lesser amount calculated by the ~~eligible-basis~~ program limit method (if applicable), equity-gap method, or the amount requested by the Applicant as further described in paragraphs (1) through (3) of this subsection.

(1) ~~Eligible-Basis~~ Program Limit Method. ~~This method is only used for For~~ Developments requesting Housing Tax Credits. ~~This, this~~ method is based upon calculation of ~~eligible-Eligible basis Basis~~ after applying all cost verification measures and program limits ~~on-profit, overhead, general requirements, and developer fees~~ as described in this section. The Applicable Percentage used ~~in the Eligible-Basis Method~~ is as defined in the QAP. For Developments requesting funding through a Department program other than Housing Tax Credits, this method is based upon calculation of the funding limit based on current program rules at the time of underwriting.

(2) ~~Equity~~ Gap/DCR Method. This method evaluates the amount of funds needed to fill the gap created by total development cost less total non-Department-sourced funds or Tax Credits. In making this determination, the Underwriter resizes any anticipated deferred developer fee down to zero before reducing the amount of Department funds or Tax Credits. In the case of Housing Tax Credits, the syndication proceeds needed to fill the gap in permanent funds are divided by the syndication rate to determine the amount of Tax Credits. In making this determination, the Department adjusts the permanent loan amount and/or any Department-sourced loans, as necessary, such that it conforms to the ~~NOI and~~ DCR standards described in this section.

(3) The Amount Requested. This is the amount of funds that is requested by the Applicant as reflected in the application documentation.

(d) Operating Feasibility. The operating financial feasibility of ~~every~~ Developments funded by the Department is tested by adding total income sources and subtracting vacancy and collection losses and operating expenses to determine Net Operating Income. This Net Operating Income is divided by the annual debt service to determine the Debt Coverage Ratio. The Underwriter characterizes a Development as infeasible from an operational standpoint when the Debt Coverage Ratio does not meet the minimum standard set forth in paragraph (6) of this subsection. The Underwriter may choose to make adjustments to the financing structure, such as lowering the debt and increasing the deferred developer fee that could result in a re-characterization of the Development as feasible based upon specific conditions set forth in the Report.

(1) Income. The Underwriter evaluates the reasonableness of the Applicant's income estimate by determining the appropriate rental rate per unit based on contract, program and market factors. Miscellaneous income and vacancy and collection loss limits as set forth in subparagraph (B) and (C), respectively, are applied unless well-documented support is provided.

(A) Rental Income. The Program Rent less Utility Allowances ~~and/or~~ Market Rent ~~(if the project is not 100% affordable) or Contract Rent~~ is utilized by the Underwriter in calculating the rental income for comparison to the Applicant's estimate in the application. Where multiple programs are funding the same units, Contract Rents are used, if applicable. If Contract Rents do not apply, the lowest Program Rents less Utility Allowance ("net Program Rent") for those units is used. If the or Market Rents, as determined by the Market Analysis, ~~that~~ are lower than the net ~~program~~ Program Rents, ~~then the Market Rents for those units~~ are utilized.

(A*i*) Market Rents. The Underwriter reviews the Attribute Adjustment Matrix of ~~Market Rent comparables~~ Comparable Units by unit size provided by the Market Analyst and determines if the adjustments and conclusions made are reasoned and well documented. The Underwriter uses the Market Analyst's conclusion of adjusted Market Rent by unit, as long as the proposed Market Rent is reasonably justified and does not exceed the highest existing unadjusted market comparable rent. Random checks of the validity of the Market Rents may include direct contact with the comparable properties. The Market Analyst's Attribute Adjustment Matrix should include, at a minimum, adjustments for location, size, amenities, and concessions as more fully described in §1.33 of this subchapter, the Department's Market Analysis Rules and Guidelines.

(B*ii*) Program Rents less Utility Allowance. The Underwriter reviews the Applicant's proposed rent schedule and determines if it is consistent with the representations made in the remainder of the application. The Underwriter uses the Program Rents as promulgated by the Department's division responsible for compliance for the year that is most current at the time the underwriting begins. When underwriting for a simultaneously funded competitive round, all of the applications are underwritten with the rents promulgated for the same year. Program Rents are reduced by the Utility Allowance. The Utility Allowance figures used are determined based upon what is identified in the application by the Applicant as being a utility cost paid by the tenant and upon other consistent documentation provided in the application.

(I) Water and sewer can only be a tenant-paid utility if the units will be individually metered for such services.

(II) Gas utilities are verified on the building plans and elsewhere in the application when applicable.

(III) Trash allowances paid by the tenant are rare and only considered when the building plans allow for individual exterior receptacles.

(IV) Refrigerator and range allowances are not considered part of the tenant-paid utilities unless the tenant is expected to provide their own appliances, and no eligible appliance costs are included in the development cost breakdown.

(iii) Contract Rents. The Underwriter reviews submitted rental assistance contracts to determine the Contract Rents currently applicable to the Development. Documentation supporting the likelihood of continued rental assistance is also reviewed. The underwriting analysis will take into consideration the Applicant's intent to request a Contract Rent increase. At the discretion of the Underwriter, the Applicant proposed rents may be used in the underwriting analysis with the recommendations of the Report conditioned upon receipt of final approval of such increase.

(2B) Miscellaneous Income. All ancillary fees and miscellaneous secondary income, including but not limited to late fees, storage fees, laundry income, interest on deposits, carport rent, washer

and dryer rent, telecommunications fees, and other miscellaneous income, are anticipated to be included in a \$5 to \$15 per unit per month range. ~~Any estimates for secondary income above or below this amount are only considered if they are well documented by the financial statements of comparable properties as being achievable in the proposed market area as determined by the Underwriter.~~ Exceptions may be made at the discretion of the Underwriter for special uses, such as garages income, pass-through utility payments, cable fees, congregate care/assisted living/elderly facilities, and child care facilities.

~~(i) Exceptions must be justified by operating history of existing comparable properties and should also be documented as being achievable in the submitted market study.~~

~~(ii) The Applicant must show that the tenant will not be required to pay the additional fee or charge as a condition of renting an apartment unit and must show that the tenant has a reasonable alternative.~~

~~(iii) The Applicant's operating expense schedule should reflect an offsetting cost associated with income derived from pass-through utility payments, pass-through water, sewer and trash payments, and cable fees.~~

~~(iv) Collection rates of these exceptional fee items will generally be heavily discounted.~~

~~(v) If the total secondary income is over the maximum per unit per month limit, any cost associated with the construction, acquisition, or development of the hard assets needed to produce an additional fee may also need to be reduced from eligible-Eligible basis-Basis for Tax Credit Developments as they may, in that case, be considered to be a commercial cost rather than an incidental to the housing cost of the Development. ~~The use of any secondary income over the maximum per unit per month limit that is based on the factors described in this paragraph is subject to the determination by the Underwriter that the factors being used are well documented.~~~~

~~(3C) Vacancy and Collection Loss. The Underwriter uses a vacancy rate of 7.5% (5% vacancy plus 2.5% for collection loss) unless the Market Analysis reflects a higher or lower established vacancy rate for the area. Elderly and 100% project-based rental subsidy Developments and other well documented cases may be underwritten at a combined 5% at the discretion of the Underwriter if the historical performance reflected in the Market Analysis is consistently higher than a 95% occupancy rate.~~

~~(4D) Effective Gross Income ("EGI"). The Underwriter independently calculates EGI. If the EGI figure provided by the Applicant is within five percent of the EGI figure calculated by the Underwriter, the Applicant's figure is characterized as acceptable or reasonable in the Report; however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation unless the Applicant's proforma meets the requirements of paragraph (3) of this subsection of EGI regardless of the characterization of the Applicant's figure.~~

~~(52) Expenses. The Underwriter evaluates the reasonableness of the Applicant's expense estimate based upon by line item comparisons with specific data sources available based upon the specifics of each transaction, including the type of Development, the size of the units, and the Applicant's expectations as reflected in their proforma. Evaluating the relative weight or importance of the expense data points is one of the most subjective elements of underwriting. ~~Historical stabilized certified or audited financial statements of the property Development or Third Party quotes specific to the Development will reflect the strongest data points to predict future performance. The Department also maintains a database of performance of other similar sized and type properties across the State. In the case of a new Development, the Department's database of property in the same location or region as the proposed Development also provides the most heavily relied upon data points. The Department also uses dData from the Institute of Real Estate Management's (IREM) most recent *Conventional Apartments-Income/Expense Analysis* book for the proposed Development's property type and specific location or region may be referenced. In some cases local or project-specific data such as Public Housing Authority ("PHA") Utility Allowances and property tax rates are also given significant weight in determining the appropriate line item expense estimate. Finally, well documented information provided in the Market Analysis, the application, and other well documented sources may be considered. In most cases, the data points used from a particular source are an average of the per unit and per square foot expense for that item. The Underwriter considers the specifics of each transaction, including the type of Development, the size of the units, and the Applicant's expectations as reflected in the proforma to determine which data points are most relevant. The Underwriter will determine the appropriateness of each data point being considered and must use their reasonable judgment as to which one fits each situation. The Department will create and utilize a feedback mechanism to communicate and allow for clarification by the Applicant when the overall expense estimate is over five percent greater or less than the Underwriter's estimate or when specific line items are~~~~

~~inconsistent with the Underwriter's expectation based upon the tolerance levels set forth for each line item expense in subparagraphs (A) through (J) of this paragraph. If an acceptable rationale for the individual or total difference is not provided, the discrepancy is documented in the Report and the justification provided by the Applicant and the countervailing evidence supporting the Underwriter's determination is noted. If the Applicant's total expense estimate is within five percent of the final total expense figure calculated by the Underwriter, the Applicant's figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation of expenses regardless of the characterization of the Applicant's figure.~~

(A) General and Administrative Expense. General and Administrative Expense includes all accounting fees, legal fees, advertising and marketing expenses, office operation, supplies, and equipment expenses. ~~Historically, the TDHCA Database average has been used as the Department's strongest initial data point as it has generally been consistent with IREM regional and local figures.~~ The underwriting tolerance level for this line item is 20%.

(B) Management Fee. Management Fee is paid to the property management company to oversee the effective operation of the property and is most often based upon a percentage of Effective Gross Income as documented in the management agreement contract. Typically, five percent of the Effective Gross Income is used, though higher percentages for rural transactions that are consistent with the TDHCA Database can be concluded. Percentages as low as three percent may be utilized if documented ~~with by~~ a Third Party management contract agreement with an acceptable management company. The Underwriter will require documentation for any percentage difference from the 5% of the Effective Gross Income standard.

(C) Payroll and Payroll Expense. Payroll and Payroll Expense includes all direct staff payroll, insurance benefits, and payroll taxes including payroll expenses for repairs and maintenance typical of a conventional development. It does not, however, include direct security payroll or additional supportive services payroll. ~~In urban areas, the local IREM per unit figure has historically held considerable weight as the Department's strongest initial data point. In rural areas, however, the TDHCA Database is often considered more reliable.~~ The underwriting tolerance level for this line item is 10%.

(D) Repairs and Maintenance Expense. Repairs and Maintenance Expense includes all repairs and maintenance contracts and supplies. It should not include extraordinary capitalized expenses that would result from major renovations. Direct payroll for repairs and maintenance activities are included in payroll expense. ~~Historically, the TDHCA Database average has been used as the Department's strongest data point as it has generally been consistent with IREM regional and local figures.~~ The underwriting tolerance level for this line item is 20%.

(E) Utilities Expense (Gas & Electric). Utilities Expense includes all gas and electric energy expenses paid by the owner. It includes any pass-through energy expense that is reflected in the EGI unit rents. ~~Historically, the lower of an estimate based on 25.5% of the PHA local Utility Allowance or the TDHCA Database or local IREM averages have been used as the most significant data point. The higher amount may be used, however, if the current typical higher efficiency standard utility equipment is not projected to be included in the Development upon completion or if the higher estimate is more consistent with the Applicant's projected estimate. Also a lower or higher percentage of the PHA allowance may be used, depending on the amount of common area, and adjustments will be made for utilities typically paid by tenants that in the subject are owner paid as determined by the Underwriter.~~ The underwriting tolerance level for this line item is 30%.

(F) Water, Sewer and Trash Expense. Water, Sewer and Trash Expense includes all water, sewer and trash expenses paid by the owner. It would also include any pass-through water, sewer and trash expense that is reflected in the EGI unit rents. ~~Historically, the lower of the PHA allowance or the TDHCA Database average has been used.~~ The underwriting tolerance level for this line item is 30%.

(G) Insurance Expense. Insurance Expense includes any insurance for the buildings, contents, and liability but not health or workman's compensation insurance. ~~The TDHCA Database is used with a minimum \$0.25 per net rentable square foot. Additional weight is given to a Third Party bid or insurance cost estimate provided in the application reflecting a higher amount for the proposed Development.~~ The underwriting tolerance level for this line item is 30%.

(H) Property Tax. Property Tax includes all real and personal property taxes but not payroll taxes. ~~The underwriting tolerance level for this line item is 10%. The TDHCA Database is used to interpret a per unit assessed value average for similar properties which is applied to the actual current tax rate.~~

(i) The per unit assessed value will be calculated based on the capitalization rate published on the county taxing authority's website. If the county taxing authority does not publish a capitalization rate on the internet, a capitalization rate of 11% will be used, is most often contained within a range of \$15,000 to \$35,000 but may be higher or lower based upon documentation from the local tax assessor. Location, size of the units, and comparable assessed values also play a major role in evaluating this line item expense.

(ii) Property tax exemptions or proposed payment in lieu of taxes agreement (PILOT) must be documented as being reasonably achievable if they are to be considered by the Underwriter. At the discretion of the Underwriter, a property tax exemption meeting known federal, state and local laws may be applied based on the tax-exempt status of the Development Owner and its Affiliates. For Community Housing Development Organization ("CHDO") owned or controlled properties, this documentation includes, at a minimum, evidence of the CHDO designation from the State or local participating jurisdiction and a letter from the local taxing authority recognizing that the Applicant is or will be considered eligible for the property exemption. The underwriting tolerance level for this line item is 10%.

(I) Reserves. Reserves include annual reserve for replacements of future capitalizable expenses as well as any ongoing additional operating reserve requirements. The Underwriter includes minimum reserves of \$200 per unit for new construction and \$300 per unit for rehabilitation all other Developments. The Underwriter may require an amount above \$300 for all other Developments based on information provided in the PCA. Higher levels of reserves may be used if they are documented in the financing commitment letters. The Underwriter will require documentation for any difference from the \$200 new construction and \$300 rehabilitation standard.

(J) Other Expenses. The Underwriter will include other reasonable and documented expenses, other than not including depreciation, interest expense, lender or syndicator's asset management fees, or other ongoing partnership fees. Lender or syndicator's asset management fees or other ongoing partnership fees also are not considered in the Department's calculation of debt coverage in any way. The most common other expenses are described in more detail in clauses (i) through (iii) of this subparagraph.

(i) Supportive Services Expense. Supportive Services Expense includes the documented cost to the owner of any non-traditional tenant benefit such as payroll for instruction or activities personnel. Documented contract costs will be reflected in Other Expenses. Any selection points for this item will be evaluated prior to underwriting. The Underwriter will not evaluate any selection points for this item. The Underwriter's verification will be limited to assuring any documented anticipated costs are included. For all transactions supportive services expenses are considered part of Other Expenses and are considered part of calculating the Debt Coverage Ratio.

(ii) Security Expense. Security Expense includes contract or direct payroll expense for policing the premises of the Development and is included as part of Other Expenses. The Applicant's amount is moved to Other Expenses and typically accepted as provided. The Underwriter will require documentation of the need for security expenses that exceed 50% of the anticipated payroll and payroll expenses estimate discussed in subsection-subparagraph (d)(52)(C) of this section.

(iii) Compliance Fees. Compliance fees include only compliance fees charged by TDHCA. The Department's charge for a specific program may vary over time; however, the Underwriter uses the current charge per unit per year at the time of underwriting. For all transactions compliance fees are considered part of Other Expenses and are considered part of calculating the Debt Coverage Ratio.

(iv) Cable Television Expense. Cable Television Expense includes fees charged directly to the owner of the Development to provide cable services to all units. The expense will be considered only if a contract for such services with terms is provided and income derived from cable television fees is included in the projected EGI. Cost of providing cable television in only the community building should be included in General and Administrative Expense as described in subparagraph (d)(2)(A) of this section.

(K) The Department will communicate with and allow for clarification by the Applicant when the overall expense estimate is over five percent greater or less than the Underwriter's estimate. In such as case, the Underwriter will inform the Applicant of the line items that exceed the tolerance levels indicated in this paragraph, but may request additional documentation supporting some, none or all expense line items. If an acceptable rationale for the difference is not provided, the discrepancy is documented in the Report and the justification provided by the Applicant and the countervailing evidence supporting the Underwriter's determination is noted. If the Applicant's total expense estimate is within five percent of the final total expense figure calculated by the Underwriter, the Applicant's figure is characterized as

reasonable in the Report; however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation unless the Applicant's proforma meets the requirements of paragraph (3) of this subsection.

~~(63) Net Operating Income and Debt Service.~~ NOI is the difference between the EGI and total operating expenses. If the NOI figure provided by the Applicant is within five percent of the NOI figure calculated by the Underwriter, the Applicant's figure is characterized as ~~acceptable or~~ reasonable in the Report; ~~however, for purposes of calculating the DCR the Underwriter will maintain and use its his~~ independent calculation of NOI ~~regardless of the characterization of the Applicant's figure. Only if unless~~ the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates ~~and characterized as acceptable or reasonable in the Report will the Applicant's estimate of NOI be used to determine the acceptable debt service amount. In all other cases the Underwriter's estimates are used. In addition to the NOI, the interest rate, term, and Debt Coverage Ratio range affect the determination of the acceptable debt service amount.~~

(4) Debt Coverage Ratio. Debt Coverage Ratio is calculated by dividing Net Operating Income by the sum of loan principal and interest for all permanent sources of funds. Loan principal and interest, or "Debt Service," is calculated based on the terms indicated in the submitted commitments for financing. Terms generally include the amount of initial principal, the interest rate, amortization period, and repayment period. Unusual financing structures and their effect on Debt Service will also be taken into consideration.

(A) Interest Rate. The interest rate used should be the rate documented in the commitment letter.

(i) Commitments indicating a variable rate must provide a detailed breakdown of the component rates comprising the all-in rate. The commitment must also state the lender's underwriting interest rate, or the Applicant must submit a separate statement executed by the lender with an estimate of the interest rate as of the date of the statement.

(ii) The maximum rate that will be allowed for a competitive application cycle is evaluated by the Director of the Department's division responsible for Credit Underwriting Analysis Reports and posted to the Department's web site prior to the close of the application acceptance period. Historically this maximum acceptable rate has been at or below the average rate for 30-year U.S. Treasury Bonds plus 400 basis points.

~~(B) Term Amortization Period. The primary debt loan term is reflected in the commitment letter.~~ The Department generally requires an amortization of not less than 30 years and not more than 50 years or an adjustment to the amortization structure is evaluated and recommended. In non-Tax Credit transactions a lesser amortization term period may be used if the Department's funds are fully amortized over the same period.

(C) Repayment Period. For purposes of projecting the DCR over a 30-year period for Developments with permanent financing structures with balloon payments in less than 30 years, the Underwriter will carry forward Debt Service calculated based on a full amortization and the interest rate stated in the commitment.

~~(CD) Acceptable Debt Coverage Ratio Range. The initial acceptable DCR range for all priority or foreclosable lien financing plus the Department's proposed financing falls between a minimum of 1.10 to a maximum of 1.30. In rare instances, such as for HOPE VI and USDA Rural Development transactions may underwrite to a DCR less than 1.10, the minimum DCR may be less than 1.10 based upon documentation of acceptance of such an acceptable DCR from the lender.~~

(i) For Developments other than HOPE VI and USDA Rural Development transactions, if the DCR is less than the minimum, the recommendations of the Report are conditioned upon a reduced debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclause (I) through (III) of this clause.

(I) A reduction of the interest rate or an increase in the amortization period for TDHCA funded loans;

(II) A reclassification of TDHCA funded loans to reflect grants, if permitted by program rules;

(III) A reduction in the ~~debt service amount~~ permanent loan amount for non-TDHCA funded loans is recommended based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.

(ii) If the DCR is greater than the maximum, the recommendations of the Report are conditioned upon an increase in the debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclause (I) through (III) of this clause.~~amount is recommended~~

(I) A reclassification of TDHCA funded grants to reflect loans, if permitted by program rules;

(II) An increase in the interest rate or a decrease in the amortization period for TDHCA funded loans;

(III) An increase in the permanent loan amount for non-TDHCA funded loans based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.

~~(iii) For Housing Tax Credit Developments, a reduction in the recommended Tax Credit allocation may be made based on the gap/DCR method described in paragraph (c)(2) of this section, and the funding gap is reviewed to determine the continued need for Department financing. When the funding gap is reduced no adjustments are made to the level of Department financing unless there is an excess of financing, after the need for deferral of any developer fee is eliminated. If the increase in debt capacity provides excess sources of funds, the Underwriter adjusts any Department grant funds to a loan, if possible, and/or adjusts the interest rate of any Department loans upward until the DCR does not exceed the maximum or up to the prevailing current market rate for similar conventional funding, whichever occurs first. Where no Department grant or loan exists or the full market interest rate for the Department's loan has been accomplished, the Underwriter increases the conventional debt amount until the DCR is reduced to the maximum allowable. Any adjustments in debt service will become a condition of the Report, however, future changes in income, expenses, rates, and terms could allow additional adjustments to the final debt amount to be acceptable. In a Tax Credit transaction, an excessive DCR could negatively affect the amount of recommended tax credit, if based upon the Gap Method, more funds are available than are necessary after all deferral of developer fee is reduced to zero.~~

(iv) Although adjustments in Debt Service may become a condition of the Report, future changes in income, expenses, and financing terms could allow for an acceptable DCR.

(75) Long Term Feasibility. The Underwriter will evaluate the long term feasibility of the Development by creating a 30-year operating proforma.

(A) A three percent annual growth factor is utilized for income and a four percent annual growth factor is utilized for expenses.

(B) The base year projection utilized is the Underwriter's EGI, expenses, and NOI unless the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates ~~and characterized as acceptable or reasonable in the Report.~~

(C) The DCR should remain above a 1.10 and a continued positive Cash Flow should be projected for the initial 30-year period in order for the Development to be characterized as feasible for the long term. DCR will be calculated based on the guidelines stated in paragraph (e)(4) of this section.

(D) Any Development ~~where the amount of~~with a 30-year proforma, used in the underwriting analysis, reflecting cumulative Cash Flow over the first fifteen years ~~is as~~insufficient to repay the projected amount of deferred developer fee, amortized in irregular payments at zero percent interest, is characterized as infeasible, ~~and~~ An infeasible Development will not be recommended for funding unless the Underwriter can determine a plausible alternative feasible financing structure and conditions the recommendation(s) in the Report accordingly.

(e) Development Costs. The Development's need for permanent funds and, when applicable, the Development's Eligible Basis is based upon the projected total development costs. The Department's estimate of the ~~Development's total development~~ cost will be based on the Applicant's project cost schedule to the extent that it can be verified to a reasonable degree of certainty with documentation from the Applicant and tools available to the Underwriter. For new construction Developments, ~~the Applicant's total cost estimate will be compared to the Underwriter's total cost estimate and where the difference in cost exceeds will be used unless the Applicant's total development cost is within~~ five percent of the Underwriter's estimate, ~~the Underwriter shall substitute their own estimate for the Total Housing Development Cost to determine the Equity Gap Method and Eligible Basis Method where applicable.~~ In the case of a rehabilitation Development, the Underwriter may use a lower tolerance level due to the reliance upon the Applicant's authorized Third Party cost assessment PCA. ~~Where~~ If the Applicant's total development cost is utilized and the Applicant's line item costs are inconsistent with documentation

provided in the Application or program rules, the Underwriter may make adjustments to the Applicant's total cost estimate. ~~The Department will create and utilize a feedback mechanism to communicate and allow for clarification by the Applicant before the Underwriter's total cost estimate is substituted for the Applicant's estimate.~~

(1) Acquisition Costs. The proposed acquisition price is verified with the fully executed site control document(s) for the entirety of the site.

(A) Excess Land Acquisition. Where more land is being acquired than will be utilized for the site and the remaining acreage is not being utilized as permanent green space, the value ascribed to the proposed Development will be prorated from the total cost reflected in the site control document(s). An appraisal or tax assessment value may be tools that are used in making this determination; however, the Underwriter will not utilize a prorated value greater than the total amount in the site control document(s).

(B) Identity of Interest Acquisitions. Where within the past three years the seller or previous owner or any Principals of the seller or previous owner is an Affiliate, Beneficial Owner, or Related Party to the ~~Applicant, Developer, General Contractor, Housing Consultant, or persons receiving any portion of the Contractor or Developer Fees~~ Development Team, the sale of the property will be considered to be an Identity of Interest transfer. In all such transactions the Applicant is required to provide the additional documentation identified in clauses (i) through (iv) of this subparagraph to support the transfer price and this information will be used by the Underwriter to make a transfer price determination.

(i) Documentation of the original acquisition cost, such as the settlement statement.

(ii) An appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter. In no instance will the acquisition value utilized by the Underwriter exceed the appraised value.

(iii) A copy of the current tax assessment value for the property.

(iv) Any other reasonably verifiable costs of owning, holding, or improving the property that when added to the value from clause (i) of this subparagraph justifies the Applicant's proposed acquisition amount. ~~A reasonable return on the original owner equity, other than tax credit equity, contributed by the current seller at the time of original acquisition, and which did not take the form of a deferred fee or cost, calculated at a rate consistent with the historical returns of similar risks may be considered a holding cost.~~

(I) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include: property taxes; interest expense; a calculated return on equity at a rate consistent with the historical returns of similar risks; the cost of any physical improvements made to the property; the cost of rezoning, replatting, or developing the property; or any costs to provide or improve access to the property.

(II) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the ~~property~~ Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the property, a calculated return on equity at a rate consistent with the historical returns of similar risks, and the cost of exit taxes not to exceed an amount necessary to allow the sellers to be indifferent to foreclosure or breakeven transfer.

(C) ~~Non Identity of Interest~~ Acquisition of Buildings for Tax Credit Properties. In order to make a determination of the appropriate building acquisition value, the Applicant will provide and the Underwriter will utilize an appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter. The value of the improvements are the result of the difference between the as-is appraised value less the land value. ~~Where the actual sales price is more than ten percent different than the appraised value, t~~The Underwriter may alternatively prorate the actual or identity of interest sales price based upon ~~the a lower~~ calculated improvement value over the as-is value provided in the appraisal, so long as the improved resulting land value utilized by the Underwriter ~~does not exceed the total as-is appraised value of the entire property~~ is not less than the land value indicated in the appraisal or tax assessment.

(2) Off-Site Costs. Off-Site costs are costs of development up to the site itself such as the cost of roads, water, sewer and other utilities to provide the site with access. All off-site costs must be well documented and certified by a Third Party engineer ~~as presented in on~~ the required application form ~~to be included in the Underwriter's cost budget~~.

(3) Site Work Costs. ~~If~~ Project site work costs exceeding \$7,500 per Unit, ~~the must be well documented and certified by a Third Party engineer on the required application form~~ Applicant must submit

~~a detailed cost breakdown certified as being prepared by a Third Party engineer or architect, to be included in the Underwriter's cost budget.~~ In addition, for Applicants seeking Tax Credits, a letter from a certified public accountant properly allocating ~~which portions~~ the portions of the engineer's ~~or architect's site work~~ costs ~~should to~~ be included in eligible-Eligible Basis and which ones are ineligible is required. The allocation of site work costs to Eligible Basis must be in keeping with the holding of the Internal Revenue Service Technical Advice Memoranda and Rulings, ~~is required for such costs to be included in the Underwriter's cost budget.~~

(4) Direct Construction Costs. Direct construction costs are the costs of materials and labor required for the building or rehabilitation of a Development.

(A) New Construction. The Underwriter will use the Marshall and Swift Residential Cost Handbook and historical final cost certifications of all previous housing tax credit allocations to estimate the direct construction cost for a new construction Development. If the Applicant's estimate is more than five percent greater or less than the Underwriter's estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report.

~~(i) The "Average Quality" multiple-~~or~~, townhouse, or single family costs, as appropriate, from the Marshall and Swift Residential Cost Handbook, based upon the details provided in the application and particularly site and building plans and elevations will be used to estimate direct construction costs. If the Development contains amenities not included in the Average Quality standard, the Department will take into account the costs of the amenities as designed in the Development. If the Development will contain single family buildings, then the cost basis should be consistent with single family Average Quality as defined by Marshall & Swift Residential Cost Handbook. Whenever the Applicant's estimate is more than five percent greater or less than the Underwriter's Marshall and Swift-based estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report.~~

~~(ii) If the difference in the Applicant's direct cost estimate and the direct construction cost estimate detailed in clause (i) of this subparagraph is more than 5%, The the Underwriter shall also evaluate the direct construction cost of the Development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for:~~

~~(i) the county in which the Development is to be located, or~~

~~(ii) if cost certifications are unavailable under clause (i) of this subparagraph, the uniform state service region in which the Development is to be located.~~

(B) Rehabilitation Costs. In the case where the Applicant has provided ~~Third Party signed bids with a work write up from contractors or a PCA estimates from certified or licensed professionals which are is~~ inconsistent with the Applicant's figures as proposed in the ~~project~~ development cost schedule, the Underwriter may request a supplement executed by the PCA provider supporting the Applicant's estimate and detailing the difference in costs. If said supplement is not provided or the Underwriter determines that the reasons for the initial difference in costs are not well-documented, the Underwriter utilizes the Third Party initial PCA estimations in lieu of the Applicant's estimates, even when the difference between the Underwriter's costs and the Applicant's costs is less than five percent. The underwriting staff will evaluate rehabilitation Developments for comprehensiveness of the Third Party work write up and will determine if additional information is needed.

~~(5) Hard Cost Contingency. This is the only contingency figure considered by the Underwriter and is only considered in underwriting prior to final cost certification. All contingencies identified in the Applicant project cost schedule will be added to Hard Cost Contingency with the total limited to the guidelines detailed in this paragraph. Hard Cost Contingency is limited to a maximum of five percent (5%) of direct costs plus site work for new construction Developments and ten percent (10%) of direct costs plus site work for rehabilitation Developments. The Applicant's figure is used by the Underwriter if the figure is less than five percent (5%).~~

(6) Contractor Fee Limits. Contractor fees are limited to six percent (6%) for general requirements, two percent (2%) for contractor overhead, and six percent (6%) for contractor profit. ~~These fees percentages are based upon~~ applied to the sum of the direct construction costs plus site work costs. Minor reallocations to make these fees fit within these limits may be made at the discretion of the Underwriter. For Developments also receiving financing from TXRDTX-USDA-RHS-USDA, the combination of builder's general requirements, builder's overhead, and builder's profit should not exceed the lower of TDHCA or TXRDTX-USDA-RHS-USDA requirements.

(7) Developer Fee Limits. For Tax Credit Developments, the development cost associated with developer's fees included in Eligible Basis cannot exceed fifteen percent (15%) of the project's Total Eligible Basis less developer fees, as defined in ~~Chapter 50~~the QAP of this title, as proposed ~~(adjusted for the reduction of federal grants, below market rate loans, historic credits, etc.), not inclusive of the developer fees themselves. The fee can be divided between overhead and fee as desired but the sum of both items must not exceed the maximum limit. The Developer Fee may be earned on non-eligible basis activities, but only the maximum limit as a percentage of eligible basis items may be included in basis for the purpose of calculating a project's credit amount. Any non-eligible amount of d~~Developer fee claimed must be proportionate to the work for which it is earned. In the case of an identity of interest transaction requesting acquisition Tax Credits, no developer fee attributable to acquisition of the Development will be included in Eligible Basis. For non-Tax Credit Developments, the percentage remains the same but is based upon total development costs less: the sum of the fee itself, land costs, the costs of permanent financing, excessive construction period financing described in paragraph (f)(8) of this subsection, ~~and reserves, and any other identity of interest acquisition cost.~~

(8) Financing Costs. Eligible construction period financing is limited to not more than one year's ~~worth of~~ fully drawn construction loan funds at the construction loan interest rate indicated in the commitment. Any excess over this amount is removed to ineligible cost and will not be considered in the determination of developer fee.

(9) Reserves. The Department will utilize the terms proposed by the syndicator or lender as described in the commitment letter(s) or the amount described in the Applicants project cost schedule if it is within the range of two to six months of stabilized operating expenses less management fees plus debt service.

(10) Other Soft Costs. For Tax Credit Developments all other soft costs are divided into eligible and ineligible costs. Eligible costs are defined by Internal Revenue Code but generally are costs that can be capitalized in the basis of the Development for tax purposes; ~~whereas, i~~ ineligible costs are those that tend to fund future operating activities. The Underwriter will evaluate and accept the allocation of these soft costs in accordance with the Department's prevailing interpretation of the Internal Revenue Code. If the Underwriter questions the eligibility of any soft costs, the Applicant is given an opportunity to clarify and address the concern prior to removal from Eligible basis~~Basis~~.

(f) Developer Capacity. The Underwriter will evaluate the capacity of the Person(s) accountable for the role of the Developer to determine their ability to secure financing and successfully complete the Development. The Department will review certification of previous participation, financial statements, and personal credit reports for those individuals anticipated to guarantee the completion of the Development.

~~(1) Previous Experience. The Underwriter will characterize the Development as "high risk" if the Developer has no previous experience in completing construction and reaching stabilized occupancy in a previous Development.~~

~~(2) Credit Reports. The Underwriter will characterize the Development as "high risk" if the Applicant, General Partner, Developer, anticipated Guarantor or Principals thereof have a credit score which reflects a 40% or higher potential default rate.~~

~~(3) Financial Statements of Principals. The Applicant, Developer, any principals of the Applicant, General Partner, and Developer and any Person who will be required to guarantee the Development will be required to provide a signed and dated financial statement and authorization to release credit information.~~

~~(A) The f~~Financial statements for individuals may be provided on the Personal Financial and Credit Statement form provided by the Department and must not be older than 90 days from the first day of the Application Acceptance Period. The Underwriter will evaluate and discuss financial statements for individuals in a confidential portion of the Report. The Development may be characterized as "high risk" if the Developer, anticipated Guarantor or Principals thereof is determined to have limited net worth or significant lack of liquidity.

~~(B) If submitting p~~Partnership and corporate financial statements in addition to the individual statements, the certified annual financial statement or audited statement, if available, should must be for the most recent fiscal year and dated not more than twelve months from the first day~~te~~ of the Application Acceptance Period. Financials are required for an entity even if the entity is wholly-owned by a person who has submitted this document as an individual. ~~For e~~Entities being formed for the purposes of facilitating the contemplated-proposed transaction but who have with no meaningful financial statements at the present time; may submit a signed letter attesting to this condition ~~will suffice~~.

~~(AC) At the option of the Applicant, financial statements may be pre-submitted and a TDHCA acknowledgement of receipt substituted for the financials in subsequent applications. Pre-submitted financial statements must be provided to the Underwriting Division at least seven-21 days prior to the close of the application-Application acceptance-Acceptance period-Period in order for an acknowledgment of receipt to be provided to the Applicant three days prior to the close of the Application Acceptance Period as a substitute for inclusion of the statements themselves in the application. The Underwriting Division will FAX, e mail or send via regular mail an acknowledgement for each financial statement received. The acknowledgement will not constitute acceptance by the Department that financial statements provided are acceptable in any manner but only acknowledge their receipt. Where-If time permits, the acknowledgement may identify the date of the statement and whether it will meet the time constraints under the QAP.~~

~~(D) If the Development is characterized as a high risk for either lack of previous experience as determined by the TDHCA division responsible for compliance or a higher potential default rate is identified as described in paragraph (1) or (2) of this subsection, the Underwriter must condition any potential award upon the identification and inclusion of additional Development partners who can meet the Department's guidelines.~~

~~(B) The Underwriter will evaluate and discuss individual financial statements in a confidential portion of the Report. Where the financial statement indicates a limited net worth and/or lack of significant liquidity and the Development is characterized as a high risk for either of the reasons described in paragraphs (1) and (2) of this subsection, the Underwriter must condition any potential award upon the identification and inclusion of additional Development partners who can meet the criteria described in this subsection.~~

(g) Other Underwriting Considerations. The Underwriter will evaluate numerous additional elements as described in subsection (b) of this section and those that require further elaboration are identified in this subsection.

(1) Floodplains. The Underwriter evaluates the site plan ~~and~~ floodplain map, survey and other information provided to determine if any of the buildings, drives, or parking areas reside within the 100-year floodplain. If such a determination is made by the Underwriter, the Report will include a condition that:

~~(A) The Applicant must pursue and receive a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR-F); or require~~

~~(B) The Applicant ~~to~~must identify the cost of flood insurance for the buildings and for the tenant's contents for buildings within the 100-year floodplain; or~~

~~(C) The Development must be designed to comply with the QAP, as proposed.~~

(2) Inclusive Capture Rate. The Underwriter will not recommend the approval of funds to new Developments requesting funds ~~where-if~~ the anticipated inclusive capture rate, as defined in §1.33 of this title, exceeds -is in excess of 25% for the Primary Market unless: ~~the market is a rural market or the units are targeted toward the elderly.~~

~~(A) In rural markets and for~~The Development is classified as a Rural Development according to the QAP, as proposed, in which case an inclusive capture rate of 100% is acceptable; or

~~(B) that are~~The Development is strictly targeted to the elderly or transitional populations, in which case an inclusive capture rate of 100% is acceptable; or the Underwriter will not recommend the approval of funds to new housing Developments requesting funds from the Department where the anticipated capture rate is in excess of 100% of the qualified demand.

~~(C) The Development is comprised of~~ Affordable Housing which replaces previously existing substandard Affordable Housing within the same Submarket Primary Market Area on a Unit for Unit basis, and which gives the displaced tenants of the previously existing Affordable Housing a leasing preference, is in which case an ~~excepted from these~~ inclusive capture rate restrictions is not applicable.

~~The inclusive capture rate for the Development is defined as the sum of the proposed units for a given project plus any previously approved but not yet stabilized new Comparable Units in the Submarket divided by the total income-eligible targeted renter demand identified in the Market Analysis for a specific Development's Primary Market. The Department defines Comparable Units, in this instance, as units that are dedicated to the same household type as the proposed subject property using the classifications of family, elderly or transitional as housing types. The Department defines a stabilized project as one that has maintained a 90% occupancy level for at least 12 consecutive months. The Department will independently verify the number of affordable units included in the Market Study and may substitute the Underwriter's~~

~~independent calculation based on the data provided in the Market Analysis or obtained through the Market Analysis performed for other Developments or other independently verified data obtained by the Underwriter regarding the market area. This may include revising the definitional boundaries of the Primary Market Area defined by the Market Analyst. The Underwriter will ensure that all projects previously allocated funds through the Department are included in the final analysis. The documentation requirements needed to support decisions relating to Inclusive Capture Rate are identified in §1.33 of this subchapter.~~

~~(3) The Underwriter will verify that no other developments of the same type within one linear mile have been funded by the Department in the three years prior to the application as provided in Section 2306.6703, Texas Government Code and that no other Developments within one linear mile have been funded in the past twelve months as provided in Section 2306.6711 of the Texas Government Code. The Underwriter will identify in the report any other Developments funded or known and anticipated to be eligible for funding within one linear mile of the subject.~~

~~(34) Supportive Housing. The unique development and operating characteristics of Supportive Housing Developments may require special consideration be given in the following areas ~~when underwriting these Developments:~~~~

~~(A) Operating Income:— The extremely-low-income tenant population typically targeted with by a Supportive Housing Development may include deep-skewing of rents to well below the 50% AMI level or other maximum rent limits established by the Department. The Underwriter should utilize the Applicant’s proposed rents in the Report as long as such rents are at or below and maximum rent limit ~~rent proposed~~ proposed for the units and equal to any project based rental subsidy rent to be utilized for the Development. ~~The initial rents should be structured, however, such that they satisfy the anticipated operating expenses by some margin. The use of project based rental or ongoing operating subsidies and/or supplemental fundraising to offset operating expenses is often critical for a Supportive Housing Development.~~~~

~~(B) Operating Expenses:— A Supportive Housing Development may have significantly higher expenses for payroll, security, resident support services, or other items than typical Affordable Housing Developments. The Underwriter will rely heavily upon the historical operating expenses of other Supportive Housing Developments provided by the Applicant or otherwise available to the Underwriter. ~~The Applicant should provide substantiation from existing Supportive Housing Developments that they operate in the form of several years of historical operating expenses with sufficient detail for individual expense line items as identified in the current proforma operating expense form promulgated by the Department. Applicant’s with no historical experience of their own are encouraged to provide evidence of historical operating information from comparable properties, estimates or quotes from Third Party service providers (e.g., insurance, tenant services), or other pertinent information.~~~~

~~(C) DCR and Long Term Feasibility:— Supportive Housing Developments may be exempted from the DCR requirements of paragraph Section 1.32(d)(4)(6)(C) of this ~~section~~ subchapter if the Development is anticipated to operate without conventional debt. Applicants must provide evidence of sufficient financial resources to offset any projected 30-year cumulative negative cash flows. Such evidence will be evaluated by the Underwriter on a case-by-case basis to satisfy the Department’s long term feasibility requirements and may take the form of one or a combination of the following: executed subsidy commitment(s), set-aside of Applicant’s financial resources, to be substantiated by an audited financial statement evidencing sufficient resources, and/or proof of annual fundraising success sufficient to fill anticipated operating losses. ~~Where If~~ either a set aside of financial resources or annual fundraising are used to evidence the long term feasibility of a Supportive Housing Development, a resolution from the Applicant’s governing board ~~should~~ must be provided confirming their irrevocable commitment to the provision of these funds and activities.~~

~~(D) Development Costs:— For Supportive Housing that is styled as efficiencies, ~~y~~ the Underwriter may use “Average Quality” dormitory costs from the *Marshall & Swift Valuation Service*, with adjustments for amenities and/or quality as evidenced in the application, as a base cost in evaluating the reasonableness of the Applicant’s direct construction cost estimate for new construction Developments.~~

~~(h) Work Out Development. Developments that are underwritten subsequent to Board approval in order to refinance or gain relief from restrictions may be considered infeasible based on the guidelines in this section, but may be characterized as “the best available option” or “acceptable available option” depending on the circumstances and subject to the discretion of the Underwriter as long as the option~~

analyzed and recommended is more likely to achieve a better financial outcome for the property and the Department than the status quo.

§1.33. Market Analysis Rules and Guidelines.

(a) General Provision. A Market Analysis prepared for the Department must evaluate the need for decent, safe, and sanitary housing at rental rates or sales prices that eligible tenants can afford. The analysis must determine the feasibility of the subject property rental rates or sales price and state conclusions as to the impact of the property with respect to the determined housing needs. Furthermore, the Market Analyst shall certify that they are a Third Party and are not being compensated for the assignment based upon a predetermined outcome.

(b) Upon completion of the report, an electronic copy should be transmitted to TDHCA, and an original hard copy must be submitted.

(c) Self-Contained. A Market Analysis prepared for the Department must contain sufficient data and analysis to allow the reader to understand the market data presented, the analysis of the data, and the conclusion(s) derived from such data and its relationship to the subject property. The complexity of this requirement will vary in direct proportion with the complexity of the real estate and the real estate market being analyzed. The analysis must clearly lead the reader to the same or similar conclusion(s) reached by the Market Analyst. A conclusion and recommendation section should be included at the end of the report.

(ed) Market Analyst Qualifications. A Market Analysis submitted to the Department must be prepared and certified by an approved Market Analyst. The Department will maintain an approved Market Analyst list based on the guidelines set forth in paragraphs (1) through (3) of this subsection.

(1) Market ~~analysts~~ Analysts must submit subparagraphs (A) through (F) of this paragraph for review by the Department.

(A) A current organization chart or list reflecting all members of the firm who may author or sign the Market Analysis.

(B) General information regarding the firm's experience including references, the number of previous similar assignments and time frames in which previous assignments were completed.

(C) Resumes for all members of the firm who may author or sign the Market Analysis.

(D) Certification from an authorized representative of the firm that the services to be provided will conform to the Department's Market Analysis Rules and Guidelines described in this section.

(E) A sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines described in this section.

(F) Documentation of organization and good standing in the State of Texas.

(2) During the underwriting process each Market Analysis will be reviewed and any discrepancies with the rules and guidelines set forth in this section may be identified and require timely correction. Subsequent to the completion of the funding cycle and as time permits, staff and/or a review appraiser will re-review a sample set of submitted market analyses to ensure that the Department's Market Analysis Rules and Guidelines are met. If it is found that a Market Analyst has not conformed to the Department's Market Analysis Rules and Guidelines, as certified to, the Market Analyst will be notified of the discrepancies in the Market Analysis and will be removed from the approved Market Analyst list.

(A) Removal from the list of approved Market Analysts will not, in and of itself, invalidate a Market Analysis that has already been commissioned not more than 90 days before the Department's due date for submission as of the date the change in status of the Market Analyst is posted to the web.

(B) To be reinstated as an approved Market Analyst, the Market Analyst must amend the previous report to remove all discrepancies or submit a new sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines. ~~This new~~The submitted study will then be reviewed for conformance with the rules of this section and if found to be in compliance, the Market Analyst will be reinstated.

(3) The list of approved Market Analysts is posted on the Department's web site and updated within 72 hours of a change in the status of a Market Analyst.

(de) Market Analysis Contents. A Market Analysis for a multifamily Development prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) through (17) of this subsection.

(1) Title Page. Include property address and/or location, housing type, TDHCA addressed as client or in the case that TDHCA is not the client, acknowledgement that TDHCA is granted full authority to rely

on the findings and conclusions of the report, effective date of analysis, date of report, name and address of person authorizing report, and name and address of Market Analyst.

(2) Letter of Transmittal. Include date of letter, property address and/or location, description of property type, statement as to purpose of analysis, reference to accompanying Market Analysis, reference to all person(s) providing significant assistance in the preparation of analysis, statement from Market Analyst indicating any and all relationships to any member of the Development Team and/or owner of the subject property, date of analysis, effective date of analysis, date of property inspection, name of person(s) inspecting subject property, and signatures of all Market Analysts authorized to work on the assignment. In addition, a section discussing the conclusions and recommendations of the Market Analysis must be included.

(3) Table of Contents. Number the exhibits included with the report for easy reference.

(4) Summary Form. Complete and include the most current TDHCA Primary Market Area Analysis Summary form. An electronic version of the form and instructions are available on the Department's website at <http://www.tdhca.state.tx.us/rea/http://www.tdhea.state.tx.us/underwrite.html>.

(5) Assumptions and Limiting Conditions. Include a summary of all assumptions, both general and specific, made by the Market Analyst concerning the property.

(6) Disclosure of Competency. Include the Market Analyst's qualifications, detailing education and experience of all Market Analysts authorized to work on the assignment.

(7) Identification of the Property. Provide a statement to acquaint the reader with the Development. Such information includes street address, tax assessor's parcel number(s), and Development characteristics.

(8) Statement of Ownership for the Subject Property. Disclose the current owners of record and provide a three year history of ownership.

(9) Purpose of the Market Analysis. Provide a brief comment stating the purpose of the analysis.

(10) Scope of the Market Analysis. Address and summarize the sources used in the Market Analysis. Describe the process of collecting, confirming, and reporting the data used in the Market Analysis.

(11) Secondary Market Information. Include a general description of the geographic location and demographic data and analysis of the secondary market area if applicable. The secondary market area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. Additional demand factors and comparable property information from the secondary market may be addressed. However, use of such information in conclusions regarding the subject property must be well-reasoned and documented. A map of the secondary market area with the subject property clearly identified should be provided. In a Market Analysis for a Development targeting families, the demand and supply effects from the secondary market are not significant. For a Development that targets smaller subgroups such as elderly households, the demand and supply effects may be more relevant.

(12) Primary Market Information. Include a specific description of the subject's geographical location, specific demographic data, and an analysis of the Primary Market Area. The Primary Market Area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. The Department encourages a conservative Primary Market Area delineation with use of natural political/geographical boundaries whenever possible. Furthermore, the Primary Market for a Development chosen by the Market Analyst will generally be most informative if it contains no more than 250,000 persons, ~~though~~; however, a Primary Market with more residents may be indicated by the Market Analyst, where political/geographic boundaries indicate doing so, with additional supportive narrative. A summary of the neighborhood trends, future Development, and economic viability of the specific area must be addressed with particular emphasis given to Affordable Housing. A map of the Primary Market with the subject property plus all existing, under construction and proposed Affordable Housing developments clearly identified must be provided. A separate scaled distance map of the Primary Market that clearly identifies the subject and the location and distances of all Local Amenities described in ~~§50.9(g)(4) of this title~~ the QAP, as proposed, must also be included.

(13) Comparable Property Analysis. Provide a comprehensive evaluation of the existing supply of comparable properties in the Primary Market Area defined by the Market Analyst. The analysis should include census data documenting the amount and condition of local housing stock as well as information on building permits since the census data was collected. The analysis must separately evaluate existing market rate housing and existing subsidized housing to include local housing authority units and any and all other

rent- or income-restricted units with respect to items discussed in subparagraphs (A) through (F) of this paragraph.

(A) Analyze comparable property rental rates. Include a separate attribute adjustment matrix for the most comparable market rate and subsidized units to the units proposed in the subject, a minimum of three developments each. The Department recommends use of HUD Form ~~922273~~92273. Analysis of the Market Rents must be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. Total adjustments made to the Comparable Units in excess of ~~15~~25% suggest a weak comparable. Total adjustments in excess of 15% must be supported with additional narrative. In Primary Market Areas lacking sufficient rental comparables, it may be necessary for the Market Analyst to collect data from comparable properties in markets with similar characteristics and make quantifiable location adjustments. The Department also ~~encourages-requires~~ close examination of the overall use of concessions in the Primary Market Area and the effect of the identified concessions on effective Market Rents.

~~(B) Provide an Affordability Analysis of the comparable unrestricted units.~~

~~(CB)~~ Analyze occupancy rates of each of the comparable properties and occupancy trends by bedroom type and income restricted level (percentage of AMI). Physical occupancy should be compared to economic occupancy.

~~(DC)~~ Provide annual turnover rates of each of the comparable properties and turnover trends by property class.

~~(ED)~~ Provide absorption rates for each of the comparable properties and absorption trends by property class.

~~(FE) The comparable developments must indicate current research for the proposed property type. The proposed property assumptions must be supported by current information from comparable developments within the PMA.~~ The rental data must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The minimum content of the individual data sheets include: property address, lease terms, occupancy, turnover, development characteristics, current physical condition of the property, etc. A scaled distance map of the Primary Market that clearly identifies the subject Development and existing comparable market rate developments and all existing/proposed subsidized Developments must be provided.

(14) Demand Analysis. Provide a comprehensive evaluation of the demand for the proposed housing. The analysis must include an analysis of the need for market rate and Affordable Housing within the subject Development's Primary Market Area using the most current census and demographic data available. The demand for housing must be quantified, well reasoned, and segmented to include only relevant income- and age-eligible targets of the subject Development. Each demand segment should be addressed independently and overlapping segments should be minimized and clearly identified when required. In instances where more than 20% of the proposed units are comprised of three- and four-bedroom units, the analysis should be refined by factoring in the number of large households to avoid overestimating demand. The final quantified demand calculation may include demand due to items in subparagraphs (A) through (C) of this paragraph.

(A) Quantify new household demand due to documented population and household growth trends for targeted income-eligible rental households OR confirmed targeted income-eligible rental household growth due to new employment growth.

(B) Quantify existing household demand due to documented turnover of existing targeted income-eligible rental households OR documented rent over-burdened targeted income-eligible rental households that would not be rent over-burdened in the proposed Development and documented targeted income-eligible rental households living in substandard housing.

(C) Include other well reasoned and documented sources of demand determined by the Market Analyst.

(15) Conclusions. Include a comprehensive evaluation of the subject property, separately addressing each housing type and specific population to be served by the Development in terms of items in subparagraphs (A) through (F) of this paragraph.

(A) Provide a separate market and subsidized rental rate conclusion for each proposed unit type and rental restriction category. Conclusions of rental rates below the maximum net rent limit rents must be well reasoned, documented, consistent with the market data, and address any inconsistencies with the conclusions of the demand for the subject units.

(B) Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the Applicant's estimates, but based on historic and/or well established data sources of comparable properties.

(C) Correlate and quantify secondary market and Primary Market demographics of housing demand to the current and proposed supply of housing and the need for each proposed unit type and the subject Development as a whole. The subject Development specific demand calculation may consider total demand from the date of application to the proposed place in service date.

(D) Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any properties with priority over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision plus any previously approved but unstabilized new Comparable Units in the Primary Market divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development's Primary Market Area. The Market Analyst should calculate a separate capture rate for the subject Development's proposed affordable units and market rate units as well as the subject Development as a whole. If any proposed or existing Developments are not included by the Market Analyst, withdrawn from application, subsequently found to not have priority over the subject, or not approved by the TDHCA Board, the Underwriter will adjust the inclusive capture rate accordingly.

(E) Project an absorption period and rate for the subject until a Sustaining Occupancy level has been achieved. If absorption projections for the subject differ significantly from historic data, an explanation of such should be included.

(F) Analyze the effects of the subject Development on the Primary Market occupancy rates and provide sufficient support documentation.

(G) Identify any other Developments located within one linear mile of the proposed site and awarded funds by the Department in the three years prior to the Application Acceptance Period.

(16) Photographs. Include good quality color photographs of the subject property (front, rear and side elevations, on-site amenities, interior of typical units if available). Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables should also be included. An aerial photograph is desirable but not mandatory.

(17) Appendices. Any Third Party reports relied upon by the Market Analyst must be provided in appendix form and verified directly by the Market Analyst as to its validity.

(ef) Single Family Developments.

(1) Market studies for single-family Developments proposed as rental Developments must contain the elements set forth in subsections (d)(1) through (17) of this section. Market analyses for Developments proposed for single-family home ownership must contain the elements set forth in subsections (d)(1) through (17) of this section as they would apply to home ownership in addition to paragraphs (2) through (4) of this subsection.

(2) Include no less than three actual market transactions to inform the reader of current market conditions for the sale of each unit type in the price range contemplated for homes in the proposed Development. The comparables ~~must rely on current research for this~~ rental rate or sales data must be current for each specific property type. The sales prices must be confirmed with the buyer, seller, or real estate agent and individual data sheets must be included. The minimum content of the individual data sheets should include property address, development characteristics, purchase price and terms, description of any federal, state, or local affordability subsidy associated with the transaction, date of sale, and length of time on the market.

(3) Analysis of the comparable sales should be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. The evaluation should address the appropriateness of the living area, room count, market demand for Affordable Housing, targeted sales price range, demand for interior and/or exterior amenities, etc. A scaled distance map of the Primary Market that clearly identifies the subject Development and existing comparable single family homes must be provided.

(4) A written statement is required stating if the projected sales prices for homes in the proposed Development are, or are not, below the range for comparable homes within the Primary Market Area. Sufficient documentation should be included to support the Market Analyst's conclusion with regard to the Development's absorption.

(fg) The Department reserves the right to require the Market Analyst to address such other issues as may be relevant to the Department's evaluation of the need for the subject property and the provisions of the particular program guidelines.

(gh) All Applicants shall acknowledge, by virtue of filing an application, that the Department shall not be bound by any such opinion or Market Analysis, and may substitute its own analysis and underwriting conclusions for those submitted by the Market Analyst.

§1.34. Appraisal Rules and Guidelines.

(a) General Provisions. Appraisals prepared for the Department must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation. Self-contained reports must describe sufficient and adequate data and analyses to support the final opinion of value. The final value(s) must be reasonable, based on the information included. Any Third Party reports relied upon by the appraiser must be verified by the appraiser as to the validity of the data and the conclusions. The report must contain sufficient data, included in the appendix when possible, and analysis to allow the reader to understand the property being appraised, the market data presented, analysis of the data, and the appraiser's value conclusion. The complexity of this requirement will vary in direct proportion with the complexity of the real estate and real estate interest being appraised. The report should lead the reader to the same or similar conclusion(s) reached by the appraiser.

(b) Upon completion of the report, an electronic copy should be transmitted to TDHCA, and an original hard copy must be submitted.

(c) Value Estimates.

(1) All appraisals shall contain a separate estimate of ~~land-the~~ "as vacant" market value of the underlying land, based upon current sales comparables.

(2) Appraisal assignments for new construction, ~~which~~ are required to provide an "as completed" ~~a future~~ value of ~~to be completed~~ the proposed structures, These reports shall provide an "as restricted with favorable financing" value as well as an "unrestricted market" value.

(3) Properties-Reports on Properties to be rehabilitated shall address the "as restricted with favorable financing" value as well as both an "as is" value and an "as completed" value. ~~Include~~

(4) If required the appraiser must include a separate assessment of personal property, furniture, fixtures, and equipment (FF&E) and/or intangible items. This separate assessment may be required because their economic life may be shorter than the real estate improvements and may require different lending or underwriting considerations. If personal property, FF&E, or intangible items are not part of the transaction or value estimate, a statement to such effect should be included.

(ed) Date of Appraisal. The appraisal report must be dated and signed by the appraiser who inspected the property. ~~The date of the valuation, except in the case of proposed construction or extensive rehabilitation, must be a current date.~~ The date of valuation should not be more than six months prior to the date of the application to the Department.

(de) Appraiser Qualifications. The qualifications of each appraiser are determined and approved on a case-by-case basis by the Director of ~~Credit Underwriting~~ Real Estate Analysis and/or review appraiser, based upon the quality of the report itself and the experience and educational background of the appraiser, as set forth in the Statement of Qualifications appended to the appraisal. At minimum, a qualified appraiser ~~will~~ must be appropriately certified or licensed for the type of appraisal being performed by the Texas Appraiser Licensing and Certification Board.

(e) Appraisal Contents. An appraisal ~~of a Development~~ prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) through (18) of this subsection.

(1) Title Page. Include identification as to the type of appraisal submitted (e.g., type of process - complete or limited, type of report - self-contained, summary or restricted), property address and/or location, housing type, the Department addressed as the client or acknowledgement that THDCA is granted full authority to rely on the findings of the report, effective date of value estimate(s), date of report, name and address of person authorizing report, and name and address of appraiser(s).

(2) Letter of Transmittal. Include date of letter, property address and/or location, description of property type, extraordinary/special assumptions or limiting conditions that were approved by person authorizing the assignment, statement as to function of the report, statement of property interest being appraised, statement as to appraisal process (complete or limited), statement as to reporting option (self-contained, summary or restricted), reference to accompanying appraisal report, reference to all person(s) that provided significant assistance in the preparation of the report, date of report, effective date of appraisal, date of property inspection, name of person(s) inspecting the property, identification of type(s) of

value(s) estimated (e.g., market value, leased fee value, as-financed value, etc.), estimate of marketing period, signatures of all appraisers authorized to work on the assignment.

(3) Table of Contents. Number the exhibits included with the report for easy reference.

(4) Assumptions and Limiting Conditions. Include a summary of all assumptions, both general and specific, made by the appraiser(s) concerning the property being appraised. Statements may be similar to those recommended by the Appraisal Institute.

(5) Certificate of Value. This section may be combined with the letter of transmittal and/or final value estimate. Include statements similar to those contained in Standard Rule 2-3 of USPAP.

(6) Disclosure of Competency. Include appraiser's qualifications, detailing education and experience, as discussed in subsection (c) of this section.

(7) Identification of the Property. Provide a statement to acquaint the reader with the property. Real estate being appraised must be fully identified and described by street address, tax assessor's parcel number(s), and Development characteristics. Include a full, complete, legible, and concise legal description.

(8) Statement of Ownership of the Subject Property. Discuss all prior sales of the subject property which occurred within the past three years. Any pending agreements of sale, options to buy, or listing of the subject property must be disclosed in the appraisal report.

(9) Purpose and Function of the Appraisal. Provide a brief comment stating the purpose of the appraisal and a statement citing the function of the report.

(A) Property Rights Appraised. Include a statement as to the property rights (e.g., fee simple interest, leased fee interest, leasehold, etc.) being considered. The appropriate interest must be defined in terms of current appraisal terminology with the source cited.

(B) Definition of Value Premise. One or more types of value (e.g., "as is", "as if", "prospective market value") may be required. Definitions corresponding to the appropriate value must be included with the source cited.

(10) Scope of the Appraisal. Address and summarize the methods and sources used in the valuation process. Describes the process of collecting, confirming, and reporting the data used in the assignment.

(11) Regional Area Data. Provide a general description of the geographic location and demographic data and analysis of the regional area. A map of the regional area with the subject identified is requested, but not required.

(12) Neighborhood Data. Provide a specific description of the subject's geographical location and specific demographic data and an analysis of the neighborhood. A summary of the neighborhood trends, future Development, and economic viability of the specific area should be addressed. A map with the neighborhood boundaries and the subject identified must be included.

(13) Site/Improvement Description. Discuss the site characteristics including subparagraphs (A) through (F) of this paragraph.

(A) Physical Site Characteristics. Describe dimensions, size (square footage, acreage, etc.), shape, topography, corner influence, frontage, access, ingress-egress, etc. associated with the site. Include a plat map and/or survey.

(B) Floodplain. Discuss floodplain (including flood map panel number) and include a floodplain map with the subject clearly identified.

(C) Zoning. Report the current zoning and description of the zoning restrictions and/or deed restrictions, where applicable, and type of Development permitted. Any probability of change in zoning should be discussed. A statement as to whether or not the improvements conform to the current zoning should be included. A statement addressing whether or not the improvements could be rebuilt if damaged or destroyed, should be included. If current zoning is not consistent with the Highest and Best Use, and zoning changes are reasonable to expect, time and expense associated with the proposed zoning change should be considered and documented. A zoning map should be included.

(D) Description of Improvements. Provide a thorough description and analysis of the improvement including size (net rentable area, gross building area, etc.), number of stories, number of buildings, type/quality of construction, condition, actual age, effective age, exterior and interior amenities, items of deferred maintenance, etc. All applicable forms of depreciation should be addressed along with the remaining economic life.

(E) Fair Housing. It is recognized appraisers are not an expert in such matters and the impact of such deficiencies may not be quantified; however, the report should disclose any potential violations of

the Fair Housing Act of 1988, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 and/or report any accommodations (e.g., wheelchair ramps, handicap parking spaces, etc.) which have been performed to the property or may need to be performed.

(F) Environmental Hazards. It is recognized appraisers are not an expert in such matters and the impact of such deficiencies may not be quantified; however, the report should disclose any potential environmental hazards (e.g., discolored vegetation, oil residue, asbestos-containing materials, lead-based paint etc.) noted during the inspection.

(14) Highest and Best Use. Market Analysis and feasibility study is required as part of the highest and best use. The highest and best use analysis should consider subsection (d)(13)(A) through (F) of this section as well as a supply and demand analysis.

(A) The appraisal must inform the reader of any positive or negative market trends which could influence the value of the appraised property. Detailed data must be included to support the appraiser's estimate of stabilized income, absorption, and occupancy.

(B) The highest and best use section must contain a separate analysis "as if vacant" and "as improved" (or "as proposed to be improved/renovated"). All four elements in appropriate order as outlined in the Appraisal of Real Estate (legally permissible, physically possible, feasible, and maximally productive) must be sequentially considered.

(15) Appraisal Process. The Cost Approach, Sales Comparison Approach and Income Approach are three recognized appraisal approaches to valuing most properties. It is mandatory that all three approaches are considered in valuing the property unless specifically instructed by the Department to ignore one or more of the approaches; or unless reasonable appraisers would agree that use of an approach is not applicable. If an approach is not applicable to a particular property, then omission of such approach must be fully and adequately explained.

(A) Cost Approach. This approach should give a clear and concise estimate of the cost to construct the subject improvements. The type of cost (reproduction or replacement) and source(s) of the cost data should be reported.

(i) Cost comparables are desirable; however, alternative cost information may be obtained from Marshall & Swift Valuation Service or similar publications. The section, class, page, etc. should be referenced. All soft costs and entrepreneurial profit must be addressed and documented.

(ii) All applicable forms of depreciation must be discussed and analyzed. Such discussion must be consistent with the description of the improvements analysis.

(iii) The land value estimate should include a sufficient number of sales which are current, comparable, and similar to the subject in terms of highest and best use. Comparable sales information should include address, legal description, tax assessor's parcel number(s), sales price, date of sale, grantor, grantee, three year sales history, and adequate description of property transferred. The final value estimate should fall within the adjusted and unadjusted value ranges. Consideration and appropriate cash equivalent adjustments to the comparable sales price for subclauses (I) through (VII) of this clause should be made when applicable.

(I) Property rights conveyed.

(II) Financing terms.

(III) Conditions of sale.

(IV) Location.

(V) Highest and best use.

(VI) Physical characteristics (e.g., topography, size, shape, etc.).

(VII) Other characteristics (e.g., existing/proposed entitlements, special assessments, etc.).

(B) Sales Comparison Approach. This section should contain an adequate number of sales to provide the reader with the current market conditions concerning this property type. Sales data should be recent and specific for the property type being appraised. The sales must be confirmed with buyer, seller, or an individual knowledgeable of the transaction.

(i) Minimum content of the sales should include address, legal description, tax assessor's parcel number(s), sale price, financing considerations, and adjustment for cash equivalency, date of sale, recordation of the instrument, parties to the transaction, three year sale history, complete description of the property and property rights conveyed, and discussion of marketing time. A scaled distance map clearly identifying the subject and the comparable sales must be included.

(ii) Several methods may be utilized in the Sale Comparison Approach. The method(s) used must be reflective of actual market activity and market participants.

(I) Sale Price/Unit of Comparison. The analysis of the sale comparables must identify, relate and evaluate the individual adjustments applicable for property rights, terms of sale, conditions of sale, market conditions and physical features. Sufficient narrative analysis must be included to permit the reader to understand the direction and magnitude of the individual adjustments, as well as a unit of comparison value indicator for each comparable. The appraiser(s) reasoning and thought process must be explained.

(II) Potential Gross Income/Effective Gross Income Analysis. If used in the report, this method of analysis must clearly indicate the income statistics for the comparables. Consistency in the method for which such economically statistical data was derived should be applied throughout the analysis. At least one other method should accompany this method of analysis.

(III) NOI/Unit of Comparison. If used in the report, the net income statistics for the comparables must be calculated in the same manner and disclosed as such. It should be disclosed if reserves for replacement have been included in this method of analysis. At least one other method should accompany this method of analysis.

(C) Income Approach. This section is to contain an analysis of both the actual historical and projected income and expense aspects of the subject property.

(i) Market Rent Estimate/Comparable Rental Analysis. This section of the report should include an adequate number of actual market transactions to inform the reader of current market conditions concerning rental units. The comparables must indicate current research for this specific property type. The rental comparables must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The minimum content of the individual data sheets should include property address, lease terms, description of the property (e.g., unit type, unit size, unit mix, interior amenities, exterior amenities, etc.), physical characteristics of the property, and location of the comparables. Analysis of the Market Rents should be sufficiently detailed to permit the reader to understand the appraiser's logic and rationale. Adjustment for lease rights, condition of the lease, location, physical characteristics of the property, etc. must be considered.

(ii) Comparison of Market Rent to Contract Rent. Actual income for the subject along with the owner's current budget projections must be reported, summarized and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. The contract rents should be compared to the market-derived rents. A determination should be made as to whether the contract rents are below, equal to, or in excess of market rates. If there is a difference, its impact on value must be qualified.

(iii) Vacancy/Collection Loss. Historical occupancy data and current occupancy level for the subject should be reported and compared to occupancy data from the rental comparable and overall occupancy data for the subject's market area.

(iv) Expense Analysis. Actual expenses for the subject, along with the owner's projected budget, must be reported, summarized, and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. Historical expenses should be compared to comparables expenses of similar property types or published survey data (e.g., IREM, BOMA, etc.). Any expense differences should be reconciled. Historical data regarding the subject's assessment and tax rates should be included. A statement as to whether or not any delinquent taxes exist should be included.

(v) Capitalization. Several capitalization methods may be utilized in the Income Approach. The appraiser should present the method(s) reflective of the subject market and explain the omission of any method not considered in the report.

(I) Direct Capitalization. The primary method of deriving an overall rate (OAR) is through market extraction. If a band of investment or mortgage equity technique is utilized, the assumptions must be fully disclosed and discussed.

(II) Yield Capitalization (Discounted Cash Flow Analysis). This method of analysis should include a detailed and supportive discussion of the projected holding/investment period, income and income growth projections, occupancy projections, expense and expense growth projections, reversionary value and support for the discount rate.

(16) Reconciliation and Final Value Estimate. This section of the report should summarize the approaches and values that were utilized in the appraisal. An explanation should be included for any

approach which was not included. Such explanations should lead the reader to the same or similar conclusion of value. Although the values for each approach may not "agree", the differences in values should be analyzed and discussed. Other values or interests appraised should be clearly labeled and segregated. Such values may include FF&E, leasehold interest, excess land, etc. In addition, rent restrictions, subsidies and incentives should be explained in the appraisal report and their impact, if any, needs to be reported in conformity with the Comment section of USPAP Standards Rule 1-2(e), which states, "Separation of such items is required when they are significant to the overall value." In the appraisal of subsidized housing, value conclusions that include the intangibles arising from the programs will also have to be analyzed under a scenario without the intangibles in order to measure their influence on value.

(17) Marketing Period. Given property characteristics and current market conditions, the appraiser(s) should employ a reasonable marketing period. The report should detail existing market conditions and assumptions considered relevant.

(18) Photographs. Provide good quality color photographs of the subject property (front, rear, and side elevations, on-site amenities, interior of typical units if available). Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables should be included. An aerial photograph is desirable but not mandatory.

(f) Additional Appraisal Concerns. The appraiser(s) must recognize and be aware of the particular TDHCA program rules and guidelines and their relationship to the subject's value. Due to the various programs offered by the Department, various conditions may be placed on the subject which would impact value. Furthermore, each program may require that the appraiser apply a different set of specific definitions for the conclusions of value to be provided. Consequently, as a result of such criteria, the appraiser(s) should be aware of such conditions and definitions and clearly identify them in the report.

§1.35. Environmental Site Assessment Rules and Guidelines

(a) General Provisions. The Environmental Site Assessments (ESA) prepared for the Department should be conducted and reported in conformity with the standards of the American Society for Testing and Materials. The initial report should conform with the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E 1527). Any subsequent reports should also conform to ASTM standards and such other recognized industry standards as a reasonable person would deem relevant in view of the Property's anticipated use for human habitation. The environmental assessment shall be conducted by a Third Party environmental professional at the expense of the Applicant, and addressed to TDHCA as a User of the report (as defined by ASTM standards)the client. Copies of reports provided to TDHCA which were commissioned by other financial institutions should address TDHCA as a co-recipient of the report, or letters from both the provider and the recipient of the report should be submitted extending reliance on the report to TDHCA. The ESA report should also include a statement that the person or company preparing the ESA report will not materially benefit from the Development in any other way than receiving a fee for performing the Environmental Site Assessment, and that the fee is in no way contingent upon the outcome of the assessment.

(b) In addition to ASTM requirements, The the report must include, but is not limited to:

(1) A review of records, interviews with people knowledgeable about the property;

(2) A certification that the environmental engineer has conducted an inspection of the property, the building(s), and adjoining properties, as well as any other industry standards concerning the preparation of this type of environmental assessment;

(3) A State if a noise study is recommended for a property and located adjacent to or in eloseidentifying its proximity to industrial zones, major highways, active rail lines, and civil and military airfields, or other potential sources of excessive noise;

(4) A Provide a copy of a current survey, if available, or other drawing of the site reflecting the boundaries and adjacent streets, all improvements on the site, and any items of concern described in the body of the environmental site assessment or identified during the physical inspection;

(5) A Provide a copy of the current FEMA Flood Insurance Rate Map showing the panel number and encompassing the site with the site boundaries precisely identified and superimposed on the map.

(6) A Provide a narrative determination of the flood risk for the proposed Development described in the narrative of the report includes a discussion of the impact of the 100-year floodplain on the proposed Development based upon a review of the current site plan;

(7) An assessment of the potential threatState if testing for asbestos containing materials (ACMs) to be present on the property, and a recommendation as to whether specific testing for ACMs would be

~~necessary as required by state law would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;~~

~~(7) An assessment of the potential presence of State if testing for Lead Based Paint would be required pursuant to local, state, and federal laws, or recommended due to any other consideration on the property, and a recommendation as to whether specific testing in accordance with any state and federal laws would be necessary;~~

~~(7) State if testing for lead in the drinking water would be required pursuant to local, state, and federal laws, or recommended due to any other consideration; and~~

~~(8) An assessment of the Assess the potential for the presence of Radon on the property, and a recommendation as to whether specific testing would be necessary.~~

(c) If the report recommends further studies or establishes that environmental hazards currently exist on the Property, or are originating off-site but would nonetheless affect the Property, the Development Owner must act on such a recommendation or provide a plan for either the abatement or elimination of the hazard. Evidence of action or a plan for the abatement or elimination of the hazard must be presented upon Application submittal.

(d) For Developments which have had a Phase II Environmental Assessment performed and hazards identified, the Development Owner is required to maintain a copy of said assessment on site available for review by all persons which either occupy the Development or are applying for tenancy.

(e) For Developments in programs that allow a waiver of the Phase I ESA such as a ~~TRD~~~~TX-USDARHS~~ funded Development the Development Owners are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(f) Those Developments which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms with the requirements of this subsection.

§1.36 Property Condition Assessment Guidelines

(a) General Provisions. The objective of the Property Condition Assessment (the PCA) is to provide cost estimates for repairs and replacements which are necessary immediately, and for repairs and replacements which are expected to be required throughout the term of the regulatory period. The PCA prepared for the Department should be conducted and reported in conformity with the American Society for Testing and Materials "Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process (ASTM Standard Designation: E 2138)" except as provided for in subsections (b) and (c) of this section. The PCA must include discussion and analysis of the following:

(1) Useful Life Estimates: For each system and component of the property the PCA should assess the condition of the system or component, and estimate its remaining useful life, citing the basis or the source from which such estimate is derived;

(2) Code Compliance: The PCA should review and document any known violations of any applicable federal, state, or local codes. In developing the cost estimates specified herein, it is the responsibility of the Housing Sponsor or Applicant to ensure that the PCA adequately considers any and all applicable federal, state, and local laws and regulations which may govern any work performed to the subject property;

(3) Program Rules: The PCA should assess the extent to which any systems or components must be modified, repaired, or replaced in order to comply with any specific requirements of the housing program under which the Development is proposed to be financed, particular consideration being given to accessibility requirements, the Department's Housing Quality Standards, and any scoring criteria for which the Applicant may claim points;

(4) Immediate Repairs: Systems or components which are expected to have a remaining useful life of less than one year, which are found to be in violation of any applicable codes, which must be modified, repaired or replaced in order to satisfy program rules, or which are otherwise in a state of deferred maintenance or pose health and safety hazards should be considered necessary immediate repairs. The PCA should estimate the costs associated with the repair, replacement, or maintenance of each system or component which is identified as being an immediate need, citing the basis or the source from which such cost estimate is derived;

(5) Expected Repairs Over Time: The term during which the PCA should estimate the cost of expected repairs over time should equal the longest term of any land use or regulatory restrictions which

are, or will be, associated with the provision of housing on the property. The PCA should estimate the periodic costs which would be expected to arise for repairing or replacing each system or component or the property, based on the estimated remaining useful life of each such system or component, the PCA should estimate the periodic costs which would be expected to arise during the regulatory period for repairing or replacing such system or component. The PCA should include a table of the estimated long term costs which identifies in each line the individual component of the property being examined, and in each column the year during the term in ~~the regulatory period during~~ which the costs are estimated to be incurred. The estimated costs for future years should be given in both present dollar values and anticipated future dollar values assuming a reasonable inflation factor of not less than 2.5% per annum; and

(6) Obsolescence: If the development plan calls for additional modification or replacement of certain systems, components, or other aspects of the property strictly due to functional obsolescence or external market obsolescence, such items should be identified and the nature or source of the obsolescence discussed. The associated costs may be included either with immediate repairs or with expected repairs over time as appropriate. It is the responsibility of the Housing Sponsor or Applicant to ensure that the PCA provider is apprised of all development activities associated with the proposed transaction, and to ensure consistency between the PCA, and the proposed development costs.

(b) The Department will also accept copies of reports commissioned or required by the primary lender for a proposed transaction, which have been prepared in accordance with:

- (1) Fannie Mae's criteria for Physical Needs Assessments,
- (2) Federal Housing Administration's criteria for Project Capital Needs Assessments,
- (3) Freddie Mac's guidelines for Engineering and Property Condition Reports, or
- (4) Standard and Poor's Property Condition Assessment Criteria: Guidelines for Conducting Property Condition Assessments, Multifamily Buildings.

(c) The Department may consider for acceptance reports prepared according to other standards which are not specifically named above in subsection (b) of this subsection, if a copy of such standards or a sample report have been provided for the Department's review, if such standards are widely used, and if all other criteria and requirements described in this section are satisfied.

(d) The PCA shall be conducted by a Third Party at the expense of the Applicant, and addressed to TDHCA as the client. Copies of reports provided to TDHCA which were commissioned by other financial institutions should address TDHCA as a co-recipient of the report, or letters from both the provider and the recipient of the report should be submitted extending reliance on the report to TDHCA. The PCA report should also include a statement that the person or company preparing the PCA report will not materially benefit from the Development in any other way than receiving a fee for performing the PCA. The PCA should be signed and dated by the Third Party report provider not more than six months prior to the date of the application. However, an original report may be accepted up to 24 months old if a review inspection and update letter dated less than six months from the date of the application is signed by the original report provider, and that such letter identifies specific details of necessary amendments to the original report or specifies that no such amendments are necessary.

§1.37. Reserve for Replacement Rules and Guidelines

(a) General Provisions. The Department will require Developments to provide regular maintenance to keep housing sanitary, safe and decent by maintaining a reserve for replacement in accordance with §2306.186. The reserve must be established for each unit in a Development of 25 or more rental units, regardless of the amount of rent charged for the unit. The Department shall, through cooperation of its divisions responsible for asset management and compliance, ensure compliance with this section.

(b) The First Lien Lender shall maintain the reserve account through an escrow agent acceptable to the First Lien Lender to hold reserve funds in accordance with an executed escrow agreement and the rules set forth in this section and §2306.186.

(1) Where there is a First Lien Lender other than the Department or a Bank Trustee as a result of a bond indenture or tax credit syndication, the Department shall

(A) Be a required signatory party in all escrow agreements for the maintenance of reserve funds and the accounts held for the purpose of maintaining the required reserve funds;

(B) Be given notice of any asset management findings or reports, transfer of money in reserve accounts to fund necessary repairs, and any financial data and other information pursuant to the oversight of the Reserve Account within 30 days of any receipt or determination thereof;

(C) Subordinate its rights and responsibilities under the escrow agreement, including those described in this subsection, to the First Lien Lender or Bank Trustee through a subordination agreement subject to its ability to do so under the law and normal and customary limitations for fraud and other conditions contained in the Department's standard subordination clause agreements as modified from time to time, to include subsection (c) of this section.

(2) The escrow agreement and subordination agreement shall further specify the time and circumstances under which the Department can exercise its rights under the escrow agreement in order to fulfill its obligations under §2306.186 and as described in this section.

(3) Where the Department is the First Lien Lender and there is no Bank Trustee as a result of a bond indenture or tax credit syndication or where there is no First Lien Lender but the allocation of funds by the Department and §2306.186 requires that the Department oversee a Reserve Account, the Owner shall provide at their sole expense for appointment of an escrow agent acceptable to the Department to act as bank trustee as necessary under this section. The Department shall retain the right to replace the escrow agent with another Bank Trustee or act as escrow agent at a cost plus fee payable by the Owner due to breach of the escrow agent's responsibilities or otherwise with 30 days prior notice of all parties to the escrow agreement.

(c) If the Department is not the First Lien Lender with respect to the Development, each Owner receiving Department assistance for multifamily rental housing shall submit on an annual basis within the Department's required Owner's Financial Certification packet a signed certification by the First Lien Lender including:

(1) Reserve for replacement requirements under the first lien loan agreement;

(2) Monitoring standards established by the First Lien Lender to ensure compliance with the established reserve for replacement requirements; and

(3) A statement by the First Lien Lender

(A) That the Development has met all established reserve for replacement requirements; or

(B) Of the plan of action to bring the Development in compliance with all established reserve for replacement requirements, if necessary.

(d) If the Development meets the minimum unit size described in subsection (a) of this section and the establishment of a Reserve Account for repairs has not been required by the First Lien Lender or Bank Trustee, each Owner receiving Department assistance for multifamily rental housing shall set aside the repair reserve amount as described in paragraphs (e)(1) through (3) of this section through the date described in paragraph (f)(2) of this section through the appointment of an escrow agent as further described in paragraph (b)(3) of this section.

(e) If the Department is the First Lien Lender with respect to the Development, each Owner receiving Department assistance for multifamily rental housing shall deposit annually into a reserve account through the date described in paragraph (e)(2) of this section:

(1) For new construction Developments:

(A) Not less than \$150 per unit per year for units one to five years old; and

(B) Not less than \$200 per unit per year for units six or more years old.

(2) For rehabilitation Developments:

(A) An amount per unit per year established by the Department's division responsible for credit underwriting based on the information presented in a Property Condition Assessment in conformance with §1.36 of this subchapter; and

(B) Not less than \$300 per unit per year.

(3) For either new construction or rehabilitation Developments, the Owner of a multifamily rental housing Development shall contract for a third-party Property Condition Assessment meeting the requirements of §1.36 of this subchapter and the Department will reanalyze the annual reserve requirement based on the findings and other support documentation.

(A) A Property Condition Assessment will be conducted:

(i) At appropriate intervals that are consistent with requirements of the First Lien Lender, other than the Department; or

(ii) At least once during each five-year period beginning with the 11th year after the awarding of any financial assistance for the Development by the Department, if the Department is the First Lien Lender or the First Lien Lender does not require a third-party Property Condition Assessment.

(B) Submission by the Owner to the Department will occur within 30 days of completion of the Property Condition Assessment and must include:

(i) The complete Property Condition Assessment;
(ii) First Lien Lender and/or Owner response to the findings of the Property Condition Assessment;
Assessment;
(iii) Documentation of repairs made as a result of the Property Condition Assessment;
and
(iv) Documentation of adjustments to the amounts held in the replacement Reserve Account based upon the Property Condition Assessment.
(f) A Land Use Restriction Agreement or restrictive covenant between the Owner and the Department must require:
(1) The Owner to begin making annual deposits to the reserve account on the later of:
(A) The date that occupancy of the Development stabilizes as defined by the First Lien Lender or in the absence of a First Lien Lender other than the Department, the date the property is at least 90% occupied; or
(B) The date that permanent financing for the Development is completely in place as defined by the First Lien Lender or in the absence of a First Lien Lender other than the Department, the date when the permanent loan is executed and funded.
(2) The Owner to continue making deposits until the earliest of the following dates:
(A) The date on which the Owner suffers a total casualty loss with respect to the Development;
(B) The date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored;
(C) The date on which the Development is demolished;
(D) The date on which the Development ceases to be used as a multifamily rental property; or
(E) The later of
(i) The end of the affordability period specified by the Land Use Restriction Agreement or restrictive covenant; or
(ii) The end of the repayment period of the first lien loan.
(g) The duties of the Owner of a multifamily rental housing Development under this section cease on the date of a change in ownership of the Development; however, the subsequent Owner of the Development is subject to the requirements of this section.
(h) If the Department is the First Lien Lender with respect to the Development or the First Lien Lender does not require establishment of a Reserve Account, the Owner receiving Department assistance for multifamily rental housing shall submit on an annual basis within the Department's required Owner's Financial Certification packet:
(1) Financial statements, audited if available, with clear identification of the replacement Reserve Account balance and all capital improvements to the Development within the fiscal year;
(2) Identification of costs other than capital improvements funded by the replacement Reserve Account; and
(3) Signed statement of cause for:
(A) Use of replacement Reserve Account for expenses other than necessary repairs, including property taxes or insurance;
(B) Deposits to the replacement Reserve Account below the Department's or First Lien Lender's mandatory levels as defined in subsections (c), (d) and (e) of this section; and
(C) Failure to make a required deposit.
(i) If a request for extension or waiver is not approved by the Department, Department action, including a penalty of up to \$200 per dwelling unit in the Development and/or characterization of the Development as Materially Non-Compliant, as defined in §60.1 of this title, may be taken when:
(1) A Reserve Account, as described in this section, has not been established for the Development;
(2) The Department is not a party to the escrow agreement for the Reserve Account;
(3) Money in the reserve account
(A) Is used for expenses other than necessary repairs, including property taxes or insurance;
or
(B) Falls below mandatory deposit levels;
(4) Owner fails to make a required deposit;
(5) Owner fails to contract for the third party Property Condition Assessment as required under paragraph (e)(3) of this section; or

- (6) Owner fails to make necessary repairs, as defined in subsection (k) of this section.
- (j) On a case by case basis, the Department may determine that the money in the Reserve Account may:
- (1) Be used for expenses other than necessary repairs, including property taxes or insurance, if:
- (A) Development income before payment of return to Owner or deferred developer fee is insufficient to meet operating expense and debt service requirements; and
- (B) The funds withdrawn from the Reserve Account is replaced as cashflow after payment of expenses, but before payment of return to Owner or developer fee is available.
- (2) Fall below mandatory deposit levels without resulting in Department action, if:
- (A) Development income after payment of operating expenses, but before payment of return to Owner or deferred developer fee is insufficient to fund the mandatory deposit levels; and
- (B) Subsequent deposits to the Reserve Account exceed mandatory deposit levels as cashflow after payment of operating expenses, but before payment of return to Owner or deferred developer fee is available until the Reserve Account has been replenished to the mandatory deposit level less capital expenses to date.
- (k) The Department or its agent may make repairs to the Development if the Owner fails to complete necessary repairs indicated in the submitted Property Condition Assessment or identified by physical inspection. Repairs may be deemed necessary if the Development is notified of the Owner's failure to comply with federal, state and/or local health, safety, or building code.
- (1) Payment for necessary repairs must be made directly by the Owner or through a replacement Reserve Account established for the Development under this section.
- (2) The Department or its agent will produce a Request for Bids to hire a contractor to complete and oversee necessary repairs.
- (l) This section does not apply to a Development for which the Owner is required to maintain a Reserve Account under any other provision of federal or state law.

Portfolio Management and Compliance Division
Board Action Request
August 19, 2004

Action Items

Request approval of the propose amended Compliance Monitoring Policies and Procedures.

Required Action

Approve the proposed amended Rules for release as a draft.

Background and Recommendations

Attached are the proposed amended Compliance Monitoring Policies and Procedures that reflect staff's recommendations for revisions. The document provided reflects the proposed amendments in a "blackline" version showing the proposed changes from the rules currently in effect. Upon approval by the Board, the amended Draft Rules will be published in the *Texas Register* and released to the public for comment. Public hearings will be held on the proposed amended Draft Rules, as well as the other rules before the Board at this meeting, from approximately September 27 to October 8, 2004. The final rule will come before the Board in November 2004.

Texas Administrative Code

TITLE 10

COMMUNITY DEVELOPMENT

PART 1

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 60

COMPLIANCE ADMINISTRATION

SUBCHAPTER A

COMPLIANCE MONITORING ~~AND ASSET MANAGEMENT~~

RULE §60.1

Compliance Monitoring Policies and Procedures

____(a) Purpose. The Department monitors rental developments receiving assistance ~~from the Department, including Low Income Tax Credits, during the construction period and continuing under the Housing Tax Credit program (“HTC”), the HOME program, the Tax Exempt Bond program, the Housing Trust Fund program, and the Federal Deposit Insurance Corporation’s Affordable Housing Program.~~ Compliance monitoring begins with the commencement of construction and continues to the end of the long term Affordability Period. The ~~compliance division~~ Portfolio Management and Compliance Division (PMC) monitors to ensure owners comply with the program rules and regulations, Chapter §23062306 of the Texas Government Code, the Land Use Restriction Agreement (LURA) requirements and ~~any~~ conditions and representations imposed by the application or award of funds by the Department. The Portfolio, Management and Compliance Division’s processes, eligibility procedures, forms, and ~~further~~ additional programmatic details are set out in ~~the~~ individual program regulations and in Owner’s Compliance Manual(s) prepared by the Department’s Portfolio, Management and Compliance Division, as amended from time to time. The rules under this section address processes, reports and records that ~~may are be~~ required ~~by the Department to enable facilitate~~ the Department’s ~~to~~ monitoring of a Development for ~~violations compliance of the with a~~ program's federal and state rules and regulations. These rules do not address forms and other records that ~~may be~~ may be required of Development Owners by the Internal Revenue Service (“IRS”) or other governmental entities more generally, whether for purposes of filing annual returns or supporting Development Owner tax positions during an IRS or other governmental audit.

____(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

_____ (1) Affordability Period. The affordability period commences ~~on the effective date as~~ _____ specified of in the Land Use Restriction Agreement LURA, or federal regulation or commences on the first day of the compliance _____ period as defined by §42(i) (1) of the Internal Revenue Code and continues through the appropriate program's _____ affordability requirements or termination of the LURA, which ever is later. The term of the _____ affordability period shall be imposed by LURA or other deed restriction and may be terminated upon _____ foreclosure. During this period the Department shall monitor to ensure compliance with _____ _____ programmatic rules, regulations and application representations.

_____ (2) Board means the governing board of the Texas Department of Housing and _____ _____ Community Affairs.

_____ (3) Department means the Texas Department of Housing and Community Affairs, an official and public _____ agency of the State of Texas pursuant to Chapter 2306 of the Texas Government Code. .

_____ (4) **Development** means a property or work or a project, building, structure, facility, or _____ undertaking, whether existing, new construction, remodeling, improvement, or _____ rehabilitation, that meets or is designed to meet minimum property standards required by _____ the Department and that is financed under the provisions of Chapter 2306, Texas _____ Government Code, for the primary purpose of providing sanitary, decent, and safe _____ dwelling accommodations for rent, lease, use, or purchase by individuals and families of _____ low and very low income and families of moderate income in need of housing. The term _____ includes:

_____ (A) buildings, structures, land, equipment, facilities, or other real or personal _____ properties that are necessary, convenient, or desirable appurtenances, including _____ streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, _____ and other non-housing facilities, such as administrative, community, and _____ recreational facilities the Department determines to be necessary, convenient, or _____ desirable appurtenances;

_____ (B) single and multifamily dwellings in rural and urban areas.

_____ (4)(5) Low Income Unit means a unit that _____ complies with the income restrictions or _____ occupancy requirements of the housing programs administered by the Department. Is is _____ intended for occupancy by an income eligible household.

_____ (6) Land Use Restriction Agreement (LURA). An agreement between the Department, _____ the development owner, and the development owner's successors in interest that _____ encumbers the Development with respect to the requirements of this subchapter and the _____ requirements of programs administered by the Department.

_____ (57) Material Non-Compliance. A Housing Tax Credit property located within the state _____ of Texas and monitored by the Department will be classified by the Department as being _____ in material non-compliance status if the non-compliance score for such property is equal _____ to or exceeds 30 points in accordance with the material non-compliance provisions, and _____ methodology, and point system of this title or, if the Housing Tax Credit property is _____ located outside the state of Texas, and non-compliance is reported to the Department that _____ would equal or exceed a non-compliance score of 30 points if measured in accordance _____ with the methodology and point system set forth in this subsection. .The Low Income _____ Housing Tax Credit compliance status score prevails for development Developments layered with more _____ than one Department program. Non Housing Tax Credit development Developments monitored by the _____ Department

with 1 to 50 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds 30 points. Non-Housing Tax Credit development Developments monitored by the Department with 51 to 200 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds 120 points. Non Housing Tax Credit development Developments monitored by the Department with 201 or more low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds 150 points. Developments with more than one program administered by the Department will be scored by program. The development Development will be considered in material noncompliance if the score for any single program exceeds the noncompliance limit for that program. The Department may take into consideration the representations of the Applicant regarding compliance violations, however, the records of the Department are controlling.

(c) Construction inspections. The Department, through the Portfolio, Management and Compliance Division, with responsibility for compliance matters, shall monitor for compliance with all applicable requirements through the entire construction or rehabilitation phase associated with any Development funded by the Department including Low Income Tax Credits. Construction is monitored to verify inclusion of all application representations and Department design requirements.

(1) Construction monitoring procedures for HTC Developments include:

(A) A plan review performed by the Department or by an independent plan review contractor engaged by the Department. The reviewer uses the TDHCA Application Compliance Checklist. The plan approval certificate is required by the Department in order for the issuance of the Acknowledgement Notice at the commencement of substantial construction.

(B) A final inspection performed after completion of construction by inspectors for the owner, lender and/or syndicator using the TDHCA Application Compliance Checklist.

(C) An accessibility clearance performed after completion of construction by an owner-contracted accessibility specialist selected by the Development owner from the Department's list of approved contractors using the TDHCA Accessibility Checklist.

(2) Construction monitoring procedures for non-HTC multifamily Developments include:

(A) A plan review performed by the Department or by an owner-contracted independent plan review contractor selected from the Department's list of approved plan reviewers. The reviewer uses the TDHCA Application Compliance Checklist and issues a Certificate of Compliance once plans are approved. The plan approval certificate is required by the Department in order for the borrower

or grantee to obtain a Notice to Proceed with Construction.

(B) Mid-construction progress inspections conducted within ten days prior to draw request submittals to the Department. Mid-construction inspections are performed by independent licensed architects or engineers engaged by the borrower or grantee. Depending on particular risks associated with the Development, the Department may require the borrower or grantee to select a contractor from the Department's list of approved inspectors. With each draw package, the borrower or grantee provides AIA documents (or equivalents) G701 Change Order form for any change in contract scope of work, cost, or time; G702 Application and Certificate for Payments; G703 Continuation Sheet; and G711 Field Report.

(C) A final inspection is performed by the Department or an owner-contracted independent inspection contractor selected from the Department's list of approved final inspectors. The final inspector uses the TDHCA Application Compliance Checklist and issues the Certificate of Compliance once all work is in place and approved. The certificate is required by the Department in order to release retainage.

(3) ~~The Department will~~ ~~may~~ ~~require~~ ~~monitor under this requirement by requiring~~ a copy of all reports from all construction inspections performed for the -lender and/or syndicator for the HTC -Developments. ~~Those reports must indicate that the Department may rely on the reports.~~ The Department may provide those inspectors for the lenders and/or syndicator with required documentation to be completed that will confirm satisfaction of the requirements of this rule.

(4) Third Party Inspections ~~The Applicant must provide the Department with copies of all inspections made throughout the construction of the Development within fifteen days of the date the inspection occurred. In addition, if necessary, based on the level of risk associated with the HTC Development, the Department may inspect or obtain, at the owner's expense, a Third-Party inspection for purposes of monitoring during the construction phase. The Development owner shall, upon request, provide to the Department, or any Third-Party inspector hired by the Department, shall be provided, upon request, any construction documents, plans, or specifications for the Development to perform these inspections. The monitoring level for each Development must be based on the amount of risk associated with the Development.~~ The Department ~~shall use~~ uses the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each Development. Owners of high risk HTC Developments may be required to submit copies of all inspection reports made throughout the construction of the Development within fifteen days of the date the inspection occurred as well as the AIA documents required for non-HTC mid-construction inspections described above. Owners of high risk non-HTC Developments may be required to supplement their mid-construction draw request submittals with inspection reports prepared by an inspector selected and engaged by the owner from the Department's list of approved inspector. Risk factors determined by the

division responsible for credit underwriting involve any change in total construction cost or change in square footage. For non-HTC Developments, such changes are referred to the Department's Real Estate Analysis Division by the section responsible for processing draw requests if the changes are identified during mid-construction. For all multifamily Developments, changes of square footage or changes in the scope of work are referred by the section responsible for construction inspections to the Department's Real Estate Analysis Division and to the Department's Multifamily Finance Production Division if identified at plan review or final inspection. The division responsible for compliance matters determines HTC Developments to be at high risk if the plan reviewer or final inspector evaluates the construction plans and specifications or completed construction work to be low quality as indicated by the reviewer or inspector using the quality evaluation factors in the Application Compliance Checklist. The Portfolio, Management and Compliance Division evaluates risk of non-HTC Developments at the time of draw request or retainage release as low risk if none of the following factors apply, or high risk if four of the following factors apply:

(1a) The Department is the first lien holder;

(2b) The Development is a rehabilitation;

(3c) 90% or more of the award is requested at once (pre-development and/or construction costs);

(4d) Retainage release is requested and no inspection was conducted in the past 6 mos.;

(5e) Borrower/grantee has a known history of non-compliance issues;

(6f) Borrower/grantee has little or no prior development experience;

(7g) The current draw is the first request;

(8h) Reimbursement of stored materials is requested;

(9i) Building plans are evaluated to be of low quality in the plan review;

(10) There is a possible lack of full cooperation from the Development team or there are other unusual circumstances.

(5) After completion of a Development's construction phase, the Department shall periodically review the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. Developments having financing from the United States Department of Agriculture Rural Development (TX-USDA-RHS) will be exempt from these inspections, provided that the Development Owner, upon request, provides to the Department with copies of all inspections made by TX-USDA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred. (§2306.081)

~~_____ (d) On-going mMonitoring. De~~ During the Affordability Period, ~~+~~ The Department will monitor compliance with all representations made by the Development Owner in the Application and in the LURA, whether required by the applicable program rules, regulations, including HOME Final Rule, §42 of the Internal Revenue Code, §142 of the Internal Revenue Code Treasury Regulations or other rulings of the IRS, Community Planning and Development (CPD) Notices and, Chapters 51 and 53 of this title or undertaken by the Development Owner in response to Department requirements or criteria.

_____ (e) Compliance history. Prior to Board approval of any project application, the Portfolio, Management and eCompliance division shall assess the compliance history of the applicant and any affiliate of the applicant with respect to all applicable requirements pursuant to §2306.057 of Texas Government Code. The Portfolio, Management and eCompliance division will provide the Board:

- _____ (1) the compliance history of the applicant and any affiliate of the applicant with respect to all applicable requirements;
- _____ (2) the compliance issues associated with the proposed project;
- _____ (3) a written report regarding the results of the assessments; and
- _____ (4) the board shall fully document and disclose any instances in which the board approves a project application despite any non-compliance associated with the project, applicant, or affiliate.

~~_____ (f) Reserve deposits. The Department will ensure that, for multifamily rental housing developments funded through loans, grants, or tax credit, the owner keeps the rents affordable restricted for low income residents for the longest period that is economically feasible and provides regular maintenance to keep the development sanitary, safe and decent and otherwise complies with the requirements of §2306.186. The Department shall monitor to ensure compliance with this subsection.~~

~~_____ (1) Rental developments that receive financial assistance including low income housing tax credits from the Texas Department of Housing and Community Affairs on or after January 1, 2004, are required to comply with this subsection. Only those rental developments that receive financial assistance including tax credits or where the Department is the first lien lender that contains 25 or more rental units On or after January 1, 2004, all rental developments that:~~

- ~~_____ (A) receive Housing Tax Credits or~~
 - ~~_____ receive financial assistance and contain 25 or more units and have the Department as first lien holder shall comply with this subsection shall and shall deposit annually into a reserve account:~~

~~_____ (Ai) for year 2004 and each subsequent year not less than \$150 per unit for units one to five years old; and old; and~~

_____ (Bii) not less than \$200 per unit for units six or more years old.

_____ (iii) These amounts may be increased annually based on the Consumer _____
_____ Price Index.

_____ (2) With respect to multifamily rental developments, if the reserve fund has not been _____
_____ established by the first lien lender, the Development Owner shall set aside the repair _____
_____ reserves amount as a reserve for capital improvements. The reserve must be established _____
_____ for each unit in the development, regardless of the amount of rent charged for the unit.

_____ (3) The Land Use Restriction Agreement or restrictive covenant between the owner and _____
_____ the Department shall require the owner to begin making annual deposits in the reserve _____
_____ account on the date that occupancy of the multifamily rental housing development _____
_____ stabilizes reaches 90% or the date that permanent financing for the development is _____
_____ completely in place, whichever occurs later, and shall continue until the earliest of the _____
_____ following dates:

_____ (A) the date of any involuntary change in ownership of the development;

_____ (B) the date on which the owner suffers a total casualty loss with respect to the _____
_____ Development or the date on which the Development becomes functionally _____
_____ obsolete, if the Development cannot be or is not restored;

_____ (C) the date on which the Development is demolished;

_____ (D) the date on which the Development ceases to be used as multifamily rental _____
_____ property; or

_____ (E) the end of the affordability period specified in the land use restriction _____
_____ agreement or restrictive covenant.

_____ (4) Beginning with the 11th year after the awarding of any financial assistance including _____
_____ tax credits, the Development Owner of a multifamily rental housing development shall _____
_____ contract for a third party physical needs assessment at appropriate intervals that are _____
_____ consistent with lender requirements with respect to the Development. If the first lien _____
_____ lender does not require a third party physical needs assessment or if the Department is the _____
_____ first lien lender, the Development Owner shall contract with a third party to conduct a _____
_____ physical needs assessment at least once during each five-year period beginning with the _____
_____ 11th year after the awarding of any financial assistance including tax credits. The _____
_____ Development Owner shall submit to the Department copies of the most recent third party _____
_____ physical needs assessment, any response by the Development Owner to the assessment, _____
_____ information on any repairs made in response to the assessment, and information on any _____
_____ necessary changes to the required reserve based on the assessment.

_____ (5) The Department may complete necessary repairs if the Development Owner fails to _____
_____ complete the repairs as required by the third party physical needs assessment. Payment of

~~_____ the repairs must be made directly by the Development Owner or through the reserve _____
_____ account established for the Development.~~

~~_____ (6) If notified of the Development Owner's failure to comply with a local health, safety, _____
_____ or building code, the Department may enter on the property and complete any repairs _____
_____ necessary to correct a violation of that code, as identified in the applicable violation _____
_____ report, and may pay for those repairs through the reserve account established for the _____
_____ Development.~~

~~_____ (7) The duties of the Development Owner of a multifamily rental development cease on _____
_____ the date of a voluntary change in ownership of the Development, but the subsequent _____
_____ owner is subject to the deposit, inspection and notification requirements of paragraphs (1)
_____ - (64) of this subsection.~~

~~_____ (8) The first lien lender shall maintain the reserve account. In the event there is no longer _____
_____ a first lien lender, then paragraphs (1) and (2) of this subsection no longer apply.~~

~~_____ (9) The Department shall adopt rules:
_____ (A) to establish requirement and standards regarding:
_____ (i) for first lien lenders and bank trustees:
_____ (I) maintenance of reserve accounts and reasonable cost of the maintenance;
_____ (II) asset management;
_____ (III) transfer of money in reserve accounts to the Department to fund necessary repairs; and
_____ (IV) oversight of reserve accounts and the provision of financial data and other information to
_____ the Department; and
_____ (ii) for Development Owners, inspections of the multifamily rental housing developments and
_____ identification of necessary repairs, including requirements and standards regarding construction,
_____ rehabilitation, and occupancy that may enable quicker identification of those repairs; and
_____ (B) to identify circumstances in which money in the reserve accounts may:
_____ (i) be used for expense other than necessary repairs, including property taxes or insurance;
_____ (ii) fall below mandatory deposit levels without resulting in Department action;
_____ (iii) define the scope of Department oversight of reserve accounts and the repair process;
_____ (iv) provide the consequences of any failure to make a required deposit, including a definition of
_____ good cause, if any, for a failure to make a required deposit;
_____ (v) specify or create processes and standards to be used by the Department to obtain repair for
_____ developments;
_____ (vi) define for purposes of paragraph (3) of this subsection the date on which occupancy of a
_____ Development is consider to have stabilized and the date on which permanent financing is
_____ considered to be completely in place; and
_____ (vii) provide for appointment of a bond trustee as necessary under this subsection.~~

~~_____ (109) The Department shall assess an administrative penalty on Development Owners _____
_____ who fail to contract for the third part physical needs assessment and make the identified _____
_____ repairs as required by this section. The Department may assess the administrative penalty _____
_____ in the same manner as allowed pursuant to §2306.6023. The penalty is computed by _____
_____ multiplying \$200 by the number of dwelling units in the Development and must be paid _____~~

_____ to the Department.

_____ (1110) This section does not apply to a Development for which an owner is required to _____ maintain a reserve account under any other provision of federal or state law.

_____ (gf) Section 8 voucher holders. The Department will monitor to ensure development owners comply with §1.14 of this title regarding residents receiving rental assistance under Section 8, United States Housing Act of 1937 (42 U.S. C. §143F). (§2306.269 and §2306.6728 of the Texas Government Code)

_____ (hg) Monitoring of compliance. The Department may contract with an independent external third party to monitor a Development during its construction or rehabilitation and during its operation for compliance with any conditions imposed by the Department in connection with funding or other Department oversight including housing tax credits to the Development and appropriate state and federal laws, as required by other state law or by the Board. (§2306.6719 of the Texas Government Code)

_____ (ih) Recordkeeping. All Development Owners- must comply with program recordkeeping requirements. In addition, records including items listed in paragraphs (1) - (12) of this subsection must be kept for each qualified low income rental unit and building in the Development, commencing with lease up activities and continuing on an annual-monthly basis until the end of the affordability period. (~~§2306.072~~) Records must include:

_____ (1) the total number of residential rental units in the Development, including the number _____ of bedrooms;

_____ (2) the move in and move out date of each residential rental unit in the Development;

_____ (3) which residential rental units are low income units and the income level of the _____ residents broken into 30, 40, 50, 60 or 80 percent of the area median income;

_____ (4) the rent charged for each residential rental unit including, with respect to low income _____ units, documentation to support the utility allowance applicable to such unit and any _____ rental assistance received;

_____ (5) the number of occupants in each low income unit;

_____ (6) the low income rental unit vacancies and information that shows when, and to whom, _____ allwhom all available units were rented;

_____ (7) the annual income certification of each tenant of a low income unit, in the form _____ designated by the Department in the Compliance Manual, as may be modified from time _____ to time;

_____ (8) documentation to support each low income tenant's income certification, consistent _____ with the determination of annual income and verification procedures under Section 8 of _____ the United States Housing Act of 1937 ("Section 8");

_____ (9) the total number of units, reported by bedroom size, designed for individuals who are _____ physically challenged or who have special needs and the number of these individuals _____ served annually;

_____ (10) the race and ~~ethnic makeup~~ ethnicity of the residents of each Development;

_____ (11) the number of units occupied ~~by~~ by families or individuals receiving government-_____ supported housing assistance and the type of assistance received; and

_____ (12) any additional information as required by the Department.

_____ (j) Reporting. Each Development shall submit reports as required by the Department. Each Development that receives financial assistance or is that receives financial assistance administered by the Department including Low Income Housing Tax Credits from the Department ~~The FDIC's Affordable Housing Program~~ shall submit the information required under this subsection (i) of this section in the which describes the annual Fair Housing Sponsor Report pursuant to §2306.072 and §2306.0724 of the Texas Government Code. The Department may require this information to be submitted electronically and This information shall be electronically reported in the format prescribed by the Department. Section 1.11 of this title contains procedures regarding filing and penalties for failure to file reports.

_____ (1) Part A, the "Owner's Certification of Program Compliance"; Part B, the "Unit Status _____ Report"; and Part C, "Tenant Services Provided Report" of the Fair Housing Sponsor _____ Report, must be provided to the Department no later than March 1st of each year, _____ reporting data current as of January 1 of each reporting year. Part D, "Owner's Financial _____ Certification", which includes the current audited financial statements, and income and _____ expenses of the Development for the prior year shall be delivered to the Department no _____ later than the last day in April each year, which includes the current audited financial _____ statements, and income and expenses of the Development for the prior year. A Full _____ description of the Fair Housing Sponsor Report is contained in subsection (m) of this _____ section.

_____ (2) The Department maintains a summary of the information reported by the Fair _____ Housing Sponsor Report pursuant to §2306.0724(c) of the Texas Government Code ~~2(6)~~ in electronic and hard-copy _____ formats available at no charge to the public.

_____ (3) Rental developments funded or administered by the Department, including by _____ HOME, Housing Trust Fund, the FDIC's Affordable Housing Program, ~~and~~ ~~and~~ ~~or~~ any other _____ rental programs funded by the Department shall provide tenant information provided on _____ Part B, "Unit Status Report," at least quarterly during lease up and until occupancy _____ requirements are achieved. Once the Department has determined that all occupancy _____ requirements are satisfied, the Development shall submit tenant information the Unit _____ Status Report at least annually and as required by this subsection.

_____ (4) Developments financed by tax exempt bonds issued by the Department shall report _____ quarterly throughout the Qualified Project Period or until released by the Department.

_____ (5) The Department ~~retains the right to~~ requires the all Owners of properties administered _____ by the Department ~~to submit the Unit Status Report tenant data~~ in the electronic format _____ as developed by the Department. The Electronic Compliance Reporting Filing Agreement _____ and the Owner's Designation of Administrator of Accounts forms must be filed with the _____ Department no later than January 31, 2005. Developments that are awarded funds in the _____ future must submit the required forms no later than January 31st of the year following the _____ award. The department will provide general instruction regarding the electronic transfer _____ of data. The Department may at its discretion waive the online reporting requirements. In _____ the absence of a written waiver, all developments are required to submit the Unit Status _____ Report online.

(6) Information regarding housing for persons with disabilities. Owners of state or federally assisted housing developments with 20 or more housing units must report information regarding housing units designed for persons with disabilities pursuant to §2306.078. This information will be reported on the Department's internet site and will include the following:

- (a) the name, if any, of the development;
- (b) the street address of the development;
- (c) the number of housing units in the development that are designed for persons with disabilities and that are available for lease;
- (d) the number of bedrooms in each housing units designed for a person with a disability;
- (e) the special features that characterize each housing unit's suitability for a person with disabilities;
- (f) the rent for each housing unit designed for a person with a disability; and
- (g) the telephone number and name of the development manager or agent to whom inquiries by prospective tenants may be made.

_____ (k) Database. The Department shall create an easily accessible database that contains all Development compliance information developed under this section including Development compliance information provided to the Department by The Texas State Affordable Housing Corporation. (§2306.081)

_____ (l) Information regarding housing for persons with disabilities. The Department shall establish as system that requires owners of state or federally assisted housing developments with 20 or more housing

units to report information regarding housing units designed for persons with disabilities pursuant to §2306.078. The system will allow an owner of a development with at least one housing unit designed for a person with a disability to enter the following information on the Department's Internet site:

- _____ (1) the name, if any of the Development;
- _____ (2) the street address of the Development;
- _____ (3) the number of housing units in the Development that are designed for persons with disabilities and that are available for lease;
- _____ (4) the number of bedrooms in each housing unit designed for a person with a disability;
- _____ (5) the special features that characterize each housing unit's suitability for a person with a disability;
- _____ (6) the rent for each housing unit designed for a person with a disability; and
- _____ (7) the telephone number and name of the Development manager or agent to whom inquiries by prospective tenants may be made. The Department shall solicit the owner's voluntary provision of updated information.

_____ (mkj) Fair Housing Sponsor Report Certification and Review.

_____ (1) On or before February 1st of each year of the affordability period, the Department will send each rental _____ Development Owner a reminder that the Fair Housing Sponsor Report (forms provided by the _____ Department available on the Department's website) to must be completed by the Owner and returned to the Department on or before _____ the first day of March of applicable deadline each year during the Affordability Period. The Department may _____ require some or all of the Fair Housing Sponsor Report to be submitted electronically. _____
_____ The Fair Housing Sponsor Report shall consist of:

- _____ (A) Part A, "Owner's Certification of Program Compliance";
- _____ (B) Part B, "Unit Status Report";
- _____ (C) Part C, "Tenant Services Provided Report"; and
- _____ (D) Part D, "Owner's Financial Certification".

_____ (2) Penalties and sanctions are assessed in accordance ~~to~~ with §1.11(d) of this title for failure _____ to provide the Fair Housing Sponsor Report in part or entirety, including administrative _____ penalties and denial of future requests for Department funding.

_____ (3) Any development for which the Fair Housing Sponsor Report Part A, "Owner _____ Certification of Program Compliance," is not received or is received past due will be _____ considered not in compliance with these rules. If Part A, or is incomplete, improperly _____ completed or not signed by the Development Owner, it will be considered not received _____ and is considered not in compliance with these rules. The Department will report to the _____ IRS via form 8823, Low-Income Housing Credit Agencies Report of noncompliance or _____ Building

Disposition, any Housing Tax Credit development that fails to comply with this _____
_____section. Tax credit Developments will be considered not in compliance with the _____
_____provisions of §42 of the Code and will be reported to the IRS on Form 8823, Low
Income _____ Housing Credit Agencies Report of Non Compliance. The Fair Housing
Sponsor Report _____ Part A shall include at a minimum the following statements
of the Development Owner:

_____ ~~((A))~~ the Development met the minimum set aside test which was
applicable to the _____ Development;

_____ (B) there was no change in the Applicable Fraction or low income
set aside of any _____ building, or if there was such a change, the actual
Applicable Fraction is reported _____ to the Department (~~LHHC~~
HTC only);

_____ (C) the Development Owner has received an annual income
certification from _____ each low income resident and
documentation to support that certification, in the _____ process
manner and form designated required by the Department's Compliance _____
_____ Manual, as may be modified from time to time;

_____ (D) documentation is maintained to support each low income
tenant's income _____ certification, consistent with the
determination of annual income and verification _____ procedures
under Section 8 of the United States Housing Act of 1937 ("Section _____
_____ 8"), notwithstanding any rules to the contrary for the determination of gross _____
_____ income for federal income tax purposes. In the case of a tenant
receiving housing _____ assistance payments under Section 8, the
documentation requirement is satisfied if _____ the public housing authority
provides a statement to the Development Owner _____ declaring that
the tenant's income does not exceed the applicable income limit _____
_____ under the Code, §42(g) as described in the Compliance Manual;

_____ (E) each low income unit in the Development was rent-restricted
under the Land _____ Use Restriction Agreements and applicable
program regulations, including IRC _____ Code, §42(g) (2), 24 CFR
Part 92, and the owner maintained documentation to _____ support
the utility allowance applicable to such unit;

_____ (F) All low income units in the Development are and have been for
use by the _____ general public and used on a non-transient basis
(except for transitional housing _____ for the homeless provided
under §42(i)(3)(B) (iii) of the Code) (~~LHHC-HTC~~ and _____ Bond
only);

_____ (G) No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601 - _____ 3619, has occurred for this Development. A finding of discrimination includes an _____ adverse final decision by the Secretary of HUD, 24 CFR 180.680, an adverse final _____ decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. _____ ~~_____ 3616a(3616a (a)(1), or an adverse judgment from a federal court. In addition a statement _____ as to whether the Development has been notified of a violation of the fair housing _____ law that has been filed with the United States Department of Housing and Urban _____ Development, the Commission on Human Rights (or equivalent agency) or with _____ the United States Department of Justice;~~

_____ (H) each unit or building in the Development is, and has been, suitable for _____ occupancy, taking into account local health, safety, and building codes, and the _____ state or local government unit responsible for making building code inspections _____ did not issue a report of a violation for any building or low income unit in the _____ Development during this reporting period. If a violation report or notice was _____ issued by the governmental unit during this reporting period, the Development _____ Owner must provide the Department with a copy of the violation report or notice. _____ In addition, the Development Owner must state whether the violation has been _____ corrected;

_____ (I) each unit meets conditions set by Housing Quality Standards and an annual _____ inspection to confirm the condition has been ~~performed~~performed if applicable; (HOME _____ only)

_____ (J) there has been no change in the Eligible Basis (as defined by §42(d) of the _____ Code) for any building in the Development since the last certification or, if _____ changes, the nature of the change; (HTC only)

_____ (K) all tenant facilities included in the original application, such as swimming _____ pools, other recreational facilities, washer/dryer hook ups, appliances and parking _____ areas, were provided on a comparable basis ~~without charge~~ to any tenants in the _____ Development.

_____ (L) ~~For tax credit Developments, Residents have not been charged for the _____ certification that the character and use of the any nonresidential portion of the building _____ are that was included in the building's Eligible Basis under the §42(d) of the Internal Revenue Code, §42(d), (e.g. _____ whether tenant facilities are available on a comparable basis to all tenants; _____ whether any fee is charged for use of the facilities; whether facilities are _____ reasonably required by the Development)~~ (LIHTC- HTC only);

_____ (~~LM~~) if a low income unit in the Development became vacant during the year, _____ reasonable attempts were made, or are made, to rent that unit or the next available _____ unit of comparable or smaller size to a qualifying low income household before _____ any other units in the Development were, or will be, rented to non low income _____ households; (~~HTC and tax and tax exempt bonds only~~)

_____ (~~MN~~) if the income of tenants of a low income unit in the Development increased _____ above the appropriate limit allowed, the next available unit of comparable or _____ smaller size was, or will be, rented to residents having a qualifying income;

_____ (~~NO~~) a LURA including an Extended Low Income Housing Commitment as _____ described in §42(h)(6) of the Internal Revenue Code, §42(h)(6), was in effect for buildings subject to _____ §7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, _____ 2308 - 2311, including the requirement under §42(h)(6)(B)(iv) of the Internal Revenue Code, §42(h)(6)(B)(iv), that a _____ Development Owner cannot refuse to lease a unit in the Development to an _____ applicant because the applicant holds a voucher or certificate of eligibility under _____ Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f (for _____ buildings subject to §1314c(b)(4) of the Omnibus Budget Reconciliation Act of _____ 1993, 107 Stat. 312, 438 - 439) (~~LHHC- HTC~~ only);

_____ (~~OP~~) the Development Owner has not been notified by the IRS that the _____ Development is no longer "a qualified low income housing Development" within _____ the meaning of §42 of the Internal Revenue Code, §42; (~~HTC only~~)

_____ (~~PQ~~) if the Development Owner is required to be a received its Housing Credit _____ Allocation from the portion of the state ceiling set aside for developments _____ involving Qualified Nonprofit Organizations under §42(h)(5) of the Internal Revenue Code, §42(h)(5), that a _____ Qualified Nonprofit Organization owned an interest in and materially participated _____ in the operation of the Development within the meaning under §469(h) of the Internal Revenue Code, §469(h), _____ (~~LHHC- HTC~~ only);

_____ (~~QR~~) no low income units in the Development were occupied by ineligible full _____ time student households; (~~HTC and tax exempt bonds only~~)

_____ (~~RS~~) no change in the ownership of ~~a~~ the Development has occurred during the _____ reporting period or changes and transfers were or are reported;

_____ (~~ST~~) the Development met all representations of the Development Owner in the _____ Application and complied with all terms and conditions which were recorded in _____ the LURA;

_____ (~~TU~~) the Development has made all required lender deposits, including annual _____ reserve deposits;

_____ (~~UV~~) the street address and municipality or county in which the Development is _____ located;

_____ (~~VW~~) the telephone number of the property management or leasing agent;

~~(_____ (W) a statement as to whether the Development has any instance of material _____ non-compliance with bond indentures or deed restrictions including meeting _____ occupancy requirements or rent restrictions imposed by deed restriction or _____ financing agreements; and~~

_____ (~~XYX~~) any additional information as required by the Department.

_____ (4) Review. Department staff will review Part A of the Fair Housing Sponsor Report for _____ compliance with the requirements of the appropriate program including ~~§42~~ the Internal Revenue -Code ~~§42~~.

_____ (~~nlk~~) Record retention provisions. Each Development that is administered by the received assistance from the Department including ~~Low Income Housing Tax Credits~~ the FDIC's Affordable Housing Program is required to retain the records as required by the specific funding program rules and regulations. In general, retention schedules include but are not limited to the provision of paragraphs (1) - (4) of this subsection;

_____ (1) ~~Low Income~~ Housing Tax Credits records, as described in subsection (~~rh~~) of this _____ section, must be retained for at least six years after the due date (with extensions) for _____ filing the federal income tax return for that year; however, the records for the first year of _____ the Credit Period must be retained for at least six years beyond the due date (with _____ extensions) for filing the federal income tax return for the last year of the Compliance _____ Period of the building.

_____ (2) Retention of records for HOME rental developments must comply with the provisions _____ of 24 CFR 92.508 (c), which generally requires retention of rental housing records for _____ five years after the affordability period terminates.

_____ (3) ~~Retention of records for~~ Housing Trust Fund rental developments ~~pertaining to must _____ retain~~ tenant files ~~must be retained~~ for at least three years beyond the date the tenant _____ moves from the development. Records pertinent to the funding of the award, including _____ but not limited to the application, project costs and documentation, must be retained for at _____ least five years after the affordability period terminates.

_____ (4) Other rental Developments funded or administered in whole or in part by the Department must comply with record retention requirements as required by rule or deed restriction.

_____ (~~oml~~) Inspection provision. The Department retains the right to perform an on-site inspection of any low income Development, and review and photocopy including all books documents and records pertaining thereto supporting compliance with Departmental programs, through ~~either~~ the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later.

_____ (1) The Department will perform on-site inspections and file reviews of each low income _____ Development. The Department will conduct the first a review of Low Income Housing _____ Tax Credit Developmentss by the end of the second calendar year following the year the _____ last building in the Development is placed in service. The Department will schedule a the _____ first review of all other Developments as leasing commences. Subsequent reviews will _____ occur at least once every three years during the compliance period. The Department will _____ monitor at least 2015% of the low income units resident files in each Development, _____ inspect the units and review the low income certifications, the documentation the _____ Development Owner has received to support the certifications, the rent records for each _____ low income tenant in those units, and any additional information that the Department _____ deems necessary. The Department will also conduct a physical inspection of the _____ Development including the exterior of the property, property amenities and an interior _____ inspection of a sample of units.

~~-(2) During the affordability period, at least once every three years, the Department will conduct on-site inspections and file reviews of each Development and, for at least 15% or more of the development's low income units, inspect the units and review the low income certifications, the documentation supporting the certifications, the rent records for the tenants in those units and any additional information that the Department deems necessary.~~

_____ (~~32~~) The Department may, at the time and in the form designated by the Department, _____ require the Development Owners to submit, for compliance review, information on tenant _____ income and rent for each low income unit and may require a Development Owner to _____ submit, for compliance review, copies of the tenant files, including copies of the income _____ certification, the documentation the

Development Owner has received to support that _____ certification, and the rent record for any low income tenant.

_____(43) The Department will ~~randomly~~ select ~~which the~~ low income units and tenant _____ records ~~that are are~~ to be inspected and reviewed. ~~The review of the tenant records may be _____ undertaken wherever the Development owner maintains or stores the records if located _____ within the state of Texas.~~ Original records are required for review. ~~The Department will _____ not~~ Units and tenant records to be inspected and reviewed will be selected in a manner _____ that will not give Development Owners advance notice that a particular unit, and tenant _____ records ~~for or~~ a particular year will ~~or will not~~ be inspected or reviewed. However, the _____ Department will give reasonable notice to the Development Owner that an on-site _____ inspection or a tenant record review will occur, so that the Development Owner may _____ notify tenants of the inspection or assemble original tenant records for review.

_____(54) The Department will conduct a limited inspection ~~to determine for~~ compliance with _____ accessibility requirements under the Fair Housing Act or Section 504, ~~of the~~ Rehabilitation Act _____ of 1973. If determined necessary the Department may ~~make referrals to appropriate _____ federal and state agencies or~~ order third-party inspections ~~to be paid for by the _____ Development owner.~~ ~~and make referrals to appropriate federal and state agencies.~~

_____(65) Exception:- The Department may, at its discretion, enter into a Memorandum of _____ Understanding with the United States Department of Agriculture Rural Development _____ (TX-USDA-RHS), whereby the TX-USDA-RHS agrees to provide to the Department _____ information concerning the income and rent of the tenants in buildings financed ~~by the _____ TX-USDA-RHS~~ under its §515 program. Owners of such buildings may be exempted _____ from the inspection provisions, however, if the information provided by TX-USDA-RHS _____ is not sufficient for the Department to make a determination that the income limitation _____ and rent restrictions are met, the Development Owner must provide the Department with _____ additional information or the Department will inspect according to the provisions _____ contained herein. TX-USDA-RHS Developments satisfy the definition of Qualified _____ Elderly Development if they meet the definition for elderly used by TX-USDA-RHS, _____ which includes persons with disabilities.

_____(pnm) Inspection Standard. ~~For the on-site inspections of developments and low income units, -~~ To determine compliance with property condition standards the Department shall review any local health, safety, or building code violation ~~s reported reports to,~~ or notices ~~of such violations retained by,~~ the Development Owner, under subsection (m)(3)(H) of this section, and determine whether the units satisfy local health, safety, and building codes or the uniform physical condition standards for public housing established by HUD (24 CFR 5.703) or Housing Quality Standards. The HUD physical

~~condition standards do not supersede or preempt local health, safety and building codes.~~ In the absence of local health, safety and building code violation reports ~~or~~ and if deemed necessary by the Department, inspections by third-party inspectors ~~or local government entities will~~ may be requested and will be relied upon to determine compliance with property condition standards. In addition to the review of any local health, safety or building code violation reports, the Department may conduct inspections of the units using the Housing Quality Standards and may use those standards to determine compliance with property condition standards. Developments must ~~continue to satisfy these codes and~~ maintain property condition standards throughout the affordability period. Housing Tax Credit Developments that fail to copy-comply with local codes ~~or the uniform physical condition standards~~ must be reported to the IRS.

_____ (~~qon~~) Notices to Owner. The Department will provide prompt written notice to the Development Owner if the Department does not receive the Fair Housing Sponsor Report or discovers through audit, inspection, review or any other manner that the Development is not in compliance with the provisions of the deed restrictions, conditions imposed by the Department, or program rules and regulations including §42. The notice will specify a correction period which will not exceed 90 days from the date of notice to the Development Owner, during which the Development Owner may respond to the Department's findings, bring the Development into compliance, or supply any missing documentation or certifications. The Department may extend the correction period for up to six months from the date of the notice to the Development Owner if it determines there is good cause for granting an extension. If any communication to the Development Owner under this section is returned to the Department as refused, unclaimed or undeliverable, the Development may be considered not in compliance without further notice to the Development Owner. The Development Owner is responsible ~~to provide for providing~~ the Department with current contact information including address and phone number.

_____ (~~rpo~~) Notice to the IRS. (~~Low Income~~ Housing Tax Credit Developments only)

_____ (1) Regardless of whether the non-compliance is corrected, the Department is required to _____ file IRS Form 8823 with the IRS. IRS Form 8823 will be filed not later than 45 days after _____ the end of the correction period specified in the Notice to Owner (including any _____ extensions permitted by the Department), but will not be filed before the end of the _____ correction period. The Department will ~~explain~~ indicate on IRS Form 8823 the nature of _____ the non-compliance and will indicate whether the Development Owner has corrected the _____ non-compliance.

_____ (2) If a particular instance of non-compliance is not corrected within three years after the _____ end of the permitted correction period, the Department is not required to report any _____ subsequent correction to the IRS.

_____ (3) The Department will retain records of non-compliance or failure to certify for six _____ years beyond the Department's filing of the respective IRS Form 8823. ~~In all other cases,~~ _____ Tthe Department will retain the Fair Housing Sponsor

Reports and records certification _____ and reports for three years from the end of the calendar year the Department receives the _____ certifications and records.

_____(4) The Department will send the Owner of Record copies of any 8823s submitted to the _____ IRS. Copies of 8823s will be submitted to the syndicator for Developments awarded tax _____ credits after January 1, 2004. The Development owner is responsible for providing the _____ name and mailing address of the syndicator.

_____(~~seq~~) Notices to the Department. If any of the events in paragraphs (1) through (6) occur, written notice must be provided within the timeframes listed below:-:A Development Owner must provide information to the Department for events listed in paragraphs (1)– (5) of this subsection and must notify the division responsible for compliance in writing:

_____(1) ~~prior to a~~Any sale, transfer, exchange, or renaming of the Development or any portion of the -Development. Notification must be provided at least 30 days prior to this event. For Rural _____ Developments that are federally assisted or purchased from HUD, the Department shall not _____ authorize the sale of any portion of the Development. Any transfers of ownership must follow procedures as required by the Department (§2306.852 of the Texas Government Code);

_____(2) The mailing address of the owner changes. Notification must be provided within 30 days of _____ the address change.
of any change of address to which subsequent notices or communications shall be sent;

_____(3) The last building in the Development is placed in service. Notification must be provided _____ within 30 days of the placement in service of the last building. ~~within thirty days of the placement in service of each _____ building, the Department must be provided the in service date of each building (LIHTC-HTC _____ only);~~

_____(4) ~~if t~~The Development suffers in whole or in part ~~has suffered~~ a casualty loss. Notification must _____ be provided within 30 days following the event of loss, ~~and when the loss occurs;~~ and

_____(5) ~~within thirty days of e~~Commencement of leasing activity. Notification must be provided within 30 days following the commencement of leasing activities. In addition, Owners of Tax Exempt Bond Developments shall notify the Department of the date 10 percent of the units are occupied and the date 50 percent of the units are occupied within 90 days of such dates.

(6) Request for a Land Use Restriction Agreement. Request for a LURA must be provided no later than September 1st of the calendar year in which the owner intends to have it recorded. A

request for a LURA received after September 1st may not be processed by the Department in the same calendar year.

(~~trq~~) Utility allowances.

_____ (1) The Department will monitor to determine if Housing Tax Credit and Tax Exempt _____ bond properties comply with published rent limits, which include an allowance for _____ utilities. If residents are responsible for some or all utilities, Development owners must _____ use a Utility Allowance that complies with Section 1.42-10 of the Internal Revenue Code. _____ whether rents comply with the published rent limits using the utility allowances _____ established by the local housing authority or approved by the Department. If there is _____ more than one entity (Section 8 administrator, public housing authority) responsible for _____ setting the utility allowance(s) in the area of the Development location, then the Utility _____ Allowance selected must be the one which most closely reflects the actual utility costs in _____ that Development area. In this case, documentation from the local utility provider _____ supporting the selection must be provided.

_____ (2) The Department will monitor to determine if HOME and Housing Trust Fund - _____ Developments comply with published rent limits, which include an allowance for _____ utilities. Unless otherwise approved by the Department, HOME and Housing Trust Fund _____ Developments must use the utility allowance established by the applicable housing _____ authority. Changes in utility allowances must be implemented on the published effective _____ date.

(~~usr~~) Material Non-Compliance. In accordance with the Low Income Tax Credit QAP and Department Notices of Funding Availability (NOFAs), the Department will disqualify an Application for funding if the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor that is active in the Ownership or Control of one or more other low income rental housing properties located in or outside the State of Texas is determined by the Department to be in Material Non-Compliance on the date the Application Round closes. The Department will classify a Housing Tax Credit property as being in Material Non-Compliance when such property has a Non-Compliance score that is equal to or exceeds 30 points in accordance with the methodology and point system set forth in this subsection, or, if the Housing Tax Credit property is located outside the state of Texas, and non-compliance is reported to the Department that would equal or exceed a non-compliance score of 30 points if measured in accordance with the methodology and point system set forth in this subsection. Non Housing Tax Credit developments monitored by the Department with 1 to 50 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds 30 points. Non Housing Tax Credit developments monitored by the Department with 51 to 200 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds 120 points. Non Housing Tax Credit developments monitored by the Department with 201 or more low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds 150 points. Developments with more than one program administered by the Department will be scored by program. The Development will be considered in material noncompliance if the score for any program is equal to or exceeds the material noncompliance score for that program. The Department may take into consideration the

representations of the Applicant regarding compliance violations, however, the records of the Department are controlling.

_____ (1) Each property that ~~has received an allocation from~~ is administered by the Department _____ will be scored according to the type and number of non-compliance events as it relates to _____ the ~~Low Income~~ Housing Tax Credit Program or other Department programs. All _____ Developments regardless of status that ~~have received an allocation are or have been~~ _____ administered by the Department are scored even if the project no longer actively _____ participates in the program. Unless otherwise specified below, Under the ~~Low Income~~ _____ Housing Tax Credit program, non-compliance events issued on Form 8823 are assigned _____ point values. For other programs ~~monitored-administered~~ by the Department, unless _____ otherwise specified below, non-compliance events identified during on-site monitoring _____ reviews are assigned point values.

_____ (2) Uncorrected non-compliance will carry the maximum number of points until the non-_____ compliance event has been reported corrected by the Department. Once reported, _____ corrected by the Department, the score will be reduced to the "corrected value." Corrected _____ non-compliance will no longer be included in the Development score three years after the _____ date the non-compliance was reported corrected by the Department.

_____ ~~(AA)~~ (A) Under the Low Income Housing Tax Credit Program, non-compliance events _____ that occurred and were identified by the Department through the issuance of the _____ IRS Form 8823 prior to January 1, 1998, are assigned corrected point values to _____ each non-compliance event. The score for these events will no longer be included _____ in the Development's score three years after the date the Form 8823 was executed.

_____ (B) The score in effect on the date the Housing Tax Credit program application _____ round closes or the date of the filing of Volume I of the application for a Tax Exempt Bond Development will determine if any rental development disclosed on previous _____ participation forms is in material noncompliance. For applications submitted for _____ funding, a non-compliance report will be run by the Department's Compliance _____ Division, for any rental developments disclosed on the Previous Participation _____ Forms, on the date the Low Income Housing Tax Credit Program Application _____ Round closes.

_____ (C) Any corrective action documentation affecting this the compliance status _____ score must be received by the Department two weeks thirty days prior to the date _____ the Low Income

Housing Tax Credit Program Application Round closes or thirty days prior to the submission of Volume I of the application for a Tax Exempt Bond Development.

_____ (3) Events of non-compliance are categorized as either "development events" or _____ "unit/building events." Development events of non-compliance affect some or all the _____ buildings in the property; however, the property will receive only one score for the event _____ rather than a score for each building. Other types of non-compliance are identified _____ individually by unit. This type of non-compliance will receive the appropriate score for _____ each unit cited with an event. The unit scores and the development scores accumulate _____ towards the total score of the Development. Violations on under the Low Income _____ Housing Tax Credit program Developments are identified by unit; however, the building _____ is scored rather than the unit, and the building will receive the non-compliance score if _____ one or all the units are in non-compliance.

~~Development and unit events affect _____ applications of Development Team Members participating in a subsequent year _____ allocation.~~

_____ (4) Each type of non-compliance is assigned a point value. The point value for non-_____ compliance is reduced upon correction of the non-compliance. The scoring point system _____ and values are as described in subparagraphs (A) and (B) of this paragraph. The point _____ system weighs certain types of non-compliance more heavily than others; therefore _____ certain non-compliance events carry a sufficient number of points to automatically place _____ the property in Material Non-Compliance. However other types of non-compliance by _____ themselves do not warrant the classification of Material Non-Compliance. Multiple _____ occurrences of these types of non-compliance events may produce enough points to cause _____ the property to be in Material Non-Compliance. For purposes of these scores, the terms _____ "uncorrected" and "corrected" refer to actions taken subsequent to notification of non- _____ compliance by the Department.

(A) Development Non-Compliance items are identified in clauses (i) _____ _____ (xxiv-xxvii) of this subparagraph.

_____ (i) Major property condition violations. As determined by the _____ Department, tThe project displays major violations of health, safety and _____ building codes, or the property does not satisfy the uniform physical _____ condition standards. Uncorrected is equal to the material noncompliance status score as defined in Section (b) (7) of these rules. 30 points. Corrected is 20 points.

_____ (ii) Owner refused to lease to a holder of rental assistance _____ certificate/voucher because of the status of the prospective tenant as such a _____ holder. Uncorrected is equal to the material noncompliance status score as defined in Section (b)(7) of these rules. ~~30 points.~~ Corrected is 10 points.

_____ (iii) Development is not available to general public. Determination of _____ violation under the Fair Housing Act. Uncorrected is equal to the material _____ noncompliance status score as defined in Section (b)(7) of these rules. ~~30 _____ points.~~ Corrected is 10 points.

_____ (iv) Development is out of compliance and never expected to comply. _____ Uncorrected is equal to the material noncompliance status score as defined _____ in Section (b)(7) of these rules. ~~30 points.~~

_____ (v) Development is completed without a threshold amenity or an amenity _____ for which points were received without seeking and receiving consent for _____ an acceptable substitution from the Department. Uncorrected is ~~30 points.~~ _____ Acceptable substitution after violation is 10 points.

_____ (v) Owner failed to pay fees or allow on-site monitoring review. Points _____ will be assigned to this event after written notification to the Development _____ owner. Uncorrected is equal to the material noncompliance status score as _____ defined in Section (b)(7) of these rules. Corrected is 5 points.

_____ (vi) LURA not in effect. The LURA was not executed within the required _____ time period. This event will be assigned points upon written notification to _____ the owner. Uncorrected is equal to the material noncompliance status _____ score as defined in Section (b)(7) of these rules. Corrected is 5 points.

_____ (vi) Development is not completed by due date of the cost certification _____ documentation. _____ ~~25 points.~~

_____ (vii) Developments awarded Housing tax Tax eCredits January 1, 2004, _____ or later, that are foreclosed by a lender, or the General Partner is removed _____ by a syndicator due to reasons other than market conditions. Points _____ associated with a foreclosure will be assigned at the

time the 8823 is sent _____ to the IRS. Points associated with the removal of the General Partner will _____ be assigned upon written notification to the former General Partner. 25 _____ points.

_____ (~~viii~~viii) Development failed to meet minimum low-income occupancy _____ levels. Development failed to meet required minimum low-income _____ occupancy levels of 20/50 (20% of the units occupied by tenants with _____ household incomes of less than or equal to 50% of Area Median Gross _____ Income) or 40/60. Uncorrected is 20 points. Corrected is 10 points. _____ (~~LHHC~~HTC and BOND only)

_____ (~~ix~~ix) No evidence of, or failure to certify to, non-profit material _____ participation for Owner having received an allocation from the Nonprofit _____ Set-Aside. Uncorrected is 10 points. Corrected is 3 points.

_____ (~~x~~x) The Development failed to meet additional State required rent and _____ occupancy restrictions. The LURA requires the Development to _____ lease units to low income households at multiple income and rent tiers. _____ This event refers to the condition when the lower tiers are not satisfied. _____ Development has failed to meet state restrictions, if any, that exist in _____ addition to the federal requirements. Uncorrected is 10 points. Corrected is _____ 3 points.

_____ (xi) The Development failed to provide required supportive services as _____ promised at Application. Uncorrected is 10 points. Corrected is 3 points.

_____ ((xii) The Development failed to provide housing to the elderly as _____ promised at Application. Uncorrected is 10 points. Corrected is 3 points.

_____ (~~xiii~~xiii) Failure to provide special needs housing. Development has failed _____ to provide housing for tenants with special needs as promised at _____ Application. Uncorrected is 10 points. Corrected is 3 points.

_____ (~~xiv~~xiv) The Development Owner failed to provide required annual _____ notification to local

administering agency for the Section 8 program. _____
_____Uncorrected is 5 points. Corrected is 2 points.

_____ (xv) Changes in Eligible Basis. Changes occur
when common areas _____ become commercial, fees are
charged for facilities, etc. Uncorrected is 10 _____ points.
Corrected is 3 points. (~~LIHTC- HTC~~ Development only) ~~and scored~~ _____
_____ by project)

_____ (xvi) Owner failed to post Fair Housing Logo
and/or poster in leasing _____ offices. Uncorrected
is 3 points. Corrected is 1 point.

_____ (xvii) LURA not in effect. The LURA was not executed within the _____
_____ required time period. Uncorrected is 10 points. Corrected is 3 points. _____
_____ (LIHTC only)

_____ (xviii) Owner failed to pay fees or allow on-site monitoring _____
_____ review. Uncorrected is 3 points. Corrected is 1 point.

_____ (xix ~~xviii~~ xvii) Failure to submit part or all of the Fair Housing Sponsor _____
_____ Report _____ or failure to submit any other annual,
monthly, or quarterly report _____ required by the
Department. Uncorrected is 10 points. Corrected is 3 _____
_____ points.

_____ (~~xxix~~ xviii) Owner failed to make available or
maintain management plan _____ with required
language as required under §1.14 of this title. Uncorrected is _____
_____ 3 points. Corrected is 1 point.

_____ (~~xxix~~ xiv) Owner failed to approve and distribute
Affirmative Marketing Plan _____ as required under
§1.14 of this title. Uncorrected is 3 points. Corrected is 1 _____
_____ point.

_____ (xx) ~~iii~~ Pattern of minor property condition
violations. Development _____ displays a pattern of
property violations; however, those violations do not _____
_____ impair essential services and safeguards for tenants. Uncorrected is 5 _____
_____ points. Corrected is 2 points.

_____ (~~xxiii~~ ~~ixxi~~) Development failed to comply with requirements limiting _____ minimum income standards for Section 8 residents. Complaints verified _____ by the Department regarding violations of the income standard which _____ cause exclusion from admission of Section 8 resident(s) results in a _____ violation. Uncorrected score 10 points. Corrected 3 points.

_____ (~~xxiv~~ ~~ii~~) Owner defaults on payments of Department loans for a period _____ exceeding 90 days. Points will be assigned under this event after written _____ notice to the Development Owner. Uncorrected is equal to the material _____ noncompliance status score as defined in Section (b) ~~(7)~~ (7) of these rules. _____ Corrected is 10 points. One point for each succeeding month of default up _____ to 20 points.

_____ (~~xxiii~~) Utility allowance not calculated properly. Uncorrected 3 points, _____ Corrected 1 point.

_____ (~~xxiv~~) Failure to comply with the Next Available Qualifying Unit Rule. _____ Uncorrected 3 points. Corrected 1 point.

_____ (~~xxv~~ ~~ii~~) Owner failed to execute required lease provisions or exclude _____ prohibited lease language. Uncorrected 3 points. Corrected 1 point (All _____ programs, except Housing Tax Credits)

_____ (~~xxvi~~ ~~ii~~) Failure to provide annual Housing Quality Standards inspection. _____ Uncorrected 10 points. Corrected 3 points. (HOME Only)

(xxvii) Development has failed to establish and maintain a reserve account in accordance with Section 1.37 of the Texas Administrative code. Points will be assigned under this event after written notice to the Development Owner. Uncorrected is equal to the material noncompliance status score as defined in Section (b) (7) of these rules. Corrected is 10 points.

_____ (B) Unit Non-Compliance items are identified in clauses (i) - (x) of this _____ subparagraph.

_____ (i) Unit not leased to Low Income Household. Development has units that _____ are leased to households whose income was above the income limit upon _____ initial occupancy. Uncorrected is 3 points. Corrected is 1 point

_____ (ii) Low-income units occupied by nonqualified full-time students. _____ Uncorrected is 3 points. Corrected is 1 point. (~~LHHC- HTC~~ and Bond _____ only)

_____ (iii) Low income units used on transient basis. Uncorrected is 3 points. _____ Corrected is 1 point. (~~LHHC- HTC~~ and Bond only)

_____ (iv) Household income increased above the recertification limit and _____ available Unit was rented to market tenant. Uncorrected is 3 points. _____ Corrected is 1 point.

_____ (v) Gross rent exceeds ~~rent the highest rent allowed under the LURA~~ _____ or other deed ~~restriction~~ ~~restriction~~ limit. _____ Uncorrected is 3 points. Corrected is 1 point.

_____ (vi) ~~Utility allowance not calculated properly.~~ Uncorrected is 3 points. _____ Corrected is 1 point.

_____ (vi) Failure to maintain or provide tenant income certification and _____ documentation. Uncorrected is 3 points. Corrected is 1 point.

_____ (vii) Casualty loss. Units not available for occupancy due to natural _____ disaster or hazard due to no fault of the Owner. This carries no point _____ value. Casualty losses are reported to the IRS on ~~LHHC- HTC~~ _____ Developments.

_____ (~~ixviii~~) When a low income Unit became vacant, owner failed to lease (or _____ make reasonable efforts to lease) to a low income household before any _____ units were rented to tenants not having a qualifying income. Uncorrected 3 _____ points. Corrected 1 point.

_____ (ix) Unit not available for rent. Unit is used for non-residential purposes _____ excluding unavailable Units due to casualty and manager-occupied Units. _____
_____ Uncorrected is 3 points. Corrected is 1 point.

_____ (xi) Qualifying unit designation removed from household. Uncorrected 3 _____ points. Corrected 1 point. (FDIC's Affordable Housing Program only)

(s) Alternative Dispute Resolution Policy. In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time an applicant or other person would like to engage the Department in an ADR process, the person may send a proposal to the Department's Dispute Resolution Coordinator (fax: (512) 475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.

_____ (vtt) Liability. Compliance with the program requirements including compliance with the Code, §42 is the sole responsibility of the Development owner. By monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Development Owner including the Development Owner's non-compliance with §42 the Internal Revenue Code, ~~§42~~.

_____ (wuu) Applicability to all programs. These provisions apply to all Developments administered by the for which the Department has provided funding including the FDIC's Affordable Housing Program low income housing tax credits.

AUDIT COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
State Capitol Extension Auditorium, 1100 Congress, Austin, Texas 78701
Thursday, August 19, 2004 8:00 am

AGENDA

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

Shadrick Bogany, Chair

PUBLIC COMMENT

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Committee.

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

ACTION ITEMS

Item 1 Presentation, Discussion and Possible Approval of Minutes of Audit Committee Meeting of May 12, 2004 Shadrick Bogany

REPORT ITEMS

Item 2 Discussion of HUD Annual Assessment for Program Year 2003 David Gaines

Item 3 SAO Audit Report on Compliance with Benefits Proportional by Fund Requirements in Fiscal Years 2002 and 2003 David Gaines

Item 4 Comptroller of Public Accounts Post-Payment Audit of Certain Disbursement Transaction Types David Gaines

Item 5 Status of Prior Audit Issues David Gaines

Item 6 Status of Internal/External Audits David Gaines

Item 7 Status of Central Database David Gaines

EXECUTIVE SESSION

Shadrick Bogany

If permitted by law, the Committee may discuss any item listed on this agenda in Executive Session
Personnel Matters – Discussion Under Sec. 551.074, Texas Government Code of Performance Evaluation for Internal Auditor

OPEN SESSION

Shadrick Bogany

Action in Open Session on Items Discussed in Executive Session
Personnel Matters – Discussion and Possible Approval of Performance Evaluation for Internal Auditor

ADJOURN

Shadrick Bogany

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

AUDIT COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
507 Sabine Street, Room 437, Austin, Texas 78701
May 12, 2004 6:00 p.m.

Summary of Minutes

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

The Audit Committee Meeting of the Texas Department of Housing and Community Affairs of May 12, 2004 was called to order by Chair Shad Bogany at 6:20 p.m. It was held at the Texas Department of Housing and Community Affairs Boardroom, Austin, Texas. Norberto Salinas was absent. Roll call certified a quorum was present.

Members present:

Shad Bogany – Chair

Patrick Gordon – Member

Vidal Gonzalez, Board Member, also was in attendance.

Staff of the Texas Department of Housing and Community Affairs was also present.

PUBLIC COMMENT

The Committee will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the Department staff and motions made by the Committee.

Mr. Bogany called for public comment and no one wished to give comments.

ACTION ITEMS

(1) Presentation, Discussion and Possible Approval of Minutes of Audit Committee Meeting of March 11, 2004.

Motion made by Patrick Gordon and seconded by Shad Bogany to approve the minutes of the March 11, 2004 Audit Committee Meeting.

Passed Unanimously

REPORT ITEMS

KPMG FY 2003 Statewide Federal Single Audit Report

Mr. David Gaines, Internal Auditor, stated the statewide federal single audit is required by federal regulations. Non-federal entities that expend more than \$500,000 in federal funds are subject to the audit and the non-federal entity for the State of Texas as defined for this audit is the State of Texas. This audit of the state was conducted by KPMG that contracted with the State Auditors Office to perform the audit.

The auditors select the programs and agencies for audits based on federal dollars expended during the audit period and based on risk. The program selected for TDHCA included the Section 8 Housing Choice Voucher Program, HOME Investment Partnership Program and the Low Income Home Energy Assistance Program. There were eleven findings as a result of this audit. Seven were related to Section 8, one to the HOME program and three to the multiple programs that involved the accounting division and the allowable cost principles. Of these eleven findings, management has reported that 9 have been fully resolved.

One of the two remaining open is relating to the implementation of the Family Self-Sufficiency Program and since this is a separate agenda item, it was handled later in the meeting. The other

issue relates to the department's indirect cost rate used during the 2003 period. This occurred due to Health & Human Services the department's federal cognitive agency that approves these rates ceased being the department's contact, and a new rate was not obtained or approved by the new cognitive agency, which was HUD.

Status of Prior Audit Issues

Mr. Gaines stated that of the 7 issues listed that 3 of them are being reported by management as fully resolved or implemented. Of the other 4, one relates to the Family Self-Sufficiency Program. HUD has requested additional information on the monitoring of sub-recipients under the HOME Program.

Section 8 Family Self Sufficiency Program

Mr. Eddie Fariss, Director of Community Affairs, stated there are several items need to be developed and agreed upon as the department works with service providers and the Brazoria County welfare department. The department had to realign some responsibilities in the Section 8 area to free up someone to assume the role of Family Self Sufficiency Coordinator as this will require negotiating with service providers and the Brazoria County Welfare Department. The coordinator will have to be trained and the department has to develop the marketing materials which will go to the voucher holders in Brazoria County. There will be a program coordinating committee working with Section 8 voucher recipient families. Meetings will be held with the different families who hold these vouchers and TDHCA will also work with the Department of Human Services to develop a survival skills course which is a requirement of the Family Self Sufficiency Program. The Family Self Sufficiency Plan that was submitted to HUD was based on the cooperation participation with the Brazoria County Welfare Department. Since this plan was approved by HUD, Brazoria County has been certified by HUD as a public housing agency. The department is conducting an impact study to see how this will impact the Family Self Sufficiency Plan. Brazoria County administers 603 of the total 2,100 vouchers that TDHCA handles.

Status of Central Database

Mr. Gaines stated the compliance monitoring and tracking system and the contract system have moved into production and are now completed and accomplished. External users of CMTS, the business partners, have been generally receptive to the CMTS contract management tracking system. He stated the database project is moving along but the consultant who designed the product will no longer be under contract when the full implementation takes place. The committee asked the Department to determine if the consultant could stay for a longer period of time.

EXECUTIVE SESSION

If permitted by law, the Committee may discuss any item listed on this agenda in Executive Session

Personnel Matters – Discussion Under Sec. 551.074, Texas Government Code of Performance Evaluation for Internal Auditor

The Audit Committee went into Executive Session at 7:00 pm and returned to Open Session at 7:52 p.m.

Mr. Bogany stated that the Committee will go into Executive Session at 7:00 and the committee will discuss some executive matters in regards to personnel matters under Section 55.1074.

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

Mr. Bogany stated the Audit Committee has completed its executive session was properly authorized pursuant to Sec. 551.044 of the Texas Government Code and that all members of the committee were present with the exception of Norberto Salinas and this is a true and correct record of the proceeding pursuant to the Texas Open Meetings

Act, Chapter 551, Texas Government Code.

ADJOURN

Motion made by Patrick Gordon and seconded by Shadrick Bogany to adjourn.
Passed Unanimously

The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Board Secretary

p:dg/auminmay



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office, Region VI
Office of Community Planning and Development
801 Cherry Street, PO Box 2905
Fort Worth, TX 76113-2905
www.hud.gov

JUL 1 2004

Edwina Carrington, Executive Director
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711-3941

Dear Ms. Carrington:

SUBJECT: Annual Assessment for Program Year 2003, State of Texas

HUD is required to conduct an annual review of performance by grant recipients according to the provisions of the Housing and Community Development Act and the National Affordable Housing Act. We must determine that each recipient is in compliance with the statutes and has the continuing capacity to implement and administer the programs for which assistance is received. This is to report the results of our review of the State of Texas' performance in the Community Development Block Grant (CDBG), HOME Investment Partnerships Act (HOME), Emergency Shelter Grant (ESG) and Housing Opportunities for Persons with AIDS (HOPWA) programs.

Report

Our review is based on an evaluation of your consolidated planning process and progress in carrying out the programs, the management of funds by the state and your recipients, the annual performance report, and your achievement of program objectives.

We congratulate you on the state's accomplishments during the past year and your performance in the following areas.

Timeliness in Expenditure of CDBG funds: The State of Texas continued an acceptable CDBG expenditure rate and letter of credit drawdown ratio during its 2003 program year. This trend has continued for the last several program years according to HUD drawdown data that are reviewed each year as of January 31, the end of the state's program year. The state's performance in this area is the result of continuing initiatives that encourage its recipients to expend funds and complete projects in a timely manner. These initiatives include starting the planning and application process earlier in the program year, incentives in the rating criteria that award more points for projects that can be implemented more timely, biennial funding competitions, and the state's overall emphasis on timeliness. HUD encourages the state to continue its emphasis on this important departmental objective.

During this reporting year, the state drew \$75,227,652 from its letter of credit, which equates to 88 percent of the state's 2003 CDBG grant. As a result of its expenditures during the year, the state's letter of credit balance at the end of the program year was the equivalent of 2.04 grant years, which is an acceptable level. You are advised to expend at least the amount of the grant award each year in order to avoid an increased level of unexpended funds.

Timely distribution of CDBG funds. CDBG funds are also being distributed in a timely manner and in accordance with the method of distribution as described in the 2003 Action Plan strategy. Grant funds were awarded in the amount of \$82,437,486 for 300 new projects from the 2003 allocation and funds carried over from prior years. This includes 179 new projects funded under the Community Development Fund; 22 under the Texas Capital Fund; 19 under the Disaster Relief/Urgent Need Fund; 21 under the Planning/Capacity Building Fund; 6 under the Housing Rehabilitation Fund; 16 under the STEP Fund; 14 under the Colonia Construction Fund; 2 under the Colonia Self-Help Center Fund; 6 under the Colonia Planning Fund and 15 under the Young v. Jackson fund.

Most FY 2003 funds had been obligated at the end of the program year and it appears that the percentage of funds obligated by fund category is consistent with the 2003 Action Plan intent. Program regulations at 24 CFR 570.494 deem the state's distribution of CDBG funds timely if all of the annual grant (excluding state administration) has been obligated and announced to units of general local government within 15 months of the state signing its grant agreement with HUD on July 3, 2003. The state should provide appropriate documentation to HUD indicating that all 2003 grant funds subject to this requirement were obligated by the 15-month date of October 2, 2004.

CDBG leveraging of other funds. The state leveraged funds from other sources under its CDBG program through match requirements. Total funds leveraged for FY 2003 were \$55,004,982. This was considerably less than in FY 2002 which was \$145.9 million, which far exceeded the total of \$85.9 million in FY 2001.

Workload accomplishments in CDBG. Based on HUD's review of the state's Performance Evaluation Report (PER), which provides separate data for each of its open grant years, we determined that 862 open projects remained in the state's workload at the end of the 2003 program year. The state closed 324 contracts during the year, monitored 300 contracts on-site and made 563 technical assistance visits. The state is reminded that closeout of grant years is required as soon as practicable. See "Areas for Improvements and Recommendations" for more information on the need to close out grant years.

Expanding economic opportunities. In 2003, the state funded 22 new projects with an investment of \$9,248,200. These new projects will leverage approximately \$29 million from private and other sources, and are expected to create or retain 1,132 jobs of which 632 or 56 percent will be for low- and moderate-income persons. In terms of job creation from activities completed in 2003, there were 10 economic development projects that produced 866 new jobs of which 561 or 64.8 percent are held by or made available to low- and moderate-income persons. There were also 150 jobs retained of which 138 or 92 percent are held by low- and moderate-

The actions taken by the state during the 2003 program year to clear the remaining HOME Program findings identified by HUD in 2001 are acknowledged. State staff is continuing their efforts to review the state's existing policies, procedures and guidelines to make appropriate changes to assure that these issues will not recur. This office will continue to provide assistance, advice and guidance to the state so that these actions will continue to have a positive effect on the state's delivery of the HOME Program.

HOME Program Income. The IDIS report indicates the State has received and expended program income in the amount of \$10,742,483.

HOME Production Performance. In terms of production under the HOME program, the state reported that a total of 1,330 households were assisted during FY 2003. This total includes 22 rental housing units; 357 owner-occupied rehabilitation/reconstructed units; 352 homebuyer assistance units; and 599 tenant based rental assistance units. This total also includes 644 special needs households assisted.

Emergency Shelter Grant (ESG) : The performance report indicates that the state obligated \$4,422,850 for eligible activities to 77 homeless providers serving 135 counties in 13 regions of the state from its FY 2003 grant of \$4,703,000. Data provided in the report indicate that 132,137 homeless persons were assisted during the year, including 5,091 persons that were provided homeless prevention assistance. Obligations for the year were \$1,182,476 for essential services; \$954,118 for homeless prevention; \$24,564 for rehabilitation; and \$2,088,306 for operations.

HUD made FY 2003 funds available to the state on July 1, 2003, and all funds were obligated by July 2, 2003. Therefore, the state met the requirement to make ESG funds available to its recipients within the 65-day requirement. Additionally, appropriate match information was submitted for FY 2003. The Financial Status Report submitted for the 2003 grant year indicates that the 30 percent limitations (caps) for homeless prevention and essential services were not exceeded. We are continuing to review compliance with the 5 percent cap on administration, and will followup with this issue separately.

Line of Credit Control System (LOCCS) data indicate that as of November 26, 2003, all 2002 ESG funds had been drawn. The state is commended for achieving the 24-month spending requirement prior to the May 2, 2004 deadline, thus ensuring that ESG funds were used to deliver benefits to homeless persons in a timely manner.

Housing Opportunities for Persons With Aids (HOPWA): A total of \$4,122,650 was available to the state for distribution under the HOPWA program from its 2003 allocation and funds remaining from prior years. During this period, the state expended \$2,551,447 or 62 percent of HOPWA funds available, through 10 HIV/AIDS Project Sponsors. Funds were disbursed using a formula based on the number of AIDS cases, population, and poverty rates by geographic area. The state's HOPWA annual performance report shows that a total of 2,790 persons were provided short-term and tenant-based rental housing assistance.

income persons. There are numerous other projects that remain underway in the Texas Capital Fund workload for which job creation data will not be available until project closeout.

Young v. Jackson. The state continued to make excellent progress under this initiative during 2003. The state has agreed to provide a third Young case set-aside in the State's 2003 Action Plan utilizing deobligated and recaptured 2001 funds and 1998 funds. The total amount obligated for sixty-two (62) Young v. Jackson projects since 1995 is \$13,602,057.76. The total amount of funds requested through draw-downs by the sixty-two (62) grantees is \$8,309,969.93. The PER and quarterly reports submitted for this special fund show that many projects have been completed, others are at various stages of implementation, and some are nearing completion. These actions by the state were essential to settling the long-standing lawsuit.

Providing decent housing through the CDBG Program. During FY 2003, the state awarded housing rehabilitation grants to six communities totaling \$1,500,000 for an average grant of \$250,000. These funds will leverage an estimated \$102,750 of public and private sector investment. It is estimated that 58 homes will be rehabilitated under this program and that 29 of these homes will be occupied by persons with disabilities or frail elderly.

During FY 2003, 15 state recipients completed rehabilitation on 176 houses, reconstructed 17 houses, and provided relocation assistance to 8 households for a total of 201 units. Total expenditures for housing rehabilitation, reconstruction assistance and relocation assistance were \$4,160,214 for an average cost of \$20,001 per unit.

HOME Program Performance. Based on the June 16, 2004, IDIS Status of HOME Grants report, the state has received a total allocation of \$422,467,671 since 1992. Cumulatively through FY 2003, the state has committed \$377,246,571 (95.4 percent) to individual projects in IDIS, and expended \$285,710,646 (67.6 percent). The state's performance in its commitment of HOME funds is excellent. The expenditure rate is acceptable.

The state has also met its 24-month commitment deadline for its FY 2002 allocation and its 5-year expenditure deadline for its FY 1999 allocation. Therefore, no funds are subject to recapture.

The state is required to reserve 15 percent of each FY's allocation of HOME funds for distribution and use by Community Housing Development Organizations (CHDOs). As of the date of the above report, the state's CHDO reservation requirement for 1992 through 2003 is \$63,110,351. The state has reserved in IDIS a total of \$58,505,147 (92.7 percent of the required commitment amount). While this amount is less than the amount required to be reserved, the state has not yet entered its required FY 2003 CHDO reservations of \$6,764,201 in IDIS. Once the FY 2003 reservations are entered, the total amount reserved for CHDOs will exceed the amount required to be reserved. Of the amount reserved, the individual CHDOs have committed a total of \$49,802,784 (85.1 percent) to individual projects and expended \$45,617,300 (77.9 percent). The state's performance in its reservation/commitment of CHDO funds is excellent. Its expenditure rate for these funds is very good.

AREAS FOR IMPROVEMENT AND RECOMMENDATIONS

We have included some recommendations to improve performance and correct areas of noncompliance as the state continues to develop and refine its Consolidated Planning process and carry out its program in future years.

Distribution of Time. ORCA has recently been reorganized with four divisions to implement the CDBG Program. Those divisions are: Outreach and Development Services, which is responsible for outreach and capacity building, program development and receipt, scoring and awarding of contracts; Implementation and Management Services, which is responsible for post award technical assistance to include regular on-site visits and tracking of ongoing status of projects; Performance and Outcomes Services, which is responsible for monitoring and audits; and Fiscal Operations, which handles fiscal, financial and budgeting matters. Staff has been merged for all ORCA programs to include CDBG and Rural Health. The Rural Health Program receives approximately \$4-\$6 million per year from the U. S. Department of Health and Human Services. ORCA is also pursuing contracts with Corps of Engineers and Environmental Protection Agency. As staff works on programs other than CDBG, it is imperative that time is documented separately for all programs. HUD has provided guidance on proper documentation of time.

Closeout of Grant Years. The State of Texas currently has 14 open CDBG grant years in its inventory. This creates a substantial workload for the state to report performance annually on each project funded in the last 14 years. This also makes it difficult for HUD to review and evaluate the performance based on the volume of documents submitted to support each open year. To address this area of concern, the state had indicated its intentions of closing the 1990, 1991 and 1992 grant years by April 31, 2004. The closeouts were not achieved because deobligated funds were returned to the 1991 grant for reallocation and 1990 and 1992 funding is being used for preliminary work to leverage funds for a Disaster Relief project. The project has not been completed and the number of beneficiaries has not yet been determined. The state now proposes to close the grant years by September 30, 2004. HUD continues to provide technical assistance in this area.

The state also is nearing completion of three Disaster Relief Initiative (DRI) grants which are almost fully expended. Since these grants are now several years old, the state should complete all procedures and submit closeout documents to HUD by December 31, 2004.

CDBG Affordable Housing Program Issues. This office is working with ORCA staff to address findings and concerns regarding the state's implementation of its housing rehabilitation program. The issues were discussed with ORCA staff at a meeting on March 30, 2004. HUD has completed its review of all of the information provided by the state and the results will be provided to ORCA under separate cover. We appreciate staff's willingness to address these issues and we will continue to work with the state so that a viable and cost-effective rehabilitation program will be delivered to the low-income residents served under this program.

CONCLUSION

As a result of our evaluation we have determined that the State of Texas has carried out its programs substantially as described in its Consolidated Plan; the Consolidated Plan as implemented complies with the requirements of the Housing and Community Development Act and other applicable laws and regulations; and, the state has the continuing capacity to carry out its approved programs in a timely manner.

This report is intended to be shared with the public. You may provide copies to interested persons such as the news media, members of TDHCA and ORCA boards, and citizens attending public hearings. We request that you provide a copy of this letter to the Independent Public Accountant who performs the single audit of the state in accordance with OMB Circular A-133.

If you have any questions regarding the contents of this letter, please contact Gayla Frazier, Senior Community Planning and Development Representative, at 817/978-5954.

Sincerely,

Katie S. Worsham

Katie S. Worsham
Director

cc:

Sam Tessen, ORCA

✓ Sarah Dale Anderson, TDHCA

Eddie Farris, TDHCA

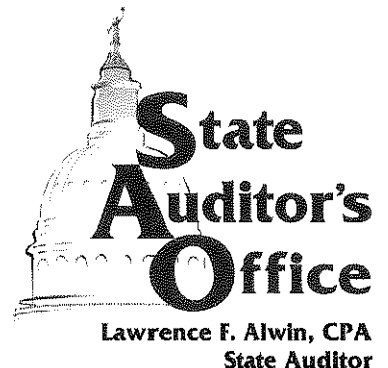
Dr. Sharilyn K. Stanley, TDH

An Audit Report on

State Entity Compliance with Benefits Proportional by Fund Requirements in Fiscal Years 2002 and 2003

June 2004

Report No. 04-039



State Entity Compliance with Benefits Proportional by Fund Requirements in Fiscal Years 2002 and 2003

Overall Conclusion

Inconsistencies and conflicts related to proportionality requirements make it unclear whether state entities should repay General Revenue in order to achieve proportionality under the General Appropriations Act. To comply with these requirements, entities need to pay benefits proportionately to funding sources. Specifically, in fiscal years 2002 and 2003, entities indicated they owed a balance of \$7.5 million to General Revenue. However, whether entities should actually pay this amount to General Revenue is unclear.

The requirement that benefits (as well as salaries and wages) be paid proportionately to funding sources is intended to ensure that General Revenue is used appropriately. To meet this requirement, entities prepare reports calculating the amount of benefits that should be paid from their appropriated funding sources. However, these reports are not always useful. The reports may not fully incorporate other restrictions on the use of funding sources, which can cause them to incorrectly indicate that entities owe funds to (or should receive funds from) General Revenue. This occurs because the proportionality requirements (1) are internally inconsistent and (2) can conflict with other laws, rules, and federal grant restrictions. Therefore, complying with proportionality requirements can lead entities to:

- Violate a section of the proportionality requirements that restricts the use of General Revenue in paying benefits.
- Violate restrictions on the use of federal, General Revenue Dedicated, or other non-General Revenue funds.

Complying with proportionality requirements can also cause entities to use dedicated General Revenue funds to pay benefits. This reduces the available amount of appropriated funds earmarked for specific purposes.

In addition, higher education institutions have unique barriers to achieving proportionality that are related to group insurance and retirement benefits. Furthermore, it is difficult to determine whether entities that combine multiple funding sources into a single operating fund have complied with proportionality requirements.

General Appropriations Act Article IX, Section 6.11 Salaries to Be Proportional By Fund

This requirement applies to agencies and institutions of higher education and to all appropriated funds. Specifically, these entities are required to:

- Pay salaries, wages, and benefits proportionately to the source of funds, unless otherwise provided.
- Refrain from using General Revenue to pay for benefits associated with salaries and wages paid from any source other than General Revenue.
- Submit proportionality reports demonstrating that they achieved proportionality. These reports identify when entities must make adjustments to reimburse General Revenue to achieve proportionality.



We are coordinating with the Legislative Budget Board and the Office of the Comptroller of Public Accounts to facilitate the development of solutions to the conflicts noted above.

Also, state entities did not always comply with the Comptroller of Public Accounts' instructions for completing required, timely proportionality reports and making timely adjustments.

Summary of Objective, Scope, and Methodology

Our objective was to determine whether entities that are required to pay benefits proportionally by fund (1) complied with the Comptroller of Public Accounts' Accounting Policy Statement (APS) 011 requirements to complete Benefits to be Proportional by Fund reports and (2) processed adjustments to achieve proportionality. While the General Appropriations Act requires state entities to pay salaries, wages, and benefits proportionately by funding source, historically, the Office of the Comptroller of Public Accounts has focused its proportionality instructions and required reports on only the payment of benefits. This is because salaries are appropriated directly to entities, while benefits are estimated and not appropriated directly; thus, benefit payments need to be monitored. Therefore, our audit also focused on the payment of benefits.

Our scope covered state entity compliance with proportionality requirements in fiscal years 2002 and 2003. This audit did not include a review of information technology systems.

Our methodology consisted of analyzing entities' annual Benefits to be Proportional by Fund reports and comparing information on those reports with information in the Uniform Statewide Accounting System (USAS). We also reviewed information in USAS to verify whether entities made adjustments to General Revenue. We interviewed entities that did not make these adjustments to determine the reasons they did not make these adjustments.

Contents

Detailed Results

Chapter 1	
Inconsistencies and Conflicts in Proportionality Requirements Can Cause State Entities' Proportionality Reports to Be Unreliable.....	1
Chapter 2	
State Entities Did Not Always Comply with Instructions for Completing Required Proportionality Reports and Making Adjustments	5

Appendix

Objective, Scope, and Methodology.....	7
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Detailed Results

Chapter 1

Inconsistencies and Conflicts in Proportionality Requirements Can Cause State Entities' Proportionality Reports to Be Unreliable

Inconsistencies and conflicts related to proportionality requirements make it unclear whether state entities should repay General Revenue in order to achieve proportionality under the General Appropriations Act. To comply with requirements, entities need to pay benefits proportionately to funding sources. Specifically, in fiscal years 2002 and 2003, entities indicated they owed a balance of \$7.5 million to General Revenue. However, whether entities should actually pay this amount to General Revenue is unclear.

Background Information Regarding Proportionality Requirements

The requirement to pay salaries and wages proportionately to funding sources originated in 1979, when the 66th Legislature inserted this requirement into the appropriations bill for the 1980-1981 biennium. The 69th Legislature added the requirement to pay benefits proportionately to funding sources in the appropriations bill for the 1986-1987 biennium.

The General Appropriations Act, 77th Legislature, page IX-41, required that:

- Section 6.11(a): Unless otherwise provided, payment for salaries, wages, and benefits paid from appropriated Funds... shall be proportional to the source of funds.
- Section 6.11(b): Unless otherwise specifically authorized by this Act, the funds appropriated by this Act out of the General Revenue Fund may not be expended for employee benefit costs, or other indirect costs, associated with the payment of salaries or wages, if the salaries or wages are paid from a source other than the General Revenue Fund.
- Section 6.11(c): The Comptroller shall develop rules to provide for the administration of this section.
- Section 6.11(d): Each agency or institution of higher education having General Revenue Fund appropriations and other sources of financing shall file with the Comptroller and the State Auditor a schedule demonstrating proportionality.... The State Auditor shall review ... compliance with this section. The Comptroller, on receipt of notification from the State Auditor of amounts disproportionately paid from General Revenue appropriations, shall reduce current year General Revenue Fund appropriations of the agency or institution until such time as such amounts are repaid from sources other than the General Revenue Fund.

The requirement that benefits (as well as salaries and wages) be paid proportionately to funding sources is intended to ensure that General Revenue is used appropriately. To meet this requirement, entities prepare reports calculating the amount of benefits that should be paid from their appropriated funding sources. However, these reports are not always useful. The reports may not fully incorporate other restrictions on the use of funding sources, which can cause them to incorrectly indicate that entities owe funds to (or should receive funds from) General Revenue. This occurs because the proportionality requirements (1) are internally inconsistent and (2) can conflict with other laws, rules, and federal grant restrictions. Therefore, complying with proportionality requirements can lead entities to:

- Violate a section of the proportionality requirements that restricts the use of General Revenue in paying benefits.
- Violate restrictions on the use of federal, General Revenue Dedicated, or other non-General Revenue funds.

Complying with proportionality requirements can also cause entities to use dedicated General Revenue funds to pay benefits. This reduces the available amount of appropriated funds earmarked for specific purposes.

In addition, higher education institutions have unique barriers to achieving proportionality that are related to group insurance and retirement benefits. Furthermore, it is difficult to determine whether entities that combine multiple funding sources into a single operating fund have complied with proportionality requirements.

As Table 1 shows, in fiscal years 2002 and 2003, state entities reported they should have reimbursed General Revenue by \$30,115,966 to achieve proportionality; they made actual reimbursements totaling only \$22,565,494. However, because of the inconsistency and conflicts associated with the proportionality requirements, it is unclear how much of the remaining \$7,550,472 should be returned to General Revenue.

Table 1

Summary of Entities' Reimbursements to General Revenue			
	Fiscal Year 2002	Fiscal Year 2003	Totals
Number of entities that reported they should have reimbursed General Revenue	59	60	—
Amount of reimbursements to General Revenue entities reported they needed to make	\$12,123,194	\$17,992,772	\$30,115,966
Number of entities that reimbursed General Revenue ^a	47	53	—
Amount of reimbursements to General Revenue that entities made	\$9,081,863	\$13,483,631	\$22,565,494

^a Includes entities that made partial reimbursement to General Revenue

Source: Benefits to be Proportional by Fund reports entities submitted for fiscal years 2002 and 2003

Agencies deal with the inconsistencies and conflicts in the requirements in a variety of ways. As Table 2 shows, it appears that the majority of agencies we tested were not able to maintain proportionality between (1) actual salary, wage, and benefit expenditures and (2) the calculated proportional amount by funding source specified on their Benefits to be Proportional by Fund reports. We were unable to conduct this analysis for higher education institutions because, unlike agencies, higher education institutions do not report detailed salary and benefit expenditure information for all funding sources in the Uniform Statewide Accounting System (USAS).

Table 2

How Agencies Actually Paid Benefits		
	Fiscal Year 2002	Fiscal Year 2003
Number of agencies that paid benefits based on actual salary expenditures but not proportionality report	8	6
Number of agencies that paid benefits based on proportionality report but not actual salary expenditures	9	11
Number of agencies that paid benefits based on proportionality report and actual salary expenditures	1	1
Number of agencies that paid benefits based on neither actual salary expenditures nor proportionality report	9	9

Source: Benefits to be Proportional by Fund reports agencies submitted for fiscal years 2002 and 2003 and the Uniform Statewide Accounting System

We are coordinating with the Legislative Budget Board and the Office of the Comptroller of Public Accounts to facilitate the development of solutions to the conflicts noted above.

Complying with Proportionality Requirements May Cause Entities to Violate Other Restrictions on the Use of Funds

Restrictions on the use of General Revenue. Entities' proportionality reports sometimes specify that, to achieve proportionality, they need to receive additional General Revenue to pay benefits. However, if salaries were not paid with General Revenue, receiving those additional funds would result in entities' violating a specific subsection of the General Appropriations Act that prohibits them from using General Revenue to pay benefits associated with salaries paid from another funding source.

The specific sections of the proportionality requirements in the General Appropriations Act (77th Legislature) that can lead to this conflict are as follows:

- Section 6.11(a) specifies: "Unless otherwise provided, payment for salaries, wages, and benefits paid from appropriated Funds . . . shall be proportional to the source of funds."
- Section 6.11(b) specifies: "Unless otherwise specifically authorized by this Act, the funds appropriated by this Act out of the General Revenue Fund may not be expended for employee benefit costs, or other indirect costs, associated with the payment of salaries or wages, if the salaries or wages are paid from a source other than the General Revenue Fund."

Receiving additional funds from General Revenue can allow entities to comply with Section 6.11(a), but in doing so, they violate Section 6.11(b). For example, in fiscal year 2003, the Texas Workforce Commission's (Commission) Benefits to be Proportional by Fund Report indicated that it used too little General Revenue to pay benefits. Achieving proportionality, and therefore complying with Section 6.11(a), would have required the Commission to obtain \$2,435,724 in additional funds from General Revenue. However, receiving these additional funds would cause the Commission to use General Revenue to pay benefits associated with salaries that were not originally paid with General Revenue, and this is a violation of Section 6.11(b). Therefore, the Commission did not request these additional funds. Although the Commission did not pay benefits proportionately to its method of finance, it did pay benefits proportionately to the salaries it paid from each of its funding sources.

Restrictions on the use of federal or other non-General Revenue funds. Entities' proportionality reports sometimes specify that, to achieve proportionality, they need to use federal or other non-General Revenue funds to reimburse General Revenue. However, this could conflict with restrictions on the use of those funds.

For example, in fiscal year 2002, the Department of Human Services' (Department) Benefits to be Proportional by Fund Report indicated that the Department had used too much General Revenue to pay benefits. Achieving proportionality would have required the Department to use federal funds to reimburse General Revenue by the \$299,770 specified in its proportionality report. However, making the reimbursement would have been analogous to the Department using federal funds to pay benefits associated with salaries that it did not originally pay with federal funds, and this is a violation of the restrictions on the Department's use of federal funds. Therefore, the Department did not make this reimbursement.

Complying with proportionality requirements can also cause entities to use dedicated General Revenue or other appropriated funds to pay benefits. This reduces the available amount of appropriated funds earmarked for specific purposes.

Entities' proportionality reports sometimes specify that, to achieve proportionality, they need to use additional General Revenue Dedicated funds or other appropriated funds to pay benefits associated with salaries that they paid with General Revenue. However, this reduces the amount of funds available for the purposes for which those funds were originally earmarked.

In fiscal year 2003, for example, the Department of Public Safety needed to use an additional \$2,299,073 in funds dedicated to the State Highway Fund to pay benefits associated with salaries paid with General Revenue so that it could achieve proportionality. These funds could have been used to police the state highway system.

The Department of Housing and Community Affairs (Department) achieved proportionality by funding source in fiscal year 2002. However, to do so, the Department had to make adjustments that caused it to pay an additional \$292,379 in benefits from a different appropriation source than it paid the associated salaries. These funds could have been used to fund the Department's operating costs.

Chapter 1-B

Other Barriers Exist in Achieving and Ensuring Proportionality

Higher education institutions have unique barriers to achieving proportionality in the payment of group insurance and retirement benefits.

Higher education institutions' proportionality reports may not be useful because the reports do not accommodate the fact that these institutions are allocated in the General Appropriations Act a set amount for group insurance each year. If an institution's actual expenditures for insurance benefits exceed that amount, the institution cannot receive additional funds and, therefore, cannot achieve proportionality. Thirteen higher education institutions reported that they did not request additional funds totaling \$1,185,318 in fiscal year 2002 for this reason; 19 higher education institutions reported that they did not request additional funds totaling \$4,511,189 in fiscal year 2003 for this reason.

Unlike group insurance benefits, higher education institutions can receive additional funds for retirement benefits. However, receiving these additional funds can sometimes take up to two years. This impairs institutions' ability to achieve proportionality in a timely fashion. Six higher education institutions reported that they had still not received \$233,983 in additional funds for retirement benefits from fiscal year 2002; 19 higher education institutions reported that they had still not received \$1,028,215 in additional funds from fiscal year 2003.

Entities sometimes combine multiple sources of funding into a single operating fund.

State entities sometimes combine multiple sources of funding into a single operating fund. As a result, only entities' total benefits expenditures are reported in USAS, and the detailed expenditures by funding source are maintained only in the entities' internal accounting systems. While entities are permitted to do this, they still are required to achieve proportionality for their individual funding sources. However, in these cases, it is difficult to determine whether they achieved proportionality.

State Entities Did Not Always Comply with Instructions for Completing Required Proportionality Reports and Making Adjustments

In fiscal years 2002 and 2003, state entities did not always comply with the Comptroller of Public Accounts' instructions for completing required proportionality reports and making adjustments in a timely manner.

Entities did not always make adjustments by the required deadline.

In fiscal years 2002 and 2003, the majority of entities did not make adjustments by the required deadline (see Table 3). For example, as a result of our audit, one higher education institution reimbursed \$426,158 to General Revenue 17 months after the deadline for fiscal year 2002.

Table 3

Timeliness of Entities' Adjustments to Achieve Proportionality		
	Fiscal Year 2002	Fiscal Year 2003
Number of entities reporting that they should make adjustments	85	84
Number of entities that made adjustments by the deadline ^a	35	37
Number of entities that made adjustments after the deadline ^a	39	28
Number of entities that did not make adjustments ^a	32	32
Number of entities that made late or no adjustments ^a	50	47

^a Entities may have reported that they need to make multiple adjustments; therefore, because an entity can fall in multiple categories, the numbers in these categories do not sum to the total number of entities reporting that they should make adjustments.

Source: Benefits to be Proportional by Fund reports entities submitted for fiscal years 2002 and 2003

Entities did not always submit Benefits to be Proportional by Fund reports by the required deadline.

As Table 4 shows, although most entities submitted reports or explanatory letters by the deadline in fiscal years 2002 and 2003, some did not.

Table 4

Timeliness of Entities' Submission of Required Benefits to be Proportional by Fund Reports or Explanatory Letters		
	Fiscal Year 2002	Fiscal Year 2003
Number of entities that submitted reports or letters by the deadline	139	142
Number of entities that submitted reports or letters within 5 days after the deadline	200	191
Number of entities that submitted reports or letters more than 5 days after the deadline	17	15
Number of entities that did not submit reports or letters	15	10

Source: Benefits to be Proportional by Fund Reports and explanatory letters entities submitted for fiscal years 2002 and 2003

Entities did not always follow the Comptroller of Public Accounts' instructions and made errors on their Benefits to be Proportional by Fund reports.

We also identified several entities that did not adhere to the Comptroller of Public Accounts' instructions for preparing their Benefits to be Proportional by Fund reports for fiscal years 2002 and 2003. Specifically, entities did not always comply with instructions to:

- Use actual expenditure information in USAS to prepare their Benefits to be Proportional by Fund reports.
- Submit documentation and/or legal citations explaining why they excluded certain funds from their proportionality calculations.
- Use specified USAS transaction codes (known as t-codes) to make adjustments to General Revenue.
- Submit required Benefits to be Proportional by Fund reports. Some entities submitted letters asserting that they were funded with a single appropriated fund and, therefore, were not required to submit Benefits to be Proportional by Fund reports. However, these entities actually had multiple funding sources and should have submitted Benefits to be Proportional by Fund reports.

Appendix

Objective, Scope, and Methodology

Objective

Our objective was to determine whether entities that are required to pay benefits proportionally by fund complied with the Comptroller of Public Accounts' Accounting Policy Statement (APS) 011 requirements to complete Benefits to be Proportional by Fund reports and processed adjustments to achieve proportionality.

Scope

Our scope covered state entity compliance with proportionality requirements in fiscal years 2002 and 2003. This audit did not include a review of information technology systems.

Methodology

Our methodology consisted of analyzing entities' annual Benefits to be Proportional by Fund reports and comparing information on those reports with information in the Uniform Statewide Accounting System (USAS). We also reviewed information in USAS to verify whether entities made adjustments to General Revenue. We interviewed entities that did not make these adjustments to determine the reasons they did not make these adjustments.

Information collected and reviewed included the following:

- Benefits to be Proportional by Fund reports entities submitted in fiscal years 2002 and 2003
- Fiscal year 2002 and 2003 salary, wage, and benefit expenditure information in USAS
- Proportionality requirements established by the 66th through 77th Legislatures

Procedures and tests conducted included the following:

- Comparative analysis between entities' Benefits to be Proportional by Fund reports and salary, wage, and benefit expenditure information in USAS
- Interviews with various entities regarding their preparation and submission of Benefits to be Proportional by Fund reports

Criteria used included the following:

- Comptroller of Public Accounts' Accounting Policy Statement (APS) 011 and related instructions
- Section 6.11, page IX-41, the General Appropriations Act (77th Legislature)

Other Information

We conducted fieldwork from March 2004 through May 2004. This audit was conducted in accordance with generally accepted government auditing standards.

The following members of the State Auditor's staff performed the audit work:

- Pam Ross, CGAP (Project Manager)
- Jennifer Wiederhold (Assistant Project Manager)
- Nickolas Ballard
- Michael Dean, CGAP, PMP
- Jennifer Lehman, MBA
- Luis Solis
- Mary Wise, CPA
- Leslie Ashton, CPA (Quality Control Reviewer)
- Chuck Dunlap, CPA (Quality Control Reviewer)
- Sandra Vice, CIA, CGAP (Audit Manager)
- Frank Vito, CPA (Audit Director)

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable David Dewhurst, Lieutenant Governor, Joint Chair
The Honorable Tom Craddick, Speaker of the House, Joint Chair
The Honorable Steve Ogden, Senate Finance Committee
The Honorable Thomas "Tommy" Williams, Member, Texas Senate
The Honorable Talmadge Heflin, House Appropriations Committee
The Honorable Brian McCall, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Board Members, Commissioners, and Executive Directors of the Following Agencies

Comptroller of Public Accounts
Department of Housing and Community Affairs
Department of Human Services
Department of Public Safety
Health and Human Services Commission
Legislative Budget Board
Texas Workforce Commission



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CAROLE KEETON STRAYHORN
Comptroller

COMPTROLLER OF PUBLIC ACCOUNTS

P.O. BOX 13528
AUSTIN, TX 78711-3528

June 21, 2004

Edwina P. Carrington
Executive Director
Texas Department of Housing and Community Affairs
507 Sabine Street, Ste. 500
Austin, Texas 78701

Dear Ms. Carrington:

We have completed a post-payment audit of certain payroll, purchase, and travel transactions of the Texas Department of Housing and Community Affairs (Department) that processed during the period beginning February 1, 2003, through January 31, 2004. In addition, we performed a limited review on a select number of grant transactions. We would like to thank your staff, especially David Cervantes, Ester Ku, Linda Aguirre, and Krissy Varva. We appreciate their responsiveness and cooperation in assisting us with this audit.

Our purpose was to determine whether the Department's expenditures complied with certain state laws and rules concerning expenditures and with the processing requirements of the uniform statewide accounting system (USAS) and the uniform statewide payroll system (USPS). The Department is responsible for ensuring that its staff is knowledgeable in those areas.

We identified a few monetary errors within the purchase and payroll samples; however, they were not projected due to the relatively low dollar amounts. We also identified some monetary payroll issues outside of our audit sample that the Department needs to address. Our audit findings included: underpayments of benefit replacement pay, incorrect longevity payment amounts, payments past the prompt payment deadline and payments not properly scheduled. Our audit did not reveal any monetary travel findings. The details of all the issues can be found in the management report addressed to Mr. David Cervantes, financial administration director, dated June 21, 2004. We attribute the Department's performance to your staff's attention to detail and knowledge of the rules and laws governing these expenditures. We commend you on the implementation of internal control issues that have attributed to your success.

A security review was also conducted, which entailed identifying any of the Department's employees with security in USAS, USPS, or on the voucher signature cards who were no longer employed by the Department. Upon termination, certain deadlines must be observed so that security can be properly revoked. We found the Department failed to notify the Comptroller about the termination of an employee who had been designated by the Department to approve its expenditures both electronically and on paper vouchers.

A corrective action plan addressing these issues is attached to the management report. The plan should be completed and signed by management and internal audit, and returned to Tammy Koenings not later than July 21, 2004. An electronic copy of the plan is available upon request.

Also included in the management report are a few non-monetary matters involving the Department's procedures for processing expenditures that will require follow up by the Department. These conditions are interagency transaction vouchers (ITV) not utilized and non-compliance with Texas Building and Procurement Commission (TBPC) guidelines. The Department must incorporate additional procedures to strengthen these areas. The schedules for these findings were presented to the Department on May 26, 2004, at the exit conference. Additional copies of the schedules may be obtained upon request.

Our review of grant transactions consisted of verifying that the payments did not exceed the correct amount payable. We did not identify any errors from our review of these transactions. The review of these particular transactions did not include an extensive investigation of the Department's procedures for monitoring payments; therefore, we do not have an opinion about those procedures.

Finally, we selected a limited number of fixed assets that were acquired by expenditures within our audit period. These selected assets were verified as to their intended location and that they are properly recorded in the State Property Accounting system (SPA). All the assets were verified to be in the possession of the employees identified on SPA and in their intended location.

We concluded a prior post-payment audit of the Department's purchase, travel, and payroll transactions on April 30, 2001. Although we did identify monetary errors within the sampled groups, they were not projected due to the relatively low dollar amounts. The current audit showed a continued high level of performance in all of the audit groups.

Thank you and your staff for your cooperation. If we can be of further assistance, please contact Tammy Koenings through e-mail at <tammy.koenings@cpa.state.tx.us> or call (512) 475-0628. The Department may also contact the Fiscal Management Training Registrar through our website at <http://www.window.state.tx.us/comptrol/san/fm_training/index.html> if training related to these findings is needed.

Sincerely,



Joani Bishop
Manager
Claims Division

Enclosures

- c: Elizabeth Anderson, Board Chair, Texas Department of Housing and Community Affairs
- David Cervantes, Financial Administration Director, Texas Department of Housing and Community Affairs
- David Gaines, Internal Audit Director, Texas Department of Housing and Community Affairs
- Tammy Koenings, Auditor, Claims Division, Comptroller of Public Accounts



CAROLE KEETON STRAYHORN
Comptroller

COMPTROLLER OF PUBLIC ACCOUNTS

P.O. BOX 13528
AUSTIN, TX 78711-3528

June 21, 2004

Mr. David Cervantes
Financial Administration Director
Texas Department of Housing and Community Affairs
507 Sabine Street, Ste. 500
Austin, Texas 78701

Dear Mr. Cervantes:

We have completed a post-payment audit of certain payroll, purchase, and travel transactions of the Texas Department of Housing and Community Affairs (Department), that processed during the period February 1, 2003, through January 31, 2004. In addition, we performed a limited review on a select number of grant transactions. Because of the efforts of your staff, the fieldwork was completed quickly and many issues were resolved at that time. We appreciate the professionalism, responsiveness, and cooperation demonstrated during this audit.

In conjunction with our post-payment audit of the Department's expenditures that we processed during the audit period, we reviewed the Department's internal control structure. Our review was limited to obtaining an understanding of the Department's controls sufficient to plan our audit and did not include tests of control policies and procedures. Our purpose was to determine whether the Department's expenditures complied with certain state laws and rules concerning expenditures and with the processing requirements of the uniform statewide accounting system (USAS) and the uniform statewide payroll system (USPS). The Department is responsible for ensuring that its staff is knowledgeable in those areas.

We commend the Department on satisfactorily resolving most of the monetary issues identified during fieldwork and for the improvements made since our last audit. We attribute the Department's high performance to your staff's attention to detail and knowledge of the rules and laws governing expenditures.

The Department, as a result of our post-payment audit, must formally address the following audit issues. These issues are underpayment of benefit replacement pay, incorrect longevity payment amounts, payments past the prompt payment deadline and payments not properly scheduled, and employee retaining ability to expend funds after termination. No dollar projections were made. A corrective action schedule addressing these issues is attached. The corrective action schedule should be completed and signed by the Department's management and internal auditor. An electronic copy of the schedule is available upon request. Our office must receive the schedule not later than July 21, 2004.

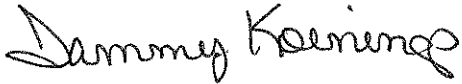
Additionally, there are some reportable conditions that will require follow up by the Department. These conditions are, payments made to other state agencies without using interagency transaction vouchers (ITV), and non-compliance with Texas Building and Procurement Commission (TBPC) guidelines. The schedules for all the reportable conditions discussed in this letter were provided during our exit meeting on May 26, 2004. Additional copies are available upon request.

While the required follow up for the reportable conditions does not need to be included in the formal corrective action plan, the Department must incorporate additional procedures for improvement in these areas. We may review these procedures in a follow up to the audit.

This report is intended for the information and use of management and others within the organization. However, this report is a matter of public record, and its distribution is not limited. Thank you for your cooperation. If I can be of further assistance, please contact me through e-mail at <tammy.koenings@cpa.state.tx.us> or call 475-0628.

The Department may contact the Fiscal Management Training Registrar through the website at <http://www.window.state.tx.us/comptrol/san/fm_training/index.html> if training related to these findings is needed.

Sincerely,



Tammy Koenings, CPA
Auditor
Claims Division

Enclosure

c: David Gaines, Internal Audit Director, Texas Department of Housing and Community Affairs
Joani Bishop, Manager, Claims Division, Comptroller of Public Accounts

Findings Requiring Formal Corrective Action

Underpayment of Benefit Replacement Pay

We identified instances where two employees did not receive benefit replacement pay (BRP) even though the employees were eligible to do so.

The underpayments occurred because the Department incorrectly coded the employees' profile in USPS upon their return to state service after retirement. Both of these employees were eligible for BRP when rehired by the Department. The detailed amounts in error were estimated to total \$1,930.50. The Department has already corrected the employees' profile to be eligible to receive BRP payments in the future. The amounts were not projected because the errors were identified outside the audit sample.

An employee who is an "eligible state employee" is entitled to receive BRP. See Tex. Gov't Code Ann. Sec. 659.122 (Vernon Supp. 2004). "Eligible state employee" means an individual who was on August 31, 1995, employed by a state agency and eligible for state payment of the employee tax under Section 606.064, Government Code, as that section existed on that date. Tex. Gov't Code Ann. Sec. 659.121(2)(A) (Vernon Supp. 2004).

The Department must compensate the employees for the amount of BRP that should have been paid to them. We recommend that the Department verify all prior state service information in USPS to ensure the accuracy of BRP payments and other entitlements based on length of service.

Incorrect Longevity Payment Amounts

We identified nine instances where employees were underpaid longevity pay. We also identified one instance where an eligible employee was overpaid longevity pay. All of the findings with the exception of one were identified outside the sample and thus were not projected.

Some of the incorrect payments of longevity pay were due to the agency relying on incorrect lifetime service credit information in USPS. The Department did not obtain verification of prior service directly from other employing state agencies. The other incorrect payments of longevity pay were due to the agency not giving the employees credit for employment at higher education agencies.

At the time these errors occurred, a state employee was entitled to longevity pay to be included in the employee's monthly compensation if the employee had accrued at least five years of lifetime service credit not later than the last day of the preceding month. Act of May 4, 1993, 73rd Leg., R.S., ch. 268, sec. 1, 1993 Tex. Gen. Laws 583, 704.

The Department should consider recovering the erroneous longevity payments in accordance with Chapter 666, Government Code. The Department must compensate the employees who were underpaid longevity pay. We recommend that the agency enhance its personnel procedures to ensure proper calculation of lifetime service credit.

Payments Past Prompt Payment Deadline and Payments Not Properly Scheduled

According to the prompt payment law, a state agency's payment is overdue on the 31st day after the latest of:

- the date the agency receives the goods under the contract;
- the date the vendor completes performing its services for the agency; or
- the date the agency receives an invoice for the goods or services.

The Comptroller computes and automatically pays any interest due under the prompt payment law: Tex. Gov't Code Ann. § 2251.026(b)-(c), (e)-(f) (Vernon Supp. 2004). Interest is calculated at the time a transaction processes in USAS and is automatically included in the payment to the vendor. During the audit period, the Department expended a total of \$1,946.36 from its state treasury funds on prompt payment interest. The Department must review its procedures to see if the payment information could be submitted for processing in a timelier manner to avoid incurring interest liabilities. In our sample, we did not identify any transactions in which the Department did not pay interest to the vendor when it was due.

We identified two purchase transactions in our sample that were paid early. Tex. Gov't Code Ann. § 2155.382(d) (Vernon 2000) authorizes the Comptroller to allow or require state agencies to schedule payments that the Comptroller will make to a vendor. The Comptroller must prescribe the circumstances under which advance scheduling of payments is allowed or required; however, the Comptroller must require advance scheduling of payments when it is advantageous to the state. Id.

To minimize the loss of earned interest to the state treasury, the Department must schedule all payments for the latest possible distribution and in accordance with its contracts and purchasing agreements as described in the Comptroller's *Prompt Payment and Scheduling Guide*.

Employee Retained The Ability To Expend Funds And Approve Paper Vouchers After Termination

During the audit period, one employee retained the security that permitted her to electronically approve Department expenditures in USAS after her termination with the Department. This employee also retained the ability to approve paper vouchers from Department funds after terminating employment and could have processed unapproved expenditures and paper vouchers from the Department's treasury funds. The Department failed to notify the Comptroller about the employees' termination of employment in a timely manner.

When an employee, whose authority to approve an agency's expenditures is revoked for any reason, the employee's USAS security profile must be changed not later than the effective date of the revocation to prevent the employee from executing electronic approvals for the agency. 34 Tex. Admin. Code sec. 5.61(k)(5)(A)-(B) (2003).

Because the Department never notified the Comptroller to remove the employee from the voucher signature card, the employee remained listed on the Department's voucher signature cards on file with the Comptroller. Section 5.61(k)(3)(B) states that whenever a designated employee terminates employment with an agency, the Comptroller must receive notification of

it not later than the fifth day after the effective date of the employee's termination. Any officer or employee may send the Comptroller that notification. See Section 5.61(k)(3)(B). Because Section 5.61 does not specify how the Comptroller is to be notified about designated employees' terminations, the Comptroller will accept e-mails, faxes, letters, memos, or other writings so long as the writings indicate that a designated employee has terminated employment and specifies the effective date of the termination.

Reportable Conditions Requiring Internal Follow-up

Payments made to other State Agencies without using Interagency Transaction Vouchers (ITV)

We identified two payments to state agencies that should have processed on an ITV. Using an ITV results in cost savings by transferring funds between agencies rather than printing warrants that will be deposited in the state treasury. The Department must process payments to other state agencies using ITVs. For each interagency payment where a warrant is generated instead of an ITV, the Department must document the reason for not satisfying the ITV requirements. See Accounting Policy Statement No. 14.

Non-Compliance With Texas Building and Procurement Commission Contract

We found one transaction where a contracted vendor was not used and there was no exception noted on the travel voucher/form. All contracts listed in the *Texas State Travel Directory (Travel Directory)* issued by the Texas Building and Procurement Commission (TBPC) must be used unless an approved exception condition exists. When a TBPC state contract is not used, one of the approved exception conditions listed in the *Travel Directory* must exist and the exception must appear on or be included with the travel voucher. See 1 Tex. Admin. Code sec. 125.19(a), (f) (2004).

AUDIT OVERVIEW

A state agency may request the comptroller of public accounts (the "comptroller") to pay a claim against the agency only by submitting the appropriate payment voucher to the comptroller's claims division. TEX. GOV'T CODE ANN. §§ 404.046, 404.069 (Vernon Supp. 2004), §§ 2103.003-2103.0035 (Vernon 2000), § 2103.004 (Vernon Supp. 2004). State law prohibits the comptroller from paying a claim against a state agency unless the comptroller audits the corresponding voucher. TEX. GOV'T CODE ANN. §§ 403.071(a), 403.078 (Vernon 1998), § 2103.004(3) (Vernon Supp. 2004).

State law allows the comptroller to audit a payment voucher before or after the comptroller makes a payment in response to that voucher. TEX. GOV'T CODE ANN. § 403.071(g)-(h) (Vernon 1998). In addition, state law authorizes the comptroller to conduct pre-payment or post-payment audits on a sample basis. TEX. GOV'T CODE ANN. § 403.011(13) (Vernon Supp. 2004), § 403.079 (Vernon 1998).

The expenditure audit section of the comptroller's claims division conducts these audits.

Audit objectives

The primary objectives of a post-payment audit are as follows. First, ensure that payments are documented so that a proper audit can be conducted. Second, ensure that payment vouchers are processed according to the requirements of the uniform statewide accounting system (USAS). Third, verify that payments are made in accordance with certain applicable state laws. Fourth, verify that the voucher signature cards and USAS security during the audit period were consistent with applicable laws, rules, and other requirements.

Methodology

The expenditure audit section uses generally recognized sampling techniques to conduct a post-payment audit. The computer audit menu system (CAMS) software is used to generate a stratified random sample of payment vouchers for the audit, with a confidence level of 95 percent. The vouchers are audited in detail, and the results of the audit are projected to estimate the amount of claims that were unsubstantiated or improperly paid.

Field Work

Each auditor in the expenditure audit section is required to approach the field work phase of each audit with an appropriate level of professional skepticism based upon the results of the initial planning procedures. If an auditor suspects during an audit that fraud, defalcations, or intentional misstatement of the facts has occurred, then the auditor will meet with his or her supervisor or the claims division manager, or both, to decide what course of action or additional procedures would be appropriate.

Reporting

Each auditor audits the payment vouchers included in a sample according to established policies and procedures. The audit findings are reported to the audited agency in the form of a report and a management letter.

The audit report discloses the total dollar amount of any unsubstantiated payments or overpayments noted in the sample. In addition, the report shows the result of projecting those payments to the appropriate population. Finally, the report includes recommendations and requirements for the audited agency.

The management letter discusses non-monetary deficiencies noted during the audit and includes recommendations to reduce or eliminate those deficiencies.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MEMORANDUM

TO: Tammy Koenings, Comptroller of Public Accounts

FROM: Bill Dally, Texas Department of Housing and Community Affairs

DATE: July 20, 2004

SUBJECT: Corrective Action Schedule Reponses,
Post-Payment Audit Report Dated June 21, 2004

(1) **Underpayment of Benefit Replacement Pay**

Recommendation: The Department must compensate the employees for the amount of BRP that should have been paid to them. We recommend that the Department enhance its personnel procedures to include an in depth verification of all prior state information to ensure that all BRP payments made are valid.

Division/Responsible Individual:

Financial Administration Division/Budget & Payroll – Krissy Vavra

Estimated Resolution Date:

Employee Ruth Cedillo 7-1-04

Terminated employee Jerry Schroeder 8-1-04

Brief Summary of Actions taken:

There were two instances of BRP underpayments totaling \$1930.50. One has been resolved the other is in the process of being resolved. According to the Comptroller's USPS guidelines, Jerry Schroeder a terminated employee is entitled to receive BRP payments, but the payroll system will not allow payments to an individual who has terminated more than 6 months. Payroll is working with the Comptroller's Office to resolve this underpayment. To ensure BRP's are valid, Payroll will verify USPS codes for "return to work retiree's" that are eligible for BRP.

(2) **Incorrect Longevity Payment Amounts**

Recommendation: The Department should consider recovering the erroneous longevity payments in accordance with Chapter 666, Government Code. The Department must compensate the employees who were underpaid longevity pay. We recommend that the agency enhance its personnel procedures to ensure proper calculation of lifetime service credit.

Division/Responsible Individual:

Financial Administration Division/Budget & Payroll – Krissy Vavra

Estimated Resolution Date:

*Eight employees have been compensated as of 7-1-04
Compensation date for two employees is 8-1-04*

Brief Summary of Actions taken:

There were nine employees originally listed as being underpaid for longevity, totaling \$2600.00. Eight employees have been compensated as noted above.

Ed Cervenka, a terminated employee, is listed as underpaid but the USPS system does not allow payments to a terminated employee who has been terminated more than 6 months. Payroll is working with Comptroller's Office to resolve this underpayment. To ensure longevity payments are valid, Payroll will not enter prior state service information into USPS without written verification of prior state service.

One employee originally identified as overpaid is now classified as underpaid based on verified prior state service. This employee will be compensated by August 1, 2004 as noted above.

(3) **Payments Past Prompt Payment Deadline and Payments Not Properly Scheduled**

Recommendation: To avoid incurring interest liabilities, the Department must review its procedures to see if the payment information could be submitted for processing in a timelier manner.

Additionally, to minimize the loss of earned interest to the state treasury, the Department must schedule all payments for the latest possible distribution and in accordance with its contracts and

purchasing agreements as described in the Comptroller's *Prompt Payment and Scheduling Guide*.

Division/Responsible Individual:

Financial Administration Division/Accounting Operations – Wanda Rivers

Estimated Resolution Date:

Implemented November 2003

Brief Summary of Actions taken:

*All payments are scheduled for the latest possible distribution dates as calculated by our accounting system. During the audit two early payments were identified. To ensure no interest loss to the Treasury payment dates are entered only if it is in compliance with the *Prompt Payment and Scheduling Guide*.*

To ensure the payments are processed in a timely manner, Accounting Operations implemented a procedure by reviewing invoice aging report monthly. The report is generated from the Invoice Tracking System. If there are any invoices outstanding over 20 days, Accounting Operations contacts the division responsible for reviewing the invoices. The prompt payment interest has been significantly reduced since the implementation of the procedure.

(4) Employee Retaining Ability to Expend Funds and Approve Paper Vouchers After Termination

Recommendation: The Department must ensure that it removes a designated employee's security that permits the employee to electronically approve expenditures not later than the effective date of the employee's termination of employment with the Department or revocation of the employee's designation, whichever occurs first. The Department must also create and follow procedures to ensure that the Comptroller receives the notification about terminating employees who are designated to approve paper vouchers not later than the fifth day after the terminations become effective for the removal of a designated employee's signature card authority, as required by 34 Tex. Admin. Code § 5.61(k) (3) (B) (2003).

Division/Responsible Individual:

Financial Administration Division/Accounting Operations – Esther Ku

Estimated Resolution Date:

July 2004

Brief Summary of Actions taken:

At the employee's termination of employment, the Department's Benefit Coordinator notifies all the staff involved. The procedure has been modified to include Accounting Operations in the process. Upon receiving of the notice, the Security Coordinator ensures the removal of the security that permits the employee to electronically approve expenditures or paper vouchers on a timely manner.

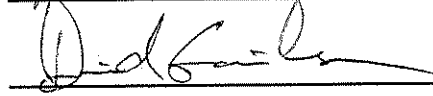
Please certify by signature that information provided is complete and correct.

Chief Fiscal Officer



Date 7/20/04

Internal Auditor



Date 7/20/04

**If implemented, give date of implementation and changes in procedures if applicable.*

Texas Department of Housing and Community Affairs

Status of Prior Audit Issues

- *Summary Report of Prior Audit Issues*
-

- *Supplementary Support for Finding Reference 268 & 269*

Ø *TDHCA Letter Dated July 1, 2004 (Department's response)*

Ø *HUD Letter Dated May 3, 2004 (Required actions)*

- *Summary of Prior Audit Issues Implemented in FY 2004*

Texas Department of Housing and Community Affairs - Summary Report of Prior Audit Issues (except those prior audit issues previously reported as implemented or otherwise resolved)

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date	
			Codes*	Date		
187	09/19/00 HUD	Section 8 Management Review Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Dx	01/03/01		
			Dx	03/04/01		
	Dx	04/18/01	NR			
	Dx	11/28/01	NR			
	Pxx	04/25/02	08/31/02			
	Px	07/31/02	12/31/02			
	Px	08/30/02	12/31/02			
	Px	10/25/02	12/31/02			
	Dx	12/12/02	NR			
	Px	05/06/03	NR			
	Pxx	06/30/03	NR			
	Px	09/17/03	NR			
	Dx	11/21/03	NR			
	Ix	01/30/04	---			
	Pxx	03/11/04	03/31/05			
Px	07/27/04	03/31/05				
268	02/12/02 KPMG	Compliance with Requirements & IC Over Compliance - A-133. Statewide Federal Single Audit for FYE August 31, 2001 (SAO contract with KPMG).	Px	04/22/02	08/01/02	
			Px	07/31/02	10/31/02	
	Px	10/02/02	NR			
	Px	10/25/02	NR			
	Px	01/31/03	NR			
	Ixx	02/24/03	07/01/04			
	Pxx	03/26/04				
	Dx	04/22/04				
	Pxx	04/28/04				
	Tx	07/26/04				
	<p>Division: Portfolio Management & Compliance</p> <p>Issue: There is a lack of documentation to support soft costs incurred by subrecipients. Known questioned costs - \$29,400. Estimated questioned costs - \$2,314,574.</p> <p>Corrective Action: Pursuant to HUD letter dated 05/03/04, the required corrective action on this audit issue is to provide (1) the number of contracts that included soft costs for the 1999, 2000 and 2001 program years to establish the universe for each separate year, and (2) the number of projects that included soft costs which were monitored from the respective years that contained sufficient documentation in support of the soft costs.</p> <p>Status: 07/01/04 – The Department responded by its letter dated 7/1/04 to the HUD 5/3/04 letter. The Department provided the number of contracts that drew funds for soft costs during 1999, 2000, 2001 and provided the number of contracts that were monitored from those years. Additionally, the Department submitted supporting documentation for soft costs for 16 subrecipients, including support documentation for 5 subrecipients that were included in the known questioned costs related to contracts that drew funds for soft costs during these fiscal years.</p> <p>The Department anticipates that the response will be sufficient to clear this audit finding.</p>					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
269	02/12/02 KPMG	Compliance with Requirements & IC Over Compliance - A-133. Statewide Federal Single Audit for FYE August 31, 2001 (SAO contract with KPMG).	Ix	04/22/02	
			Ixx	02/24/03	
			Pxx	03/26/04	
			Dx	04/22/04	
			Pxx	04/28/04	
			Tx	07/26/04	
Division: HOME					
Issue: TDHCA does not have adequate internal controls in place over monitoring the subrecipients of the HOME Program.					
Corrective Action: Pursuant to HUD letter dated 05/03/04, the required corrective action on this audit issue is (1) to provide a copy of KPMG's letter clarifying this finding (The KPMG's letter clarifies that the Department did not claim to have closed 185 files as originally reported in the audit finding.) and (2) to provide adequate documentation that all 185 contracts referred to in the management response contained in the 2001 audit were monitored, determined to have achieved substantial compliance, were closed, and all corrective actions made in IDIS.					
Status: 07/01/04 – The Department responded by its letter dated 7/1/04 to the HUD 5/3/04 letter. The Department provided the current status of the 185 contracts, a copy of the Certificate of Completion previously used by the Department, and support documentation related to this issue.					
The Department anticipates that the response will be sufficient to clear this audit finding.					
<hr/>					
330	08/29/03 IA	Construction of Housing Tax Credit Developments Controls in place prior to the effective date of the Department's reorganization, March 1, 2003, over the construction of HTC developments providing reasonable assurance that the developments actually delivered under the program conform to the specifications relied upon by the Board in its award decisions.	Px	08/29/03	
			Px	11/25/03	03/01/04
			Px	02/26/04	03/31/04
			Px	04/28/04	09/24/04
			Dx	08/09/04	08/31/07
Division: Portfolio Management & Compliance					
Issue: All requirements and information needs relating to the tax credit program, especially the construction function, should be thoroughly identified and considered in the requirement definition of the fully integrated management information system currently in development by the Department. All tax credit related functional areas, including housing tax credit production, underwriting, compliance and asset management staff should work together with the development team to ensure that the system's requirements adequately define all functional and informational needs of the program. Informational needs of other users such as other program areas that may contract with the same parties that apply for or receive tax credits, executive management, the Board and oversight agencies, including the U.S. Treasury and Internal Revenue Service, should also be considered in the requirement definition.					
Status: 08/09/04 - Design specifications for the multifamily module have been completed and final user approval and sign-off are expected in October 2004. As of August 6, 2004, the Central Database Steering Committee scheduled development of the construction module to tentatively begin in September 2005. Due to concurrent work activities the tentative anticipated completion date is currently expected to be August 31, 2007. While the Department has created an internal spreadsheet that will function for interim use, it needs revisions and updates. Those revisions are in progress.					

Ref. #	Report Date		Report Name Audit Scope	Status		Target Date
	Auditors			Codes*	Date	
335	02/23/04		Compliance with Requirements & IC over Compliance - A-133	Pxx	02/23/04	03/31/05
	KPMG		Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)	Px	07/27/04	03/31/05

Division: Community Affairs - Section 8

Issue: Instances of noncompliance with Section 8 reporting requirements were noted. The HUD Section 8 Management Report dated September 19, 2000 noted the Department had not implemented a family self-sufficiency (FSS) program and required the Department to provide an FSS program or apply for a waiver from HUD. Correspondence from HUD dated June 26, 2003, indicated that the Department received a waiver for all areas outside of Houston, Texas. The correspondence also indicated that the Department should submit an FSS action plan for the Houston area for HUD approval within 30 days. Additionally, lines 2k and 17a, Family's participating in the Family Self-Sufficiency Program, and line 17k(2), FSS account, were not completed on the HUD-50058-Family Report (OMB No. 2577-0083) for the families in the Houston area since the program was not implemented during fiscal year 2003.

Submit the Family Self-Sufficiency Program Action Plan for the Houston area. Once the action plan is approved by HUD, ensure that accurate FSS information is reported on the HUD 50058 Family Reports.

Status: 07/27/04 - Progress report based on timetable implementation: Sr. Regional Coordinator, Cecelia Arvallo has assumed duties of FSS Coordinator. Cecelia attended FSS training on May 10-12, 2004 in Denver, CO. Flyer for participant interest was completed and mailed by June 30, 2004. As of July 27, 2004, program has received 187 responses. Further action pending TDHCA Board review on August 19, 2004 of Brazoria County's request to release it from its Local Operating Contracts with the Department and relinquish the related Section 8 vouchers.

02/23/04 - Although management reported in its response that it considers the recommendation implemented since TDHCA's Family Self-Sufficiency Program (FSSP) Action Plan for the Houston area was approved by HUD letter dated January 12, 2004, the approved timetable for program implementation is April 1, 2004 through March 31, 2005. Section 8 management anticipates implementing FSSP contracts no later than March 2005, at which time TDHCA will have processes in place to ensure that FSSP information reported on the HUD 50058 Family Reports is accurate. Accordingly, the status has been reclassified by Internal Audit as in progress of implementation.

342	02/23/04		Compliance with Requirements & IC over Compliance - A-133	Px	04/22/04	06/30/04
	KPMG		Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)	Pxx	07/27/04	09/30/04

Division: Financial Administration - Accounting Operations

Issue: The Department did not comply with the allowable costs/cost principles compliance requirements for HOME. The Department continued to use an indirect cost rate approved by the U.S Department of Health and Human Services beyond 8/31/2000; the date HHS ceased to be the designated Federal cognizant agency for the Department. Questioned Cost: \$1,422,826 due to lack of current indirect cost rate agreement with cognizant agent.

Contact Health and Human Services (HHS), the cognizant agent as of August 31, 2003, and obtain a current indirect cost rate agreement, or amend the grant agreements for each program to include a stated indirect cost rate.

Status: 07/27/04 - The Department submitted a request for an Indirect Cost Rate with supporting documentation to Henry Williams, Director of Cost Allocation in the Dallas Field Office. Our request was declined pending submission of documentation of the Department's largest federal funding source and a grant notice requiring an indirect cost rate. The Department will send the funding information and then contact Federal grantors; HUD, DOE, DHHS, requesting an indirect cost rate notice.

04/22/04 - The Department continues its discussions with Federal Agencies concerning the negotiation of an indirect cost rate agreement. The Department has compiled and is prepared to submit its proposal to a federal sponsor.

Texas Department of Housing and Community Affairs

Status of Prior Audit Issues

Supplementary Support for Finding Reference 268 & 269

Ø ***TDHCA Letter Dated July 1, 2004 (Department's response)***

Ø ***HUD Letter Dated May 3, 2004 (Required actions)***



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..... July 1, 2004

PERRY
governor

INA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Richard Bogany
Robert Conine
Luis Gonzalez
Richard R. Gordon
Antonio Salinas

Katie S. Worsham, Director
Office of Community Planning and Development
U.S. Department of Housing and Urban Development
801 Cherry Street, P.O. Box 2905
Fort Worth, TX 76113-2905

Re: Status of Audit Findings in the 2001 and 2002 Single Audit Reports
Response to HUD Management Decision

Dear Ms. Worsham:

Enclosed please find the Texas Department of Housing and Community Affairs' (TDHCA/Department) response to the U.S. Department of Housing and Urban Development's Office of Community Planning and Development (HUD) letter dated May 3, 2004 related to previous HOME Investment Partnerships Program (HOME) audit findings.

FINDING 02-05

TDHCA's subrecipients and consultants received and spent HOME program funds for related soft or project delivery costs without required oversight. TDHCA did not require its subrecipients or consultants to submit all necessary documentation to support the requests for funds to cover the costs.

Required Corrective Action (as of May 3, 2004)

- The number of contracts that included soft costs for the 1999, 2000, 2001 program years. This will establish the universe for each separate year.
- The number of projects that included soft costs which were monitored from the above respective years that contained sufficient documentation in support of the soft costs.

Response Finding 02-05:

(A) The Department identified 128 contracts provided to 112 subrecipients that drew funds for soft costs under the Owner-Occupied and Homebuyer Assistance funding categories during fiscal years 1999, 2000, and 2001 (*Attachment A*). Subrecipients

that were awarded program year 2001 contracts were required to submit supporting documentation with each request for reimbursement of soft costs.

- (B) Of the 128 awardees, the Department conducted on-site monitoring reviews of 22 subrecipients receiving 25 contracts (*Attachment B*). During on-site visits, source documentation included in subrecipient project files is reviewed including applications for HOME assistance, environmental review documentation, work write-ups, costs estimates, and inspection documentation. These are soft cost items that are eligible for reimbursement and must be included in subrecipient project files (*Attachment C*).

The Department requested and received support documentation for a sample of soft cost expenditures for sixteen (16) subrecipients that received reimbursement for soft costs during fiscal years 1999, 2000, and 2001 (*Attachment D*). Please note that *Attachment D* does not include sample support documentation for three contracts that are included as part of *Attachment E*. This represents approximately 12.5% of contracts that received reimbursement for soft costs expenditures during that time period and was obtained from the field. Regarding known questioned costs identified in the Statewide Single Audit Report for Fiscal Year (FY) 2001 totaling \$29,800, the Department is providing a spreadsheet of the five contracts with questioned soft cost expenditures totaling \$29,400 and including support documentation for a sample of those expenditures related to three of those contracts (*Attachment E*).

FINDING 02-06

TDHCA does not have adequate internal controls in place over monitoring the subrecipients of the HOME program.

Required Corrective Action (as of May 3, 2004)

- A copy of the KPMG letter clarifying the finding.
- Adequate documentation that all 185 project files were monitored, determined to have achieved substantial compliance, were closed, and all corrections made to IDIS.

Response Finding 02-06:

- (A) KPMG, the subcontractor responsible for conducting the Statewide Single Audit for FY 2001, submitted a letter to the Department dated May 30, 2002 revising the sixth bullet of Finding 02-06 (*Attachment F*). KPMG clarified that the TDHCA Compliance Division performed desk reviews of approximately 185 contracts that had previous monitoring and technical assistance on-site visits but had not been programmatically closed to determine if adequate documentation was maintained in the Department's contracts files to ensure that substantial compliance was met. If adequate documentation was not found during the desk review process, an on-site visit was conducted. The findings identified by KPMG related to this issue were subsequently cleared in the Statewide Single Audit for FY 2002 (*Attachment G*).

(B) Of the 185 identified contracts awarded to 146 subrecipients, on-site visits were made to 66 subrecipients receiving 78 contracts, desk reviews were completed for 107 contracts, 47 contracts received Certificates of Completion (COCs), and 11 contracts were programmatically closed (*Attachment H*). The programmatic contract close-out process previously used by the Department occurred when monitors verified that contract activities were complete and the subrecipient was found to be substantially compliant with HOME program requirements through a desk review process or an on-site review. To programmatically close a contract, HOME staff processed a Certificate of Completion (COC), an internal document that reconciled HOME contract balances, match amounts, and project activities (*Attachment I*); and entered the COC date in the data tracking system. The Compliance Division subsequently entered a programmatic close-out date in the data tracking system after HOME staff entered the COC date in the tracking system.

The programmatic close-out process was initially established during June 2000 and continued until 2002. During FY 2001, the Compliance Division set an internal goal of monitoring 100 contracts with the ultimate goal of programmatically closing contracts. Of these 100 contracts, staff selected 49 contracts with expenditures during FY 2001, and 51 contracts from the 185 mentioned above; and 13 of the total 100 selected were identified as high risk through the risk assessment process. Currently, all contracts to receive on-site monitoring visits are selected through the risk assessment or referral process.

Subsequent to the HUD and KPMG audit findings, the Compliance Division developed the contract close-out process in use today which focuses primarily on high risk subrecipients. Currently, contract close-out occurs when reconciliation between the Department's central database system, CSAS, and IDIS systems is complete, all projects associated with a contract have been closed in IDIS, and any remaining funds have been deobligated. Additionally, if a contract receives an on-site monitoring visit through the risk assessment process, outstanding issues that are identified must be resolved before the status is changed to "closed" in the new central database system (*Attachment J*).

If you have any questions, please feel free to contact me or Suzanne Phillips, Portfolio Management and Compliance Director, at (512) 475-3881.

Sincerely,



Edwina P. Carrington
Executive Director

cc: Jim Johnson, CPD Deputy Director
Art Zavala, CPD Program Manager
Brenda Jennings, Senior Financial Analyst
Ruth Cedillo, Deputy Executive Director
Anne O. Reynolds, Deputy General Counsel
Suzanne Phillips, Director of Portfolio Management and Compliance
David Gaines, Internal Audit



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office, Region V1
Office of Community Planning and Development
801 Cherry Street, P.O. Box 2905
Fort Worth, Texas 76113-2905

MAY 3 - 2004

Edwina P. Carrington, Executive Director
Texas Department of Housing and
Community Affairs
PO Box 13941
Austin, Texas 79711-3941



RECEIVED
MAY 6 2004
EXECUTIVE

Dear Ms. Carrington:

SUBJECT: Status of Audit Findings in the 2001 and 2002 Single Audit Reports

We are in receipt of your letter dated April 23, 2004, which requests a 30-day extension to complete the review of available information and respond to the findings. The letter also made reference to a March 20, 2003, meeting in which HUD had previously agreed to clear the 2001 findings based on KPMG's clearance of the findings in the 2002 audit report. In an effort to clarify this matter, we held a conference call with representatives of your staff on April 28, 2004, that included Ruth Cedillo, Suzanne Phillips, Sandy Mauro, and Jennifer Molinari.

During the call we pointed out that we could not clear the findings as a result of KPMG's actions, because KPMG's recommendations and the state's corrective action plan discussed actions to be taken to prevent future occurrences, and did not address the required HUD actions needed to resolve the current findings. Once we established with your staff the specific additional actions needed to resolve the findings, we mutually agreed to a July 1, 2004, response date. A summary of the actions to be taken by July 1, 2004, is discussed below.

The following information is to be provided to HUD on or before July 1, 2004.

Finding 02-05

- The number of contracts that included soft costs for the 1999, 2000 and 2001 program years. This will establish the universe for each separate year.
- The number of projects that included soft costs which were monitored from the above respective years that contained sufficient documentation in support of the soft costs. (This is the monitoring done by the newly assigned staff starting in mid-2001.)

Upon receipt of the above information, HUD will make a determination of whether additional action is needed.

Finding 02-06

- A copy of the KPMG letter clarifying the finding.
- Adequate documentation that all 185 project files were monitored, determined to have achieved substantial compliance, were closed, and all corrections made to IDIS.

If you have any questions, please contact Brenda Jennings, Senior Financial Analyst, at 817-978-5941.

Sincerely,



for Katie S. Worsham
Director

Texas Department of Housing and Community Affairs - Summary Report of Prior Audit Issues Implemented in FY 2004

<i>Ref. #</i>	<i>Report Date Auditors</i>	<i>Report Name Audit Scope</i>	<i>Status</i>		<i>Target</i>
			<i>Codes*</i>	<i>Date</i>	<i>Date</i>
172	09/19/00	Section 8 Management Review	Ix	01/03/01	
	HUD	Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Ixx	08/02/01	
			Pxx	06/30/03	
			Ix	09/17/03	

Division: Community Affairs - Section 8

Issue: Finding No. 2: TDHCA is not maintaining the Record of Application/Waiting List (Fort Worth) in accordance with 24 CFR 982.204. The Waiting List at the time of the review did not address race or local preference.

Status: 09/17/03 - As of May 1, 2003, the Department now maintains the waiting lists for all its Section 8 local HAP operators. Also, a quality control checklist form is used in the contract review process to ensure that notification letters are in the tenant file.

06/30/03 - Per SAO report #03-041 dated June 30, 2003, status is as follows: Although the Department has made some progress in this area, it has not fully corrected this issue. The Department's waiting lists include blanks for the required data elements cited by an earlier HUD audit. However, the auditors found 28 instances in which blanks had not been filled on files that were prepared after February 20, 2001. These discrepancies occurred at six different local operators. Additionally, 3 (15 percent) of 20 files we tested did not contain the notification letter as the external auditor had recommended. (These 20 files were prepared after HUD had issued its report.) The Department's Administrative Plan also requires that the notification letter be in the tenant file.

08/02/01 - Reported by Rick Mendoza in Section 8 Program Specific Audit that issue has been resolved.

02/22/01 - Pursuant to HUD Letter Dated February 22, 2001, a copy of a revised waiting list for the Fort Worth jurisdiction which contained the required information for each applicant was received by this office. This documentation adequately responded to this finding and the finding is closed, subject to a follow-up visit.

01/26/01 - Reported to the Board as implemented.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
175	09/19/00 HUD	Section 8 Management Review Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Px	01/03/01	01/31/01
			lx	03/04/01	
			lxx	07/10/01	
			Pxx	06/30/03	
			lx	09/17/03	
Division: Community Affairs - Section 8					
Issue: Finding No. 5: Rent reasonableness is not being properly determined for units under the Section 8 tenant-based program, 24 CFR 982.503.					
Status: 9/17/03 – In August 2003, the Department expanded the quality control checklist form to include additional information to adequately review contract packages to ensure that Section 8 rent reasonableness is documented.					
06/30/03 - Per SAO report #03-041 dated June 2003: Although the Department has made some progress in this area, it has not fully corrected this issue. HUD requires the Department to ensure the rent charged to a program participant is similar to (1) other unassisted units in the marketplace and (2) other unassisted units on the premises. The 20 files reviewed, prepared after HUD had issued its report, contained Certification of Rent Reasonableness forms. However, two of these forms did not properly document a comparison of the rental unit to three comparable properties. In one of these cases, it appears that the Department took reasonable steps to find three comparable properties, but failed. In addition, one tenant was authorized housing for which he had failed the affordability test.					
07/10/01 - HUD letter dated 07/10/01 cleared issue based on information submitted by the Department that consisted of revised procedures and forms under Appendix 4 of the Administrative Plan.					
04/26/01 - Reported to the Board as implemented.					

176	09/19/00 HUD	Section 8 Management Review Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Px	01/03/01	02/28/01 04/16/01
			Px	03/04/01	
			lx	04/18/01	
			lxx	07/10/01	
			Pxx	06/30/03	
Division: Community Affairs - Section 8					
Issue: Finding No. 6: 24 CFR 982.153 and 5.617 requires that a PHA shall at least once a year reexamine the income of families participating in the Section 8 Programs. According to the HAP Register printed August 4, 2000, 360 reexaminations were delinquent.					
Status: 9/17/03 – In June 2003, the Department implemented a monthly file review of contract renewals conducted by management to establish the re-examination of family income for each Section 8 participant.					
06/30/03 - Per SAO report #03-041 dated June 2003, status is as follows: Although the Department has made some progress in this area, it has not fully corrected this issue. Of the 20 files examined, prepared after HUD issued its report, 13 should have undergone the annual examination of family income. However, the Department had not performed this work for three (23 percent) of these 13 files.					
07/10/01 - HUD Letter dated 7/10/01 cleared issue based on information submitted by the Department.					
04/26/01 - Reported to the Board as implemented.					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
177	09/19/00	Section 8 Management Review	Px	01/03/01	01/31/01
	HUD	Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Ix	02/22/01	
Division: Community Affairs - Section 8			Pxx	06/30/03	
Issue: Finding No. 7: 24 CFR 982.153 requires that PHAs comply with the consolidated Annual Contributions Contract (ACC), the application, HUD regulations and other requirements, and the PHA Administrative Plan. HUD requires that resident files include documentation to support verification of income and other family information, Housing Assistance Payments (HAP) contracts, leases, HQS inspection forms, etc.			Ix	09/17/03	
Status: 9/17/03 – In August 2003, the Department expanded the quality control checklist form to ensure that Section 8 tenant files contain all the required documents.					
06/30/03 - Per SAO report #03-041 dated June 2003, status is as follows: Although the Department has made some progress in this area, it has not fully corrected this issue. It appears that the Department has corrected most of the problems in old files regarding the five areas of documentation that HUD listed as absent. All of the new files have the documentation that was specifically mentioned in the HUD report. Five (25 percent) of the 20 files (prepared after HUD's report) tested did not contain at least one of the documents required by HUD or recommended by the external auditor.					
04/26/01 - Reported to the Board as implemented.					
02/22/01 - HUD letter dated 02/22/01 reported that this finding is closed, subject to follow-up at the next site visit, based on a copy of standard operating procedures for review and approval of tenant files and a checklist of documents required to be maintained in each Section 8 Housing choice Voucher Program Resident's file submitted by the Department.					
<hr/>					
178	09/19/00	Section 8 Management Review	Pxx	01/03/01	04/20/01
	HUD	Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Px	03/04/01	
Division: Community Affairs - Section 8			Px	05/16/01	NR
Issue: Finding No. 8: Correct Addendum to Lease and HAP Contract Dated March 2000 is Not Being Use.			Ixx	07/10/01	
Status: 9/17/03 – In June 2003, the Department disposed of all old versions of the Section 8 lease addendum form which is no longer available to staff or local operators.			Pxx	06/30/03	
06/30/03 - Per SAO report #03-041 dated June 2003, status is as follows: Although the Department has made some progress in this area, it has not fully corrected this issue. In a sample of 20 files, prepared after HUD issued its report, one instance was found in which the Department used the incorrect lease addendum.					
07/10/01 - HUD Letter cleared issue based on information provided by the Department.					
2/22/01 - Although reported to Board as implemented, per management, at January 26, 2001 meeting, status reclassified to "In Process of Implementation" based on correspondence from HUD.					
<hr/>					

<i>Ref. #</i>	<i>Report Date</i>	<i>Report Name</i>	<i>Status</i>		<i>Target</i>
	<i>Auditors</i>	<i>Audit Scope</i>	<i>Codes*</i>	<i>Date</i>	<i>Date</i>
238	08/02/01	Sec. 8 Rental Certificate/Voucher Pgm.-Specific	Ixx	08/02/01	
	Rick Mendoza	Program-specific audit in accordance with OMB Circular A-133 for the fiscal year ending June 30, 2000.	Pxx	06/30/03	
			Ix	09/17/03	

Division: Community Affairs - Section 8

Issue: A lack of supervision and review exists within several program areas. The Department should develop a procedure for the review of participant files and should assign the task of reviewing all files to at least one Section 8 staff member in a supervisory position. Supervision and review procedures over the maintenance of participant files should be given priority.

Status: 9/17/03 – The Department developed and currently is using a quality control checklist form to ensure that tenant files contain all required documents. The form has been added to the contract review process. The Regional Coordinator completes this form. Upon completion, the form is placed in the tenant contract file for final review by the Section 8 Coordinator/Manager.

246	08/02/01	Sec. 8 Rental Certificate/Voucher Pgm.-Specific	Ix	08/02/01	
	Rick Mendoza	Program-specific audit in accordance with OMB Circular A-133 for the fiscal year ending June 30, 2000.	Pxx	06/30/03	
			Ix	09/17/03	

Division: Community Affairs - Section 8

Issue: The Department allowed overpayments to be made under the Section 8 program. Develop a review procedure whereby disbursements and adjustments are reviewed to ensure that utility allowance payments as well as housing assistance payments are proper and are supported by proper documentation.

Status: 9/17/03 – The Department developed and currently is using a quality control checklist form to ensure that tenant files contain all required documents. The form has been added to the contract review process. The Regional Coordinator completes this form. Upon completion, the form is placed in the tenant contract file for final review by the Section 8 Coordinator/Manager.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
253	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Dx	07/26/02	

Division: Portfolio Management & Compliance

Issue: (Finding 1A) - The state is not providing adequate monitoring and oversight of the processing and construction activities in accordance with the applicable requirements. (Finding 1B) - Additionally, the properties assisted by several of the HOME activities through HOME awards by one of the Department's subrecipients, the Texas State Affordable Housing Corporation, have insufficient or no documentation that they are in compliance with applicable standards and code requirements.

Remaining Corrective Actions:

(Finding 1A) - HUD letter dated 08/01/03 indicates that the finding remains open and that the Department must further clarify and provide specific written assurances regarding some of the finding's elements, including (1) adding an Inspection component to the Department's Monitoring Plan that defines the qualifications for inspectors, when inspections should be done and emphasizing the need for inspections to ensure quality of work performed, and (2) that, as part of its technical assistance and formal monitoring visits, the Department will conduct physical onsite inspections at a selected number of properties and these inspections should be comprehensive enough to assure that (2a) the initial inspection addresses all deficiencies for which corrective action is needed, (2b) the work write-ups are clear, concise and complete and adequately identify the work required to bring the properties into compliance with the State's property standards, (2c) the awarded bids are cost-reasonable, (2d) all changes to the initial bid are covered by written change-orders, (2e) that all required work has been completed in accordance with the State's construction standards and (2f) a determination is made that the properties are or are not in full compliance with the state's property standards. Additionally, The State should develop and set the standards for its subrecipients to monitor their lower-tier subcontracts.

(Finding 1B):

HUD letter dated 08/01/03 indicates that the finding remains open and that the Department must provide estimated timeframes for completion of the (1) inspections by Department staff of units with deficiencies and (2) completion of construction to correct the deficiencies identified by the inspections. The Department was reminded that for any unit that is not or cannot be brought into compliance, the full amount of the subsidy provided must be repaid to HUD from nonfederal funds.

HUD letter dated 2/27/03 - For any claims by homeowners or homebuyers resulting from the survey to 1,112 homewoners, the Department must conduct an on-site inspection by a qualified person to review for compliance with standards. If documentation is not available, the Department must complete a full write-up of the condition of the house and determine if the claimed deficiency existed at the time of the activity completion. If standards were not met, the Department must take required corrective actions to bring the house into standards. The Department shall provide an appeals process for any claim by homebuyers or homeowners that is denied.

Status: FINDING 1A:

02/26/04: HUD letter dated 2/23/04 cleared this issue. HUD encouraged the Department to continue efforts to work with individuals identified as needing additional assistance under this finding.

12/22/03: TDHCA letter dated 12/22/03 provided HUD with the remaining information that management believes is necessary to clear this issue. The information included clarifications to information previously submitted for each issue addressed under Finding 1(A), including clarifications of the Department's Monitoring Plan and the criteria used by the Department to define a qualified inspector and when inspections are performed as quality assurance measures. HUD was directed to information regarding construction standards provided in the recently revised Construction chapter of the HOME Program Policies and Procedures Manual available on the Department's website and was informed that such information is provided to each subrecipient during implementation training. The letter elaborated and provided additional information relating to each of HUD's previously expressed concerns.

FINDING 1B:

02/26/04: HUD letter dated 2/23/04 cleared this issue. HUD encouraged the Department to continue efforts to work with individuals identified as

Px	04/22/02	08/01/02
Dx	07/26/02	
Dx	09/23/02	NR
Px	10/28/02	06/30/03
Px	01/31/02	NR
Px	03/31/03	5/31/03
Px	04/29/03	NR
Pxx	06/20/03	NR
Px	07/15/03	NR
Pxx	08/01/03	NR
Px	09/02/03	12/31/03
Px	12/03/03	12/31/03
Dx	12/22/03	
lxx	02/26/04	

Ref. #	Report Date	Report Name	Status		Target
	Auditors	Audit Scope	Codes*	Date	Date

needing additional assistance under this finding.

12/22/03: TDHCA letter dated 12/22/03 provided HUD with the remaining information that management believes is necessary to clear this issue. The letter explained that the Department reviewed the responses received from the 212 beneficiaries, pursuant to the HUD approved survey sent to the subject population of beneficiaries by TDHCA, and determined that 33 project sites required further analysis to determine whether the homes met applicable standards. The Department required that TSAHC contact the beneficiaries to schedule inspections. If a response was received authorizing an inspection, TSAHC was required to conduct an inspection and correct deficiencies or repay the full amount of subsidy provided. No further action was required for those beneficiaries that did not respond to TSAHC, contingent upon receipt of acceptable documentation that contact attempts were made.

In summary, of the 33 beneficiaries subject to consideration, 15 responded to TSAHC's correspondence; however, TSAHC did not conduct inspections or correct deficiencies for the respondents within the required time frame. The remaining 18 beneficiaries did not respond. The Department disallowed costs totaling \$102,117.44 on December 3, 2003 and \$20,320.00 December 15, 2003 for a total of \$122,437.44 representing subsidy provided to 13 beneficiaries. The Department received reimbursement in full and these funds have been forwarded to HUD.

While the letter assured HUD that action will be taken in accordance with the Department's mission statement to provide adequate housing for the beneficiaries whose houses have not been documented as in compliance with construction standards, if HUD desires, the letter stated that the Department believes that the repayment of HOME funds alleviates the Department of any further responsibility with respect to HOME regulations.

254	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	07/26/02	12/31/02
Division: Portfolio Management & Compliance			Px	10/02/02	NR
Issue: (Finding 2.) One of the Department's subrecipient's (the Texas State Affordable Housing Corporation) third-party lenders (HOME, Inc.) (1) disbursed both HOME and FHA Title 1 Home Improvement Loan funds to pay a contractor, in full, to reconstruct a house that was never completed and, (2) issued checks against the FHA Title 1 Home Improvement Loan which subsequently were returned due to insufficient funds, as well as disbursing HOME funds to pay the same contractor for rehabilitation work on a second project, which was never completed.			Px	10/28/02	06/30/03
Remaining Corrective Actions - HUD letter dated 08/01/03 indicates that the finding remains open and that the Department must continue its efforts to inspect the remaining 17 units assisted. The Department needs to provide the estimated timeframe for the completion of both the remaining inspections and the construction to correct the identified deficiencies. HUD also is requiring that additional assistance be made available for the housing unit that failed inspection for the many infractions noted, as discussed further in the 07/15/03 status below.			Px	01/31/03	NR
			Px	03/31/03	5/31/03
			Px	04/29/03	NR
			Pxx	06/20/03	NR
			Px	07/15/03	NR
			Pxx	08/01/03	NR
			Px	09/02/03	12/31/03
			Px	12/03/03	12/31/03
			Dx	12/22/03	
			lxx	02/26/04	

Status: 02/26/04: HUD letter dated 2/23/04 cleared this issue.

12/22/03: TDHCA letter dated 12/22/03 provided HUD with the remaining information that management believes is necessary to clear this issue. In summary, of the 18 beneficiaries related to this issue, \$44,122.40 was disallowed on 12/03/03 and \$8,113.59 on December 15, 2003 for a total of \$52,225.99 representing subsidies provided to five beneficiaries that requested inspections that have not been completed within the allowed time frame and four beneficiaries with deficiencies noted during inspections that were not corrected. Of the remaining 9 beneficiaries relating to this issue, five beneficiaries did not respond to contact attempts, one beneficiary did not authorize an inspection, one beneficiary received an inspection by the Department and indicated that they were satisfied with the work at the time improvements were completed and that no further assistance was required, and TSAHC corrected deficiencies noted for two beneficiaries. The Department received reimbursement in full and these funds have been forwarded to HUD.

While the letter assured HUD that action will be taken in accordance with the Department's mission statement to provide adequate housing for the beneficiaries whose houses have not been documented as in compliance with construction standards, if HUD desires, the letter stated that the Department believes that the repayment of HOME funds alleviates the Department of any further responsibility with respect to HOME regulations.

<i>Ref. #</i>	<i>Report Date</i> <i>Auditors</i>	<i>Report Name</i> <i>Audit Scope</i>	<i>Status</i>		<i>Target</i>
			<i>Codes*</i>	<i>Date</i>	<i>Date</i>
255	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	07/26/02	08/31/03
<i>Division:</i> Portfolio Management & Compliance			Px	10/02/02	NR
<i>Issue:</i> (Finding 3.) Data previously entered into IDIS that was incomplete and/or inaccurate have still not been corrected.			Px	10/28/02	NR
Corrective Actions include (1) reviewing all Project Set-up and Project Completion reports for all activities assisted from 1998 through present and making all required corrections on the forms, (2) entering all revised data into the IDIS for each activity, (3) providing a proposed timeframe for the preceding, and (4) advising HUD the steps the State plans to implement to assure in the future that all required data will be obtained and accurately entered into IDIS.			Px	01/31/03	05/30/03
HUD letter dated 06/20/03 - Reminded the Department that as it continues to close old HOME contracts, the funds released by these closures need to be committed as quickly as possible so that their availability does not have a negative impact on the state's 24-month commitment deadline.			Px	03/31/03	07/31/03
<i>Status:</i> 10/09/03 - Reported to the Board as implemented, per independent verification.			Dx	04/29/03	NR
07/29/03 - Reported to the Board as Implemented.			Ixx	06/20/03	
06/20/03: HUD letter dated 06/20/03 - Cleared this finding based on information provided by the Department and on the basis of the Department's assurance that corrective actions will continue to be taken as other errors or deficiencies are found.					
04/29/03 : TDHCA letter to HUD dated 4/22/03 - Informed HUD that it has completed over 2000 corrections and that all major corrections have been completed and the finding should be cleared. The letter also details the processes involved in IDIS entry, staffing changes implemented and discusses reconciliation issues with IDIS, CSAS and Genesis, the program's internal database.					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
256	11/16/01 HUD	Monitoring Visit - HOME Program - M-00/01-SG-48-0100 On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	04/22/02	08/01/02
			Ix	07/26/02	
			Px	10/28/02	NR
			Ix	01/31/03	
			Px	03/31/03	05/31/03
			Px	04/29/03	NR
			Pxx	06/20/03	NR
			Px	07/15/03	NR
			Pxx	08/01/03	NR
			Px	09/02/03	12/31/03
			Px	12/03/03	12/31/03
			Dx	12/22/03	
			Ixx	02/26/04	
Division: Portfolio Management & Compliance					
Issue: (Finding 4.) Under the contract-for-deed conversion program (CFD) delivered by one of the Department's subrecipients (the Texas State Affordable Housing Corporation), vacant lots were purchased for which the construction of housing units was not started within 12 months of the purchase of the land, contrary to HOME rules. Additionally, based on the state's monitoring checklist for one of the recipients of the CFD assistance, it could not be determined if the applicant was income eligible.					
Remaining Corrective Actions: HUD letter dated 08/01/03 indicates that the finding remains open and that the Department must continue to contact the remaining six (6) beneficiaries to schedule inspections on their properties and to continue its efforts to provide adequate housing for Mr. Cortez (discussed further at 07/15/03 Status below). HUD also reminded the Department that it must ensure that houses which do not meet standards be repaired or reconstructed, or repayment will be made from nonfederal funds.					
Status: 02/26/04: HUD letter dated 2/23/04 cleared this issue. HUD encouraged the Department to continue efforts to work with individuals identified as needing additional assistance under this finding.					
12/22/03: TDHCA letter dated 12/22/03 provided HUD with the remaining information that management believes is necessary to clear this issue. The letter discussed that the Department collected \$9,244.43 in disallowed costs relating to one beneficiary and forwarded these funds to HUD. In summary, of the seven beneficiaries remaining that were subject to this issue, six beneficiaries did not respond to contact attempts. The Department determined that additional assistance should be provided to the remaining beneficiary and TSAHC did not correct the deficiencies related to this beneficiary within the required time frame, which resulted in the disallowed costs returned to HUD.					
While the letter assured HUD that action will be taken in accordance with the Department's mission statement to provide adequate housing for the beneficiaries whose houses have not been documented as in compliance with construction standards, if HUD desires, the letter stated that the Department believes that the repayment of HOME funds alleviates the Department of any further responsibility with respect to HOME regulations.					
09/02/03: The TDHCA letter to TSAHC dated 09/02/03 requiring corrective action or refund of \$71,865 with a 10/03/03 due date was forwarded to HUD, assuring HUD that the Department continues to take every effort to resolve outstanding findings. The letter informed TSAHC that the Department had completed inspections of two of the 11 units receiving assistance (which did not pass inspection), that four assisted beneficiaries did not authorize inspections and that the remaining five beneficiaries have not responded to contact attempts.					
07/26/02: TDHCA Letter to HUD dated 07/26/02 - TDHCA Compliance Monitors conducted a review of all related project files and found that 3 of the lots purchased are currently vacant lots. Total Questioned Costs associated with these three lots are \$45,352.79, which has been reimbursed from the subrecipient. The remaining 11 applicants reviewed were income eligible as evidenced by support documentation in the file.					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
260	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	06/27/02	01/31/03
Division: Portfolio Management & Compliance			Px	10/02/02	NR
Issue: (Finding 8A.) Instances were noted where there was no documentation that newly-constructed units (single-family and multi-family) financed by the Department with HOME funds awarded to one of its subrecipients (the Texas State Affordable Housing Corporation) are in compliance with the current edition of the Model Energy Code (MEC) published by the Council of American Building Officials. (Finding 8B.) Additionally, it was noted that one of TSAHC's HOME funded apartment complexes (the Keystone Apartment complex Weslaco) is not in compliance with Section 504 (handicapped accessibility) relative to units that are accessible for persons with visual and/or hearing impairments.			Px	10/28/02	NR
Remaining Corrective Actions relate to Finding 8A and include (1) reviewing all applicable files from 1998 through present to verify compliance with MEC and 504 requirements. HUD letter dated 08/01/03 indicates that the finding remains open and that the Department must provide its final results regarding its efforts to obtain the documentation necessary to certify compliance with the MEC by December 31, 2003.			Px	12/13/02	07/31/03
			Px	03/31/03	08/31/03
			Px	04/29/03	NR
			Pxx	06/20/03	NR
			Px	07/15/03	NR
			Pxx	08/01/03	NR
			Px	09/02/03	12/31/03
			Px	11/21/03	12/31/03
			Dx	12/22/03	
			lxx	02/26/04	
Status: FINDING 8A: 02/26/04: HUD letter dated 2/23/04 cleared this issue.					
12/22/03: TDHCA letter dated 12/22/03 provided HUD with the remaining information that management believes is necessary to clear this issue. The letter informed HUD that the Department received validation from TSAHC on October 1, 2003 that the remaining 115 newly constructed units have been documented as in compliance with the current edition of the Model Energy Code (MEC) published by the Council of American Building Officials. The Department expects that the information will clear this finding.					
11/10/03 - TDHCA letter dated 11/10/03 informed TSAHC that this issue is cleared based on documentation that all applicable units were in compliance with the Model Energy Code information submitted with its 10/01/03 letter, subject to final resolution and approval by the HUD.					
04/30/03: TDHCA letter to HUD dated 4/22/03 - (Finding 8A.) - 154 units of 269 new construction projects have now been documented for compliance with the MEC.					
FINDING 8B: 08/01/03: HUD letter dated 8/1/03 cleared this portion of the finding based on information provided by the Department that TDHCA has received documentation that the Keystone Apartment complex is now in compliance with Section 504 requirements and on the Department's assurance that procedures are in place to ensure future compliance with Section 504.					
07/15/03: TDHCA letter to HUD dated 07/15/03 - The Keystone apartment complex is now in compliance with Section 504 for visual and/or hearing impairment accessibility and 10 additional units have been retrofitted for mobility and sensory impairment accessibility. The Department assures HUD that processes are in place to ensure future compliance.					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
266	01/07/02	Controls Over Single Family Loans; Report No. 1.05	Px	04/22/02	07/01/02
	IA	Controls over single family loans serviced by the Department.	Px	07/22/02	11/01/02
			Px	11/05/02	02/01/03
			Px	01/28/03	06/01/03
			Px	03/28/03	06/01/03
			Px	05/06/03	06/01/03
			Px	09/22/03	10/03/03
			Ix	11/21/03	
Division: Multiple					
Issue: The Department should develop and implement formal policies and procedures for the periodic review of delinquent program loans, related collection efforts and specific criterion to be met for writing-off loan balances.					
Status: 11/21/03 - All involved divisions are now following the approved Standard Operating Procedure for the Single Family Special Loan Portfolio.					
09/22/03 - Loan Servicing has trained Asset Management staff on utilization of the MITAS servicing system to generate delinquency reports and loan level detail of delinquent loans. Loan Servicing continues to coordinate efforts with OCI staff to work with delinquent Single Family Special Loan Portfolio Borrowers. Draft policies have been completed and will be finalized with OCI and Single Family Production by October 3, 2003.					
299	02/24/03	Compliance with Requirements & IC Over Compliance - A-133.	Px	03/31/03	08/31/03
	KPMG	Statewide Federal Single Audit for FYE August 31, 2002 (SAO contract with KPMG).	Px	04/30/03	05/31/03
			Ix	09/17/03	
			Ixx	02/23/04	
Division: Financial Administration - Accounting Operations					
Issue: Establish procedures to monitor the clearance patterns of all programs subject to CMIA Subpart A on a yearly basis and inform the Comptroller's Office in those instances where there are significant changes in patterns. Questioned Cost: \$4,400 due to interest earned on program income and refund receipts accumulated and not disbursed prior to requesting additional federal funds (\$4,000) and a discrepancy in the methodology used to calculate new clearance patterns (\$400).					
Status: 02/23/04 - Per KPMG report, Federal Portion of Statewide Single Audit Report for Year Ended August 31, 2003, dated 2/23/04, "corrective action was taken".					
09/17/03 - Management has implemented cash management procedures to ensure compliance with applicable rules and regulations. Financial Administration performed procedures as of May 31st and August 31, 2003. Management considers this matter implemented at this time.					

Ref. #	<u>Report Date</u>	<u>Report Name</u>	<u>Status</u>		<u>Target</u>
	<u>Auditors</u>	<u>Audit Scope</u>	<u>Codes*</u>	<u>Date</u>	<u>Date</u>
306	06/30/03	Selected Assistance Programs at the Department	Px	06/25/03	01/01/04
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	09/17/03	10/31/03
			Px	11/21/03	02/29/04
			Px	02/24/04	03/31/04
			Ix	04/22/04	

Division: Community Affairs - WAP

Issue: Chapter 1-A: The Department did not ensure that subgrantees (1) provided weatherization services to only eligible multi-family dwellings, (2) did not exceed the maximum they can spend to weatherize a multi-family dwelling, and (3) fulfilled a variety of other WAP multi-family requirements, including the need to (3a) have applicants fully complete or sign WAP applications, (3b) for authorized individuals to sign final inspection forms, (3c) for utility billing histories to be obtained with only appropriate authorization, and (3d) for contracts with the owners of two multi-family dwellings specify that the owners did not inappropriately raise their rents.

Recommendation - The Department should (1) determine the multi-family dwellings that received WAP services in fiscal years 2001 and 2002 that were not eligible for these services and recover the amounts, (2) develop, communicate, and enforce policies and procedures to ensure (2a) each building has at least the required percentage of income-eligible units, (2b) subgrantees do not spend more than the maximum amounts allowable per unit, and (2c) subgrantees have appropriately ensured that, before the weatherization work begins, that the applicant and the multi-family dwelling unit are eligible and required documentation is completed, (3) ensure that multi-family dwelling owners provide the required assurance that rent does not increase as a result of receiving weatherization services, and (4) require that WAP subgrantees provide the Department with monthly status updates on (4a) how much they have spent from all federal and state sources to weatherize each multi-family dwelling and (4b) what percent of the work on each dwelling has been finished in order to track the amount of program funds that have been spent to weatherize multi-family and single-family dwellings.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/24/04 - The Department released a multi-family issuance and completed addendums to the monitoring instruments for WAP and CEAP. The Department completed a review of multi-family units with no additional allowed costs. All 16 subrecipients providing weatherization services to multi-family units have been trained on use of the EASY III energy audit. All action completed on March 10, 2004.

02/24/04 - Multi-family Issuance dated October 31, 2003 on weatherizing multi-family buildings has been issued to the WAP subrecipients. Also, the monitoring instrument was modified to incorporate the guidance provided in the Multi-family Issuance and this instrument has been implemented for use by staff.

A review was completed to address a randomly selected 10% of units determined income eligible for each building weatherized to review income documentation for eligibility. No other buildings were found ineligible and no other disallowed costs were determined. All disallowed costs determined at GETCAP have been reimbursed to the Department.

Bugs detected in the Easy Audit modification have been corrected, and training of 13 out of 15 subrecipients that weatherize multi-family housing has occurred. A target date extension of 3/31/04 has been established to complete training for the remaining two subrecipients.

11/21/03 - A Multi-family Issuance dated October 31, 2003 on weatherizing multi-family structures to provide additional guidance on weatherizing multi-family buildings has been issued to the WAP Subrecipients. Additionally, the monitoring instrument has been modified to incorporate issues addressed in the Multifamily Issuance and is in the process of management review.

Energy Assistance is in the process of reviewing the 10% randomly selected sample referred to in the 09/17/03 status update to determine income eligibility for each building weatherized. Completion of the review is pending receipt of complete supporting documentation for four of the WAP subrecipients.

Modifications to Easy Audit to track multi-family units expenditures were developed. Development bugs were detected during joint testing/training meetings, which are in the process of being corrected. The target date has been extended to 2/29/04 to allow time for corrections to be made to Easy Audit, the related necessary testing of Easy Audit, and time for necessary training to the affected subrecipients on the

Ref. #	<u>Report Date</u>	<u>Report Name</u>	<u>Status</u>		<u>Target</u>
	<u>Auditors</u>	<u>Audit Scope</u>	<u>Codes*</u>	<u>Date</u>	<u>Date</u>

enhanced Easy Audit software.

While the Department appreciates the value of expenditure information by building to allow for on-going assessment of performance, it has decided that there is not sufficient benefit to warrant enhancements to Easy Audit and the Department's systems to implement the portion of the SAO recommendations referred to as (4a) and (4b) above. Although the systems currently capture the amounts spent from all funding sources to weatherize each multifamily unit, which suffices for Federal compliance purposes, the systems do not capture amounts spent from all funding sources to weatherize each multifamily building or single family residence. Compliance requirements relating to this type of data, such as maximum expenditures per building, are verified in connection with field monitoring visits. The Department can measure performance based on overall expenditure rates and number of units completed.

09/17/03 - An addendum to the monitoring instrument is in place to record all documents reviewed.

EA staff have identified all multifamily projects/buildings weatherized in SFY 2000, 2001, & 2002 required to meet the 66% rule. Energy Assistance has randomly selected 10% of the units determined income eligible for each building weatherized to review the income documentation maintained in the client files and is in the process of collecting the documentation from the applicable Agencies. Should any units be determined ineligible, the 10% sample will be expanded and the cost of any units disallowed will require reimbursement. The income verification should be completed in October, 2003.

Expenditures on multi-family units will be tracked by modification to the Easy Audit by a web-based application.

07/30/03 - TDHCA is in the process of analyzing the conditions noted by the SAO and will recoup all WAP funds determined to be disallowed. Additionally, (1) modifications to the monitoring instrument will require identification of all onsite documentation reviewed, which must be complete and found in client files at the time of the on-site review, (2) documentation subject to monitoring will be copied and returned to TDHCA for quality control review prior to developing the monitoring report, and (3) modification to the monitoring instrument and a new WAP Policy Issuance will ensure subgrantees do not exceed the maximum cost per unit.

06/25/03 - The Department agrees with and will implement the recommendations and is currently in the process of modifying the EASY Audit, anticipated for completion by 10/01/03, which will address many of these issues. The Department is also developing an issuance, which has been provided to subgrantees for review and comment, on weatherizing multi-family structures to provide additional guidance on weatherizing multi-family buildings.

307	06/30/03	Selected Assistance Programs at the Department	Px	06/25/03	01/01/04
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	09/17/03	11/01/03
			Px	11/21/03	01/01/04
			Ix	02/24/04	

Division: Multiple

Issue: Chapter 1-B: WAP, CEAP and CSBG subgrantees annualize 30 days of income to estimate annual income and determine income eligibility for services, which is allowable under federal regulations; however, using only 30 days of income allows applicants to receive services even when their annual household incomes exceed the program's income eligibility thresholds.

Recommendation - The Department should obtain information for household income for a period that is longer than 30 days to determine an applicant's income eligibility.

Status: 02/24/04 - The Community Affairs Division has issued a policy issuance requiring changing annualization of income from 30 days to 90 days prior to the date of intake application effective 1/1/04. This policy issuance has been implemented and is in the process of being monitored for Weatherization programs. This policy issuance also related to CEAP and CSBG and will be included in field monitoring of these programs.

Ref. #	Report Date	Report Name	Status		Target
	Auditors	Audit Scope	Codes*	Date	Date
308	06/30/03	Selected Assistance Programs at the Department	Px	06/25/03	01/01/04
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Ix	09/17/03	

Division: Community Affairs - WAP

Issue: Chapter 1-C: The Department does not ensure that WAP subgrantees provide allowable, cost-effective services. Examples include: (1) One subgrantee provided weatherization services to an applicant even though the subgrantee had determined that the applicant's household was not income-eligible (\$2,469), replaced refrigerators in a multi-family dwelling without following documentation requirements to show that these replacements were allowable (\$2,475), and began weatherization work on three units in a multi-family dwelling before the energy audits had been completed (\$2,060), (2) The files of one subgrantee supporting \$202,000 in weatherization work at a multi-family dwelling consisted of a single, incomplete energy audit rather than the required energy audit for each unit. Although the energy audits were not in the files when the auditors reviewed them, an energy audit was subsequently found for each unit. Additionally, this same subgrantee did not have any of the residents in eight single-family dwellings sign the final inspection report signifying that the weatherization work was actually completed and in five of these cases, the required energy audits were not signed or dated (\$16,685).

Furthermore, the Department does not ensure that subgrantees' contracts provide for cost-effective and allowable weatherization services or provide guidance to WAP subgrantees regarding their contracts with weatherization contractors. As a result, audit tests of three subgrantees found that: (1) The Department does not ensure that subgrantees' contracts have provisions to ensure the subgrantees pay contractors reasonable prices for weatherization services - one subgrantee had three contracts that did not include price lists for materials and labor. These contracts also lacked provisions allowing the subgrantee to review the contractors' actual receipts for the purchase of materials, which was important because the cost of the materials in these contracts was the basis of the payment. The same subgrantee also amended three weatherization contracts that had already expired - one amendment increased what the subgrantee would pay for labor from 65 percent of the cost of materials to 80 percent of the cost of materials rather than allowing other contractors to bid on the work to ensure that it paid the lowest price for weatherization services, and (2) The Department does not ensure that subgrantees' contracts adequately describe the scope of work weatherization contractors will perform - one subgrantee contracted with a contractor to "weatherize all eligible dwelling units" for a flat rate but the contract did not contain a statement of work or a definition of the term weatherize.

Recommendation - The Department should ensure that WAP subgrantees (1) consistently document their decision criteria for providing weatherization services to WAP applicants, (2) provide services only to applicants who meet the program's eligibility criteria, (3) obtain residents' signatures on final inspection forms to verify that the weatherization work was actually performed, (4a) input adequate data into the energy audit software, (4b) conduct energy audits before providing weatherization services, (4c) perform separate energy audits for each unit to be weatherized, and (4d) allow only qualified individuals to conduct the energy audits, and (5) provide adequate guidance to subgrantees to ensure that subgrantees maintain current contracts with weatherization contractors and pay contractors reasonable prices.

Status: 09/17/03 - The Procurement Issuance referred to in the 6/25/03 status update has been reviewed and determined adequate. No revision is required at this time. An addendum to the monitoring instrument is in place to record all documents reviewed during a monitoring visit.

An addendum to the monitoring instrument is in place to record all documents reviewed during a monitoring visit.

07/30/03 - Modification to the monitoring instrument will require identification of all onsite documentation reviewed, which must be complete and found in client files at the time of the on-site review. Documentation subject to monitoring will be copied and returned to TDHCA for quality control review prior to developing the monitoring report.

06/25/03 - The Department agrees with and will implement the recommendations. Additionally, the Department has developed a procurement issuance in compliance with federal procurement requirements that requires a subgrantee to conduct a material cost analysis survey of their service area, competitively solicit for labor and materials, and enter into a contract with the winner of the solicitation and also requires specific contract provisions that must be included in the subgrantee contracts with weatherization service providers. The Department will review the Procurement Issuance and amend the issuance to clarify all requirements in regard to cost and contract provisions.

Ref. #	<u>Report Date</u>	<u>Report Name</u>	<u>Status</u>		<u>Target</u>
	<u>Auditors</u>	<u>Audit Scope</u>	<u>Codes*</u>	<u>Date</u>	<u>Date</u>
309	06/30/03	Selected Assistance Programs at the Department	Px	06/25/03	09/01/03
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Ix	09/17/03	

Division: Multiple

Issue: Chapter 1-D: The WAP, CEAP, and CSBG programs close their monitoring processes without ensuring that subgrantees have addressed the issues identified during monitoring. For example: (1) Two of the 13 WAP subgrantees tested did not respond to all the issues identified by the Department's monitors, but the monitors still closed the monitoring process at these subgrantees. The same issues still existed six months later. (2) Two of the 13 CEAP subgrantees tested did not respond to all of the issues that Department's monitors had identified, but the monitors still closed the monitoring process. (3) Five of the seven CSBG monitoring files reviewed included unresolved issues when the Department's monitors closed them - one subgrantee's fiscal officer had sole signature authority, which increases the risk of fraud and abuse, which had been identified as an issue in each of the past five fiscal years.

Additionally, WAP monitors do not always identify issues that are present when they conduct monitoring. At two of the three WAP subgrantees audited, significant issues were present at that time of the Department's monitoring but the issues were not reported. For example: (1) One subgrantee could not produce an entire set of employee time sheets for any month in the past year; however, the Department's monitors indicated that this subgrantee's time sheets substantiated expenditures that the Department reimbursed. (2) Another subgrantee amended contracts with its weatherization contractor when those contracts had already expired. All but one of the subgrantee's contracts had expired at the time of the Department's last monitoring visit; however, the Department's monitor indicated that this subgrantee's contracts were adequate.

Recommendation - The Department should (1) not close files that have issues it identifies during monitoring visits until the subgrantees have corrected the issues, (2) provide copies of its WAP, CEAP, and CSBG monitoring reports to subgrantees' board chairs to help ensure that subgrantees address issues identified, and (3) develop WAP monitoring standards that ensure that monitors review a sufficient amount of information to support their conclusions and that the monitors document which contracts, files, and other documentation they reviewed to draw their conclusions.

Status: 09/17/03 - New procedures are in place to keep a monitoring report open until all issues requiring on site verification are completed. A standard operating procedure is being developed for this procedure. Copies of monitoring reports are being provided to board chairs 60 days after the monitoring report is sent to the subrecipient. An addendum to the monitoring instrument is in place to record all documents reviewed during a monitoring visit.

07/30/03 - Modification to the monitoring instrument will require identification of all onsite documentation reviewed, which must be complete and found in client files at the time of the on-site review. Documentation subject to monitoring will be copied and returned to TDHCA for quality control review prior to developing the monitoring report.

Ref. #	Report Date		Report Name Audit Scope	Status		Target Date
	Auditors			Codes*	Date	
313	06/30/03		Selected Assistance Programs at the Department	Ix	06/25/03	
	SAO		The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	09/17/03	
				Dx	11/21/03	NR
				Ix	01/30/04	

Division: Community Affairs - Section 8

Issue: Chapter 2-C: The Department has not fully corrected several Section 8 noncompliance issues identified in two separate reviews conducted in 2000. In general, noncompliance continues relating to (1) waiting list administration, (2) determination of rent reasonableness, (3) documentation of required information, (4) use of correct lease addendum forms, (5) implementation of a family self-sufficiency program, (6) annual re-examination of family income, and (7) supervisory and review processes.

Recommendation - The Department should (1) ensure that local operators complete all required elements on Section 8 waiting lists, (2) ensure that Section 8 files contain notification letters informing applicants that vouchers may be available to them, (3) ensure that Section 8 rent reasonableness is adequately tested and documented, (4) ensure that old versions of the Section 8 lease addendum form are not readily available to staff or local operators, and conduct sufficient reviews of Section 8 files to detect the use of incorrect or obsolete forms, (5) submit a Section 8 family self-sufficiency plan or obtain an exemption from this requirement, (6) implement an annual file review to re-examine family income for each Section 8 participant as recommended by the external auditor, and (7) determine why documents are not in Section 8 files, despite the Department's supervisory review process and, if necessary, consider a second level of review to ensure that tenant files contain all required documents.

Status: 03/11/04 - The recommendation relating to the FSS, "... submit a Section 8 family self-sufficiency plan or obtain an exemption from this requirement," has been implemented. However, a similar finding, Issue Ref. 187, considers the issue as "in-progress" pending implementation of the FSS in March 2005.

01/30/04 - The Department's Family Self-Sufficiency (FSS) Program Action Plan for the Houston area submitted to the Fort Worth HUD Office on November 19, 2003 was approved by HUD letter dated January 12, 2004. The approved timetable for program implementation is April 1, 2004 through March 31, 2005. We anticipate implementing FSS contracts no later than March 2005, at which time the Department will have processes in place to ensure that FSS information for lines 2k, 17a, and 17k(2) is properly completed.

06/25/03 - The Department (1) now maintains the waiting lists for all program operators and ensures that all required elements on Section 8 waiting lists are complete, (2) revised the contract review process to ensure that Section 8 rent reasonableness is adequately tested and documented, (3) developed a quality control checklist form to ensure that Section 8 tenant files contain all required documents, (4) disposed of all old versions of the Section 8 lease addendum and reviewed Section 8 files to ensure that they do not include incorrect or obsolete forms, (5) submitted a Section 8 family self-sufficiency exception request to the HUD office, which is pending response from HUD (the Department is exploring alternatives in the event HUD does not approve the exemption request), (6) implemented an annual file review to re-examine family income for each Section 8 participant, and (7) developed and currently is using a quality control checklist form to ensure that Section 8 tenant files contain all required documents, including notification letters informing applicants that vouchers may be available to them. The Regional Coordinator will complete this form for new admissions, annual renewals, interim rent adjustments, and moves to other units, and will place the form in the contract file for final review and approval by the Section 8 Coordinator/Manager.

Ref. #	Report		Status		Target
	Date	Name	Codes*	Date	Date
Auditors	Audit Scope				
314	06/30/03	Selected Assistance Programs at the Department	Px	06/25/03	10/01/03
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	09/17/03	01/31/04
Division: Community Affairs - WAP			Px	11/21/03	02/29/04
Issue: Chapter 3-A: The Department requires its WAP subgrantees to use a specific energy audit software called Easy Audit, but it has not made cost-effective decisions regarding this software. The software cost \$232,000 to develop and another \$240,000 to upgrade and the Department elected to require the use of this software rather than an energy audit software application that the U.S. Department of Energy (DOE) developed and makes available to states at no charge. Additionally, the Department does not own the source code for this software effectively limiting itself to a sole-source contract for any future upgrades to this software.			Px	02/24/04	03/31/04
			Ix	04/22/04	

Easy Audit also has weaknesses that limit its reliability and effectiveness and could lead to incorrect decisions regarding program eligibility determination. For example: (1) DOE approved the Department's use of Easy Audit, but with several restrictions that limit the use of Easy Audit to single-family dwellings and small multi-family dwellings. (2) DOE has identified several inaccuracies in the way Easy Audit computes several values, which could lead to incorrect decisions regarding which weatherization services, if any, should be performed. (3) The audit also identified other vulnerabilities and it is unclear whether the Easy Audit upgrade will address these weaknesses. These weakness include: (3A) The Department cannot ensure that the dwellings the subgrantees weatherized were eligible to receive weatherization services because (3Ai) electronic versions of the energy audit files that Easy Audit produces are not always accessible and (3Aii) the hard copies of these files do not display all the information necessary to determine which weatherization measures to provide, and (3B) Easy Audit uses default numbers for some costs and efficiency ratios that could lead to incorrect decisions regarding program eligibility determination and whether to perform certain weatherization services.

Recommendation - The Department should conduct and document a thorough cost-benefit analysis to determine which energy audit software – the free federal software or Easy Audit – is the best and most cost-effective energy audit software to use in the WAP program. This analysis should consider the costs associated with the addressing all federal restrictions on the Department's use of Easy Audit, as well as (1) upgrading Easy Audit to ensure that (1a) electronic energy audit files are accessible or (1b) the hard copy printouts display enough of the data that subgrantees input so that monitors can verify that subgrantees input the right prices and costs into the software, (2) removing cost and efficiency ratio default numbers from Easy Audit, and (3) adding edit checks to Easy Audit to verify that the cost and efficiency ratios entered are within acceptable ranges.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/22/04 - As of March 10, 2004, training has been completed for all 16 subrecipients providing multi-family weatherization services.

02/24/04 - Technical bugs detected in the Easy Audit modification have been corrected, and training of 13 out of 15 subrecipients that weatherize multi-family housing has occurred. A target date extension of 3/31/04 has been established to complete training for the remaining two subrecipients.

11/21/03 - Dual-purpose testing/training on the new EASY Audit was conducted by/for staff and four subrecipients the week of September 22, 2003. Technical bugs detected during the testing are being corrected. The target date has been extended to 2/29/04 to allow time for corrections to be made to Easy Audit, the related necessary testing of Easy Audit, and time for necessary training to the affected subrecipients on the enhanced Easy Audit software.

11/21/03 - Dual-purpose testing/training on the new EASY Audit was conducted by/for staff and four subrecipients the week of September 22, 2003. Technical bugs detected during the testing are being corrected. The target date has been extended to 2/29/04 to allow time for corrections to be made to Easy Audit, the related necessary testing of Easy Audit, and time for necessary training to the affected subrecipients on the enhanced Easy Audit software.

09/17/03 - The CRN contract for the EASY audit modification has been amended to track actual cost allocated on the BWR (Building

<i>Ref. #</i>	<i>Report Date</i> <i>Auditors</i>	<i>Report Name</i> <i>Audit Scope</i>	<i>Status</i>		<i>Target</i>
			<i>Codes*</i>	<i>Date</i>	<i>Date</i>
		Weatherization Report), prevent the exceeding of maximum amounts, and show when leveraged funds are used in conjunction with DOE funds to install a measure.			
	07/30/03	The proposed modification of EASY Audit to a web based format will resolve the issue of the existence of audits and the maintenance of a back up disc, access to audit files, and display of audit data.			
	06/25/03	The Department believes that it conducted a thorough cost-benefit analysis to determine which energy audit software was the best and most cost-effective energy audit software to use in the WAP program. In 1997, EASY Audit II was approved for multi-family and mobile home weatherization. The Department is currently working to convert EASY Audit II to EASY Audit III, which will be a web-based application and will address the audit recommendations relating to client application and eligibility determination process for single- and multi-family units, tracking expenditures, removing input defaults, and installing acceptable ranges of response for efficiency of appliances and acceptable R-values for various measures.			

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
315	06/30/03 SAO	Selected Assistance Programs at the Department The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	06/25/03	01/01/04
			Px	09/17/03	01/31/04
			Px	11/24/03	01/31/04
			Px	02/26/04	04/30/04
			Ix	04/23/04	

Division: Multiple

Issue: Chapter 3-B: IT weaknesses limit the Department's ability to rely on the data in its information systems. Some contract signatures are missing from contracts stored electronically, the Department lacks an alternative site agreement, information is not consistently updated in certain information systems (accounting system - CSAS vs. program system - Genesis), and information in the Emergency Shelter Grant Program's monitoring tracking system is not accurate (data erroneously specified that the Department had conducted four ESGP monitoring visits that it had not actually conducted).

Recommendation - The Department should (1) ensure that it has valid contracts with subgrantees by restoring missing electronic contract signatures or by obtaining ratifying signatures for its current contracts, monitor the maintenance of these signatures and ensure that this problem will not recur in the new central database system and test the maintenance of these signatures before the new central database system is considered complete, (2) enter into an alternative site agreement through which it would have the necessary hardware on which to run its applications in the event of a disaster, and (3) ensure that decisions are made based on accurate information, e.g. the Department should duplicate in Genesis any changes it makes in CSAS, implement a reconciliation process between Genesis and CSAS and ensure that the information in its ESGP monitoring tracking system is accurate.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

RECOMMENDATION (1) - Electronic Signatures

04/23/04 - ISD inserted marker records to replace blank signatures for non-active contracts. As reported on 2/26/04, ISD has confirmed active contracts have signatures. ISD provided CA with before and after reports that show contracts with blank signature records that were replaced by marker records. To ensure that this problem does not continue to occur, ISD and CA staff will monitor on an ongoing basis reports that will show any new occurrences of blank signatures.

02/26/04 - ISD has confirmed all active contracts have signatures based on the filter report. ISD is working with CA to determine when the older, non-active contracts will be ready for inserting marker records to completely resolve this issue. Target date for completion: March 31, 2003.

11/24/03 - ISD has met with EA and CS and is currently developing a filter report that will identify active contracts that have no electronic signature in place. ISD anticipates a 12/5/03 target date. EA and CS will contact those Subrecipients with missing signatures to obtain signatures as required. EA and CS anticipate a 1/31/04 target date for completion.

For older, non-active contracts, ISD will insert a marker record to note that it is a closed contract that has been noted to have a missing signature (ISD anticipates a 1/31/04 target date). It was decided that it would not be practical to try to obtain signatures for closed contracts.

RECOMMENDATION (2) - Alternative Site Agreement

04/23/04 - ISD entered into an alternate site agreement with Northrop Grumman on March 15, 2004. The agreement runs through August 31, 2006.

02/26/04 - ISD researched other more cost effective ways to address alternative site agreement requirements without requesting a waiver; however, efforts were unsuccessful. ISD is in the process of obtaining a revised quote from Northrop Grumman and implementation of the alternative site agreement is expected no later than March 14, 2004.

11/24/03 - ISD is reassessing its waiver request from WTDROC State Data Center (09/17/03 status). ISD has received a quote from Northrop Grumman on the use of the state data center. ISD will make a decision on whether to go forward with the waiver request or to use the state data center by January 10, 2004. This issue should be fully resolved by February 29, 2004.

<u>Ref. #</u>	<u>Report Date</u> <u>Auditors</u>	<u>Report Name</u> <u>Audit Scope</u>	<u>Status</u> <u>Codes*</u>	<u>Target</u> <u>Date</u>
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09/17/03 - ISD is considering a waiver to exempt the agency from using the West Texas Disaster Recovery Operations Center (WTDROC). WTDROC is the mandated off-site disaster recovery solution, managed by Northrop Grumman. TDHCA is eligible for this waiver because WTDROC costs are prohibitive. We are in the process of arranging to use the Austin Disaster Recovery Operations Center, also managed by Northrop Grumman. This is a cold site solution for use by state agencies and is within our budget requirements. The ADROC solution does not include hardware; however, we are currently researching hardware insurance plan options that will provide specified hardware and delivery to the cold site within a set time period. Once we have completed these actions and have addressed some logistical considerations, we believe that the agency will be in compliance.

06/25/03 - The Department is in general agreement with and will implement the recommendations where reasonable; however, due to significant decreases in TDHCA's capital budget for fiscal years 2004-2005, the costs of having a dedicated, alternative site agreement are prohibitive. Despite the capital budget reduction, TDHCA has set aside \$15,000 each year to increase its disaster preparedness for fiscal years 2004-2005, including the agency's plans to acquire, at a minimum, an insurance policy to ensure a set turnaround time on selected network hardware. As an additional compensating control, TDHCA also maintains a business continuity plan in preparation for the effects of a disaster and to comply with TAC, Title 1, Section 202.6. Additionally, using its offsite backup tapes, TDHCA has the ability to restore mission-critical systems, according to the priority sequence defined in the agency business continuity plan. The agency will continue to explore options for securing an alternative site agreement, as well as identifying funding for such an agreement; however, it is possible that TDHCA will not be able to fully satisfy this audit finding in the next biennium.

RECOMMENDATION (3) - Ensure Accurate Information

04/22/04 - Community Services has completed the reconciliation process between Genesis and CSAS for CSBG for the first quarter of FY 2004.

02/26/04 - All requested reports have been developed and provided by ISD to CA to enable access to financial information that will assist with reconciliation to CSAS. Community Services has been provided access to the Genesis Accounting Reporting System. Information Systems is currently in the final phase of providing Community Services with access to the CSAS Accounting Reporting System. It is expected that access to CSAS should be complete by 03/03/04. Once this process is complete, Community Services will immediately begin the reconciliation process between Genesis and CSAS beginning with the first quarter for calendar 2004.

11/24/03:

ISD has met with and educated all relevant parties regarding the automated interface available between CSAS and Genesis. Currently, only CSBG interfaces with Genesis; the rest of the programs are manual. It has been determined that ISD will develop reports to assist with the reconciliation process when they receive the reporting requirements from Accounting and CA. Accounting has held a meeting with CA and developed a reconciliation process and also identified reporting requirements. The written reconciliation process and reporting requirements will be forwarded to ISD. Target date for implementation of the reconciliation process: January 31, 2004.

Community Services has implemented its electronic ESGP monitoring tracking system. Ongoing quality controls is being performed by the Project Manager for Monitoring/Evaluation and ESGP program offices.

09/17/03 - Community Services is updating its electronic ESGP monitoring tracking system to eliminate inaccurate information regarding monitoring visits.

06/25/03 - The Department will take steps to ensure that the Client Service Accounting System is in agreement with and reconciled to the Genesis Energy Assistance/Community Services contract and payment systems, status updates have not provided any further information in this respect.

<i>Ref. #</i>	<i>Report Date</i> <i>Auditors</i>	<i>Report Name</i> <i>Audit Scope</i>	<i>Status</i>		<i>Target Date</i>
			<i>Codes*</i>	<i>Date</i>	
316	06/30/03 SAO	Selected Assistance Programs at the Department The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	06/25/03	10/31/03
			Px	09/17/03	10/31/03
	Px	11/24/03	01/16/04		
	lx	02/26/04			

Division: Multiple

Issue: Chapter 3-C: The Department requires subgrantees to maintain complete and accurate financial and performance data. However, it does not monitor subgrantees' controls or provide subgrantees with technical assistance regarding the adequacy of controls over information that they maintain electronically.

Recommendation - The Department should (1) provide subgrantees with technical assistance regarding IT system controls to ensure that subgrantees maintain the integrity of and adequately safeguard information, and (2) monitor IT controls at subgrantees to ensure that they maintain the integrity of and adequately safeguard information.

Status: 02/26/04 - Information Services Division has posted technical assistance to the agency's web page regarding IT Security Practices and Guidelines for reference by Subrecipients. Also, ISD has developed a questionnaire for use by Community Affairs monitoring staff that will assist them in monitoring information technology in the field. This information was included in Policy Issuance 04-11.5 that was distributed by Community Affairs on January 27, 2004. ISD provided training to the Community Affairs monitoring staff regarding monitoring of IT security practices in January 2004. Community Affairs staff will conduct monitoring beginning March 2004 to ensure the implementation of these practices in the field.

11/24/03 - Information Services Division has posted technical assistance to the agency's web page regarding IT Security Practices and Guidelines for reference by Subrecipients. Also, ISD has developed a questionnaire for use by Community Affairs monitoring staff that will assist them in monitoring information technology in the field. This information will be included in a Policy Issuance to be published by Community Affairs by 12/31/04. ISD will provide training to the monitoring staff to prepare them for the monitoring of IT security practices no later than 1/16/04.

09/17/03 - ISD and Community Affairs have completed a draft audit questionnaire with supporting technical assistance on IT system controls. The draft audit questionnaire will be finalized and distributed to Community Affairs subgrantees in October 2003. The audit questionnaire and supporting technical assistance will be posted to the agency's website, also in October 2003.

06/25/03 - After a specified date for compliance with the IT practices, TDHCA program monitors will include an audit on IT practices as a standard aspect of their site visits.

<i>Ref. #</i>	<i>Report Date</i> <i>Auditors</i>	<i>Report Name</i> <i>Audit Scope</i>	<i>Status</i>		<i>Target</i>
			<i>Codes*</i>	<i>Date</i>	<i>Date</i>
317	06/30/03	Selected Assistance Programs at the Department	Px	06/25/03	11/01/03
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	Px	09/17/03	01/31/04
			lx	11/21/03	n/a

Division: Community Affairs - WAP

Issue: Chapter 4-A: The Department does not ensure that WAP subgrantees target weatherization services to the priority populations that the U.S. Department of Energy has established. In addition, although the Department's annual state weatherization plan specifies that it will give priority to the federal priority populations, its contracts with subgrantees do not list two priority populations - high residential energy users and households with a high energy burdens. Subgrantees submit monthly reports on priority populations served; however, the Department does not monitor to ensure that its subgrantees are indeed targeting priority populations and this information does not ensure that subgrantees have actually targeted the priority populations.

Recommendation - The Department should (1) ensure that priority populations are given priority to WAP services, and (2) ensure that the priority populations specified in its contracts with WAP subgrantees are consistent with the priority populations established by the federal government.

Status: 11/21/03 - The weatherization contracts (both DOE and LIHEAP) have been amended to add all priority populations to the contract boilerplates, which will be used for all future contracts.

09/17/03 - Revisions to the EASY audit require assigning points to priority populations so that a monitor can track which priority clients are served, and when.

318	06/30/03	Selected Assistance Programs at the Department	lx	06/25/03	
	SAO	The Community Affairs programs' activities at the Department and five subgrantees during fiscal years 2001/2002.	lx	09/17/03	

Division: Community Affairs - ESGP

Issue: Chapter 4-B: The Department lacks a policy to preclude subgrantees from approving their own ESGP grant awards. As a result, one ESGP grant recipient both received ESGP funds and served on the Department's review committee to award ESGP funds. Although the Department asserts that this grant recipient did not review its own application, the Department did not maintain adequate documentation to support this assertion.

Recommendation - The Department should develop and implement policies and procedures to preclude ESGP grant recipients from serving on the team that reviews their own applications and retain sufficient documentation to demonstrate that ESGP grant recipients do not review their own applications for funds.

Status: 09/17/03 - Community Services implemented Standard Operating Procedure # 700.02 that precludes subrecipients from approving their own ESGP grant awards.

06/25/03 - The Department has developed and implemented a Department standard operating procedure (SOP) to document its established procedures which preclude ESGP grant recipients from serving on a team that reviews their application. The SOP includes conditions (1) that ensure that no organization with a direct interest in ESGP funding decisions for a particular region of the state will participate in the review process, and (2) to ensure that no state or national organization competing for ESGP funds to provide statewide technical assistance shall participate in the review of statewide applications.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
320	08/28/03	HUD Rental Integrity Monitoring Review of Section 8 Program	Px	10/09/03	12/31/03
	HUD	A focused and detailed assessment of public housing agency income and rent determinations in the Low Rent Public Housing and Section 8 Housing Choice Voucher programs.	Px lxx	11/21/03 02/17/04	

Division: Community Affairs - Section 8

Issue: Properly verify all sources of income, assets and deductions by obtaining third party verification.

Status: 2/17/04 - HUD letter dated October 30, 2003 expressed appreciation for the Department's outstanding job of accumulating documentation sufficient to close all deficiencies noted during the Section 8 Rental Integrity Monitoring Review.

11/21/03 - Third party confirmation is being used to verify income (10/09/03 status). The Department continues to complement the Administrative Plan (10/09/03 status).

10/09/03 - The Department currently has access to the Texas Workforce Commission, the Tenant Assessment Sub System (TASS), The Work Number, and the Child Support Interactive System with the Attorney General's office for third party verification. The Department will work with Local Operators to properly verify income. When third-party verification is not available, the tenant's file will be documented with the reason it was not used. The Department is in the process of adding a section to our Administrative Plan on the methods of verification and the order of acceptability for the tenant file to be properly documented.

321	08/28/03	HUD Rental Integrity Monitoring Review of Section 8 Program	Dx	10/09/03	
	HUD	A focused and detailed assessment of public housing agency income and rent determinations in the Low Rent Public Housing and Section 8 Housing Choice Voucher programs.	Dx lxx	11/21/03 02/17/04	

Division: Community Affairs - Section 8

Issue: Revise form HUD-50058 data to accurately reflect payment standard. The incorrect data resulted from a systemic deficiency with the way the Department's software displays data. While this does not cause a miscalculation of the Housing Assistance Payment or family rent to owner, it reports inaccurate data to HUD. Provide HUD with a corrective action plan to correct the error and the expected completion date.

Status: 2/17/04 - HUD letter dated October 30, 2003 expressed appreciation for the Department's outstanding job of accumulating documentation sufficient to close all deficiencies noted during the Section 8 Rental Integrity Monitoring Review.

11/21/03 - Corrective action taken going forward (10/19/03 status). HUD has not responded to the Department's request to correct contracts as they come up for recertification (10/09/03 status). Status is classified as Action Delayed, pending response from HUD.

10/09/03 - As of August 4, 2003, the Department's Information Systems staff completed this modification. Program staff is now inputting the appropriate Payment Standard on line 12j of form HUD 50058. The Department recognizes that all files must be corrected since this is a systemic deficiency and requests that HUD allows it to correct contracts as they come up for recertification.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
322	08/28/03	HUD Rental Integrity Monitoring Review of Section 8 Program	Dx	10/09/03	
	HUD	A focused and detailed assessment of public housing agency income and rent determinations in the Low Rent Public Housing and Section 8 Housing Choice Voucher programs.	Dx	11/21/03	
			lxx	02/17/04	

Division: Community Affairs - Section 8

Issue: The Department has a systemic deficiency whereby food stamp income is not reported or excluded on form HUD50058. While this error does not impact the amount of housing assistance paid, it does cause the total amount of income to be reported inaccurately. Revise form HUD-50058 data to accurately reflect total income and exclusions. Provide HUD with a corrective action plan to correct the error and the expected completion date.

Status: 2/17/04 - HUD letter dated October 30, 2003 expressed appreciation for the Department's outstanding job of accumulating documentation sufficient to close all deficiencies noted during the Section 8 Rental Integrity Monitoring Review.

11/21/03 - Corrective action taken going forward (10/19/03 status). HUD has not responded to the Department's request to correct contracts as they come up for recertification (10/09/03 status). Status is classified as Action Delayed, pending response from HUD.

10/09/03 - The form HUD 50058 did not have to be revised. Program staff is now including and excluding food stamp information in Section 7 of the HUD 50058 when calculating tenant eligibility. The Department recognizes that all files must be corrected since this is a systemic deficiency and requests that HUD allows it to correct contracts as they come up for recertification.

323	08/28/03	HUD Rental Integrity Monitoring Review of Section 8 Program	lx	10/09/03	
	HUD	A focused and detailed assessment of public housing agency income and rent determinations in the Low Rent Public Housing and Section 8 Housing Choice Voucher programs.	lxx	11/21/03	

Division: Community Affairs - Section 8

Issue: Verify eligibility status for all non-citizens. Provide HUD with a corrective action plan to correct the error and the expected completion date.

Status: 2/17/04 - HUD letter dated October 30, 2003 expressed appreciation for the Department's outstanding job of accumulating documentation sufficient to close all deficiencies noted during the Section 8 Rental Integrity Monitoring Review.

11/21/03 - Internal Audit observed its use of the SAVE software (10/09/03 status) on Friday, November 21, 2003 to determine a person's eligibility immigration status; the query resulted in a successful determination of eligibility.

10/09/03 - As of September 25, 2003, the Department set up and is using the Immigration and Naturalization Service (INS) automated system, Systematic Alien Verification for Entitlements (SAVE). Persons claiming eligible immigration status must present appropriate immigration documents, which will be verified utilizing this system.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
324	08/28/03	HUD Rental Integrity Monitoring Review of Section 8 Program	Ix	10/09/03	
	HUD	A focused and detailed assessment of public housing agency income and rent determinations in the Low Rent Public Housing and Section 8 Housing Choice Voucher programs.	Ixx	02/17/04	

Division: Community Affairs - Section 8

Issue: Remove and destroy all criminal background check data. All future criminal background checks must be destroyed once all actions are completed including any grievance hearings. Provide assurance that this has been done.

Status: 2/17/04 - HUD letter dated October 30, 2003 expressed appreciation for the Department's outstanding job of accumulating documentation sufficient to close all deficiencies noted during the Section 8 Rental Integrity Monitoring Review.

10/09/03 - The Department has removed and destroyed the criminal background checks that were locked in a separate file. All criminal background checks will be destroyed after eligibility has been determined.

325	08/28/03	HUD Rental Integrity Monitoring Review of Section 8 Program	Ix	10/09/03	
	HUD	A focused and detailed assessment of public housing agency income and rent determinations in the Low Rent Public Housing and Section 8 Housing Choice Voucher programs.	Ixx	02/17/04	

Division: Community Affairs - Section 8

Issue: Develop an internal quality control system for the income and rent determination process. Provide HUD a response indicating the status of implementation of any new quality control initiatives including timeframes for implementation.

Status: 2/17/04 - HUD letter dated October 30, 2003 expressed appreciation for the Department's outstanding job of accumulating documentation sufficient to close all deficiencies noted during the Section 8 Rental Integrity Monitoring Review.

10/09/03 - In August 2003, the Department expanded and began using the SEMAP quality control checklist to include a more detailed review of the contract package. The Regional Coordinator will review and sign off on each section. The Program Coordinator or Manager will review the same sections and sign off.

331	12/15/03	Report to Management - Year Ended August 31, 2003	Ix	02/26/04	
	Deloitte & Touche	Annual independent audit of the Department's general purpose financial statements			

Division: Financial Administration - Financial Services

Issue: Implement procedures to review the reserve calculation on mortgage loans annually to ensure that the rates used to record reserves in delinquent accounts are reasonable.

Status: 02/29/04 - TDHCA has revised the current year loan schedule to include a reserve calculation based on the average monthly delinquency rates of loans outstanding at August 31, 2003. Analysis to determine reasonableness of reserve percentages will also be performed annually or more frequently if factors present themselves to deem it necessary.

Ref. #	<u>Report Date</u>	<u>Report Name</u>	<u>Status</u>		<u>Target</u>
	<u>Auditors</u>	<u>Audit Scope</u>	<u>Codes*</u>	<u>Date</u>	<u>Date</u>
332	02/23/04	Compliance with Requirements & IC over Compliance - A-133	lx	02/23/04	
	KPMG	Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Portfolio Management & Compliance

Issue: The Department did not comply with the reporting compliance requirements for HOME matching reports. When the 2002 match report was prepared, inaccurate dates were used resulting in State Energy Conservation Office expenditures of \$156,442 from October 2002 transactions (eligible for the 2003 match report) and subrecipient amounts of \$9,185 from 2001 transactions (eligible for the 2001 match report) being included. Questioned Cost: \$165,627 due to reporting match information in the wrong reporting period.

Ensure the proper dates are used to prepare the matching reports. In addition, amend the 2001 and 2002 HOME Match Reports for discrepancies noted during the audit.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

02/23/04 - The Department implemented a new contract tracking system in December 2003 that includes controls to record match at the time a draw is approved and procedures were established to ensure proper cut-off of accruals and that match is reported in the proper year. To ensure accuracy going forward, the Portfolio Management and Compliance (PMC) Division will enhance its quality assurance processes, effective for the fiscal year 2003 match report. The State amended the fiscal year 2002 match report and submitted it to HUD to correct the errors noted during the audit. In discussions with HUD, management believes that amending the 2002 report resolves the issue and that amending the 2001 report is not necessary since the 2001 report includes sufficient match and amending the report would only increase the amount of match reported.

333	02/23/04	Compliance with Requirements & IC over Compliance - A-133	lx	04/08/04	
	KPMG	Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Financial Administration - Accounting Operations

Issue: Instances of noncompliance with HOME allowable costs/cost principles requirements were noted. For two of six non-payroll expenditure items selected for test work, the method of allocation for the \$8,595 to the various Federal programs was not documented. Questioned Cost: \$8,595 due to undocumented methodology of allocation of certain expenditure items.

Maintain documentation of the allocation methods of costs incurred to support the allocability of the expenditures.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/08/04 - Management reports that the allocation of costs incurred methods are now maintained to support the allocability of expenditures for all programs (Federal and non-federal) and, in the future, will ensure that documentation clearly supports the allocability of expenditures.

Ref. #	Report Date		Report Name Audit Scope	Status		Target Date
	Auditors			Codes*	Date	
334	02/23/04		Compliance with Requirements & IC over Compliance - A-133	lx	02/23/04	
	KPMG		Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Community Affairs - Section 8

Issue: The Department did not comply with the reporting compliance requirements for Section 8 Family Reports, which resulted in a reportable condition. A reportable condition involves a significant deficiency in the design or operation of the internal control over compliance that, in the auditor's judgment, could adversely affect the State's ability to administer a major Federal program in accordance with the applicable requirements of laws, regulations, contracts, and grants. Discrepancies in the HUD-50058 - Family Report were noted when compared to recipient files. Similar deficiencies were noted in the HUD Rental Integrity Monitoring Review report dated 8/28/03.

Compare all data related to each family in the database as they are reviewed for renewal during fiscal year 2004 to supporting documentation in the file. Differences should be corrected, and TDHCA should continue to implement their responses to the HUD report.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

02/23/04 - The quality assurance processes for the Section 8 Program were enhanced in August 2003 by requiring a second review of all files to minimize errors relating to data entry and the manual environment. Additionally, the Section 8 Management Assessment Program (SEMAP) quality control checklist was revised to include a more detailed review of the contract package. TDHCA has also implemented the recommendations resulting from HUD's August 2003 Rental Integrity Monitoring Review report. HUD letter dated October 30, 2003 closed each of the deficiencies noted in its review.

336	02/23/04		Compliance with Requirements & IC over Compliance - A-133	lx	02/23/04	
	KPMG		Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Community Affairs - Section 8

Issue: An instances of noncompliance with Section 8 eligibility requirements were noted. For one of 30 tenants selected for test work, documentation was not available to determine if the tenant met the requirements of citizenship or eligible immigration status. Although the Department noted in a tenant's file that required citizenship documentation was not on hand and that it had been requested, the documentation was not obtained and benefits of \$1,262 were paid during the 2003 fiscal year. Questioned Cost: \$1,262 due to lack of eligibility documentation to support benefits paid in one out of 30 sampled tenants selected for test work.

Ensure that tenants are not renewed if they have not provided all the required documentation. TDHCA should track any open files and follow up on the pending items on a periodic basis.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

02/23/04 - TDHCA set up and began using the Immigration and Naturalization Service (INS) automated system, Systematic Alien Verification for Entitlement (SAVE), in September 2003. TDHCA will use SAVE to verify the immigration status of persons claiming eligible immigration status. Open files will be tracked until all pending items are completed.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
337	02/23/04	Compliance with Requirements & IC over Compliance - A-133	lx	02/23/04	
	KPMG	Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Community Affairs - Section 8

Issue: Instances of noncompliance with Section 8 special tests and provisions requirements were noted. Documentation of comparable rents for one of 30 tenants selected for test work was not available. Questioned Cost: \$1,870 due to lack of documentation of comparable rents for one unit tested.

Continue the management review of the rent reasonableness worksheets submitted by the local operators and remain cognizant of the need to complete the worksheet with all required information.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

02/23/04 - TDHCA expanded the Section 8 Management Assessment Program quality control checklist form to include additional information pertaining to rent reasonableness in August 2003. The Regional Coordinator certifies the accuracy of the information and forwards the client file to the Section 8 Coordinator for final review. The additional information and review ensures that rent to be charged to the Section 8 tenant is not more than the rent charged for other unassisted comparable units prior to processing a file for housing assistance payments.

338	02/23/04	Compliance with Requirements & IC over Compliance - A-133	lx	04/19/04	
	KPMG	Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Community Affairs - Section 8

Issue: Instances of noncompliance with Section 8 special tests and provisions requirements were noted. HUD-52580-A forms were not properly completed for three of 38 reinspections reviewed.

Require individuals performing quality control inspections to complete each section of the HUD-52580-A form. In addition, the program manager should incorporate into the quality control inspection process a review of the forms for completion.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/19/04 - The Department has implemented a plan for SEMAP quality control reinspections to address this finding.

Ref. #	<u>Report Date</u>	<u>Report Name</u>	<u>Status</u>		<u>Target</u>
	<u>Auditors</u>	<u>Audit Scope</u>	<u>Codes*</u>	<u>Date</u>	<u>Date</u>
339	02/23/04	Compliance with Requirements & IC over Compliance - A-133	lx	04/19/04	
	KPMG	Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Community Affairs - Section 8

Issue: The Department did not comply with the special tests and provisions compliance requirements for Section 8, which resulted in a reportable condition. A reportable condition involves a significant deficiency in the design or operation of the internal control over compliance that, in the auditor's judgment, could adversely affect the State's ability to administer a major Federal program in accordance with the applicable requirements of laws, regulations, contracts, and grants. Instances were noted where the local operator records the date of correction of a non-life threatening deficiency to be the date the operator returns to the site to determine if the correction has been made, which may be beyond the required 30 calendar days for corrections to be made.

Amend TDHCA policy so the local operators inspect invoices for purchased materials or other documentation to determine if the HQS deficiency corrections are made within 30 calendar days when the return site visit is later than the initial 30-day requirement. Also, TDHCA should create a standard extension notification letter to be sent to the owners and a copy kept in the respective files.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/19/04 - The Department has updated the Administrative Plan and the extension notification to address this finding.

340	02/23/04	Compliance with Requirements & IC over Compliance - A-133	lx	04/19/04	
	KPMG	Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Community Affairs - Section 8

Issue: The auditors were not able to conduct their audit of compliance in accordance with generally accepted auditing standards for the compliance requirement discussed below since they were unable to obtain sufficient documentation supporting compliance with the issue. The auditors considered this a material weakness, which is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with the applicable requirements of laws, regulations, contracts, and grants that would be material in relation to a major Federal program being auditing may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

The Department made July and August 2002 payments on behalf of Section 8 tenants based on a utility rate schedule that had not been updated within the last year, which is required if there has been a rate change of 10% or more for a utility category or fuel type. Questioned Cost: \$72,587 due to past due utility allowance survey certification to compare utility allowance schedule to ensure that rent calculations were up-to-date.

The Department should obtain a new survey certification on an annual basis and adjust the utility allowance schedule for any changes greater than 10%.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/19/04 - The Department completed utility schedules and mailed them to Local Operators in March 2004 to address this finding.

<i>Ref. #</i>	<i>Report Date</i>		<i>Report Name</i> <i>Audit Scope</i>	<i>Status</i>		<i>Target Date</i>
	<i>Auditors</i>			<i>Codes*</i>	<i>Date</i>	
341	02/23/04		Compliance with Requirements & IC over Compliance - A-133	lx		04/08/04
	KPMG		Statewide Federal Single Audit for FYE August 31, 2003 (SAO contract with KPMG)			

Division: Financial Administration - Accounting Operations

Issue: The Department did not comply with the allowable costs/cost principles compliance requirements. The auditors considered this a material weakness, which is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with the applicable requirements of laws, regulations, contracts, and grants that would be material in relation to a major Federal program being auditing may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

The Department allocated to Federal grants the salaries and benefits of employees that worked on multiple activities or cost objectives (e.g. did not work solely on a single Federal award) during fiscal year 2003 based on budget allocations rather than an after-the fact distribution time based on the actual activity of each employee. Additionally, time sheets were not certified in compliance with requirements for the Section 8 program, whose employees worked solely on the Section 8 program. This condition resulted in the related salaries and benefits, as well as related indirect costs calculated based on direct salaries and wages, being questioned. Questioned Cost: \$439,842 due to the Department allocating salaries and benefits to all Federal grants during FY 2003 based on budget allocations rather than actual activity. Adjustments were made in November 2003 to correct the allocations.

Adjust budgeted salaries and benefits expenditures to actual based on timesheets submitted each reporting period. Once salary and benefit charges are adjusted to actual, calculate the amount of reimbursable indirect cost. Also, establish and implement a certification policy for the agency and ensure that all programs certify their timesheets in accordance with policy.

Status: 05/30/04 - Reported the issue as implemented, per management, to the Board at the May meeting.

04/08/04 - TDHCA has complied with the provisions of OMB Circular A-87 by incorporating policies and procedures to ensure an interface between its automated time keeping system and its payroll distribution system. TDHCA procedures include certification measures for all federal programs. Staff will periodically adjust salaries and benefits to actual and calculate indirect cost accordingly.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
INTERNAL AUDIT DIVISION - STATUS OF INTERNAL/EXTERNAL AUDITS
July 31, 2004**

External Audits/Reviews	Scope	Stage of Completion
State Auditor's Office	State Entity Compliance with Benefits Proportional by Fund Requirements in Fiscal Years 2002 and 2003	Complete
U.S. Department of Housing and Urban Development	Annual Assessment for Program Year 2003, State of Texas	Complete
Comptroller of Public Accounts	Post Payment Audit Report dated June 21, 2004	Complete
State Auditor's Office	Planned Audit of Selected Housing Programs; HOME Investment Partnership Program (HOME) and Housing Trust Fund Program (HTF)	Planning
Deloitte & Touche	Annual Opinion Audits: <ul style="list-style-type: none"> - Consolidated Financial Statements for the Fiscal Year Ending August 31, 2004 - Revenue Bond Enterprise Fund for the Fiscal Year Ending August 31, 2004 	Interim Testing
KPMG	Statewide Federal Single Audit for FYE August 31, 2004 (SAO contract with KPMG)	Pre-planning
State Energy Conservation Office (SECO) Audit	Program Monitoring review of SECO/Housing Trust Fund by Comptroller of Public Accounts	Reporting
HUD	Cooperating Monitoring Assessment issued to the Manufactured Housing Division in its capacity as the State Administrative Agency.	Complete

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
INTERNAL AUDIT DIVISION - STATUS OF INTERNAL/EXTERNAL AUDITS
July 31, 2004**

Internal Audits/Reviews	Scope	Stage of Completion
Subrecipient Monitoring	<ul style="list-style-type: none"> • Subrecipient Monitoring Processes - To assess the adequacy of the Department's subrecipient monitoring functions by risk ranking the programs' monitoring functions and activities to identify areas for coverage. A review of high risk areas will be conducted to determine whether adequate monitoring policies and procedures are in place to provide reasonable assurance that the Department's subrecipients comply with applicable Federal regulations, program rules and contract terms. See below for specific areas of review. 	
	<ul style="list-style-type: none"> • Draws Processes 	Fieldwork
	<ul style="list-style-type: none"> • Single Audit 	Reporting
	<ul style="list-style-type: none"> • Risk Assessment 	Reporting
	<ul style="list-style-type: none"> • Field Visits 	Planning
	<ul style="list-style-type: none"> • Technical Assistance • Desk Review 	Reporting
External Auditors	To coordinate and assist external auditors.	Ongoing
Peer Review	To conduct Peer Review pursuant to Texas Government Code §2107.007 as arranged through the State Agency Internal Audit Forum (SAIAF) QAR program to fulfill obligation of reciprocation for Peer Review received by TDHCA in the 2002 Fiscal Year	Not anticipated during current fiscal year. Indefinitely delayed.
Follow-up on Prior Audit Issues	To prioritize prior audit issues previously reported as implemented and independently verify implementation status and adequacy of related policies and procedures.	Ongoing
Tracking Status of Prior Audit Issues	To track the status of prior audit issues for management/board report purposes.	Ongoing
Central Database Steering Committee	To serve as non-voting Chair of the Central Database Steering Committee charged with directing and monitoring the development of the Department's Central Database.	Ongoing
Annual Audit Plan	To develop an annual audit plan for FY 2005 pursuant to the Texas Internal Auditing Act.	Inception Pending
FY2004 Internal Auditing Report	To prepare an annual internal auditing report for FY 2004 pursuant to the Texas Internal Auditing Act.	Inception Pending

Texas Department of Housing and Community Affairs

Status of Central Database

- *Summary Project Plan/Status as of July 15, 2004*
- *Issues/Risk Management as of July 31, 2004*
- *Central Database Systems Maintenance Detail as of July 15, 2004*
- *Status of Funds as of July 15, 2004*

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

ID	Task Name	Start	Finish	% Complete	Q1 '04		Q2 '04		Q3 '04			Q4 '04			Q1 '05			Q2 '05			Q3 '05			Q4 '05				
					J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
1	CMTS ENHANCEMENTS CONTRACTED SERVICES	Mon 11/3/03	Tue 7/27/04	99%																								
2	Enhanced Compliance Testing	Mon 11/3/03	Tue 7/27/04	99%																								
3	CMTS Reports	Mon 4/19/04	Wed 6/30/04	100%																								
4	Technical Knowledge Transfer	Fri 4/30/04	Wed 6/30/04	100%																								
5																												
6	PROGRAM MONITORING MODULE	Mon 11/3/03	Wed 8/31/05	6%																								
7	Program Monitoring Specifications	Mon 11/3/03	Fri 12/5/03	100%																								
8	Development	Mon 8/23/04	Wed 8/31/05	0%																								
9	Functional Planning and Deployment	Mon 4/4/05	Wed 8/31/05	0%																								
10																												
11	* MULTIFAMILY MODULE	Mon 12/8/03	Thu 8/31/06	10%																								
12	Multifamily Module Requirements and Design	Mon 12/8/03	Mon 4/19/04	100%																								
13	Functional Review and Acceptance	Fri 8/20/04	Fri 10/29/04	0%																								
14	Development	Mon 11/1/04	Thu 8/31/06	0%																								
15	Functional Planning and Deployment	Wed 6/1/05	Thu 8/31/06	0%																								
16																												
17	CONTRACT SYSTEM PHASE 2	Mon 10/4/04	Wed 8/31/05	0%																								
18																												
19	* APPLICATION AND CONSTRUCTION MODULE	Thu 9/1/05	Fri 8/31/07	0%																								
20																												
21	MODULES REMOVED FROM CDB PROJECT	Fri 8/6/04	Fri 8/6/04																									
22	ASSET MANAGEMENT MODULE																											
23	BOND FINANCE MODULE																											
24	CREDIT UNDERWRITING																											
25	OCI MODULE																											
26	PROGRAM MODULE																											
27	COMMUNITY SERVICES/ENERGY ASSISTANCE MODUI																											
28	SECTION 8 MODULE																											

Project: Central Database
Save Date: Wed 8/11/04

Module Duration

Rolled-up Task

Progress

* If asterisked (*), the detailed plans identifying tasks and resources are pending finalization of design requirements. Accordingly, start/end dates are general estimates. After design review, more reliable time estimates can be established.

TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004

1 CMTS ENHANCEMENTS CONTRACTED SERVICES

11/20/2003 - The CMTS Enhancements relate to contracted services to develop design specifications for added functionality, including single audit, program monitoring, 8609 inspections, and screen and report enhancements. Development of this functionality will be planned as resources are identified and as modules are prioritized. Planned target date for task time estimates and prioritization of modules is March 31, 2004. Further deliverables include business process improvement and design specifications for entering and maintaining multifamily post-award data.

Capital expenditures for CMTS Enhancements Contracted Services: FY 04-05 \$129,610

2 Enhanced Compliance Testing

07/15/2004 - Development is code complete and in final testing stages. Overall, this task is 99% complete. Awaiting final user sign-off of one compliance test for two programs (HOME and Bond).

04/20/2004 - All five test packages have been delivered, and testing on the packages is about 75% complete. The completion date of this task has been extended from 2/29/2004 to 5/19/2004 due to monitor staff availability for testing, and because the contract programmer has encountered some bugs. These bugs are currently being addressed.

03/20/2004 - Five out of the five programming test packages have been delivered. Testing of the packages is approximately 50% complete.

02/20/2004 - Four out of the five programming test packages have been delivered. One programming test package remains. The four that have been delivered are AHDP, HOME, HTC, and HTF. The programming test package for BOND and the 8823 automated reporting component remain.

11/20/2003 - Contract services for automated testing performance improvements and regulatory changes for multifamily properties during the affordability period.

3 CMTS Reports

07/15/2004 - The contractor completed delivery of a reporting view specification to the technical team in July. This work will be reviewed by the technical team and time estimates will be provided to the steering committee by the end of August 2004.

04/20/2004 - Work on CMTS Reports began on 4/19/2004 with Compliance staff meetings. The contractor has received high level documentation on existing reports. The contractor has met with technical team staff to start laying out and identifying some database reporting views. The 4/19/2004 start date is approximately 6 weeks later than originally planned due to completing the Multifamily Module requirements and design.

03/20/2004 - Work on CMTS Reports has not begun because work on the MF design specification has not yet been delivered. The contractor anticipates starting work on CMTS Reports on 4/16/2004.

11/20/2003 - Contract services to complete the analysis and design of in-house management reports for CMTS and risk assessment reports from the Central Database. The reports are for management tracking information and to implement an expanded risk management program required by Senate Bill 322 and will offer comprehensive information collected by CMTS or the Contract System. The contractor will collect reporting requirements from TDHCA staff and define the specifications for the views, which will be provided to the Information Systems Division for further consideration.

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

4 Technical Knowledge Transfer

07/15/2004 - In July, the contractor delivered CDB technical documentation to the technical team. The technical knowledge transfer portion of contracted services was scaled back to allow for monitoring staff to completely test the automated compliance testing and clear up outstanding issues. The impact of scaling back the technical knowledge transfer has been minimized through ISD staff participation in the Multifamily JAD sessions in January and February 2004 and a technical design review in June 2004.

Scaling back on technical knowledge transfer also allowed time in the contract for a change to the system that is more in line with the processing of reviews. Originally TDHCA specified that a property had to be within its affordability period in order to process a review. Since the LIHTC program affordability period is driven by the issuing of the 8609 records and this process can be delayed for many reasons, the dependency on the affordability period was removed, and the system now drives reviews from the active-inactive flag, which monitors can update at any time. This allowed for more flexibility and was more in line with the actual compliance processing of reviews.

03/20/2004 - Knowledge transfer has been delayed approximately two weeks because work continued on the Enhanced Compliance Testing. The Enhanced Compliance Testing code delivered was a significant rewrite from the original CMTS code delivered and includes performance improvements. Now that this code has been delivered, software quality assurance testing by PM staff remains. Upon completion of testing knowledge transfer can begin. The contractor estimates that knowledge transfer can begin on 4/30/2004.

11/20/2003 - Knowledge transfer with TDHCA ISD staff. Written deliverables include updated versions of process flows, business rules for each program in CMTS, and documentation of changes to CMTS brought about by the CMTS enhancement contract.

6 PROGRAM MONITORING MODULE

7/15/2004 - At a July 9, 2004 meeting, the steering committee approved commencement of Program Monitoring Module development, using the approved design specifications delivered by AIMS as part of CMTS Enhancements Contracted Services. The Program Monitoring Module will provide Portfolio Management staff with a CDB system to track program monitoring risk assessment, scheduling, and review functions, as well as single audits.

ISD estimates that Program Monitoring Module development will take 1,675 hours. This estimate includes software development of screens, SQL queries, database modifications and integration, development of report output as specified in the design specification, technical testing, user acceptance testing, and bug fixes. Developing end user documentation and training is not included in the 1,675 hours.

7 Program Monitoring Specifications

12/16/2003 - Received the design specification. It has been reviewed and signed off by compliance staff. The contracted deliverables for this item have been met.

11/20/2003 - Contract services related to developing and documenting the specifications necessary to incorporate Single Audit, program monitoring, and 8609 and construction inspections.

11 * MULTIFAMILY MODULE

07/15/2004 - In June and July 2004, the technical team and the contractor performed a technical review of the Multifamily Module design specifications. AIMS has completed its contract with TDHCA, and the contractor has accepted another position; however, he may be available to assist us for a limited time (one or two week time period in September) in completing the functional design review. The impact on the project has been minimized because ISD staff participated in the Multifamily JAD sessions in January and February 2004 and because of the technical review.

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

The primary project risk is caused by the complexity of the design (270 page specification with over 100 screens) coupled with the likelihood of significant changes to the design during the requirements confirmation meetings in late August through October 2004. The technical team has performed an estimate of development and testing time needed to build the Multifamily Module per specifications as they currently exist; this estimate is 4,356 hours. However, the project team will not be able to complete the Multifamily Module project plan until requirements confirmation is complete in October because of the dependencies between development milestones and functional staff availability. Accordingly, the projected end date of 8/31/06 is preliminary and tentative.

To ensure the three business areas sponsoring the Multifamily Module (Compliance, Multifamily Production, and Real Estate Analysis) are in agreement in the scope of the module, we anticipate that the confirmation of the specifications will not be complete until October 2004. The additional time spent in ensuring accurate system specifications will result in greater gains long-term through a reduction of change requests.

2/20/2004 - Commencement of Multifamily Module development is dependent on the review and approval of the design specifications by Multifamily, Real Estate Analysis, and Compliance staff and directors.

11/20/2003 - In October 2003, Management decided the best strategy was to develop a Multifamily Module that would suffice for each of the Department's multifamily programs rather than separate modules for each of the programs.

The major program in the Multifamily Module will be the Housing Tax Credit Program. The program is the primary means of directing private capital towards the creation of affordable rental housing. The tax credits provide developers of low income rental housing with a benefit that is used to offset a portion of their federal tax liability in exchange for the production of affordable rental housing. The value associated with the tax credits allows residences in HTC developments to be leased to qualified families at below market rate rents.

The Multifamily Module of the Central Database will provide the ability to:

- track credit allotments to the state
- track the allotment of credits to the individual setasides and subsequent allocation to projects and their respective buildings
- track the allocation of credits to the properties
- identify applicable fraction for each of the buildings receiving tax credits
- identify the purpose of the allocation (acquisition, rehab, new construction)
- capture the necessary information to issue 8609s
- capture the necessary information to effectively manage the cost certification process
- automatically assign the applicable PV rate and provide the ability to lock in the rate
- track the tax credit from initial allocation, carryover to final issuance

Application and scoring are preaward and will be considered in the Application Module design.

Capital Expenditures: FY 02-03 \$2,600 (contract services)

Note: Capital expenditures total for FY 04-05 Multifamily Module Requirements and Design is maintained under "CMTS Enhancements Contracted Services".

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

12 Multifamily Module Requirements and Design

04/20/2004 - The multifamily module design specifications, previously referred to as HTC/CMTS Process Improvements - Specifications, were delivered by AIMS, Inc. on 4/19/2004. Module development will begin after functional review sessions have been completed, and Multifamily, Real Estate Analysis, and Compliance staff have provided written approval of the specifications.

03/20/2004 - Multifamily module (including HTC) functional requirements review feedback is being incorporated into the original functional requirements. Focus of work is on the design specifications and prototype screens. Prototype screens are approximately 90% complete. Delay is due to the intricacies of the business process and the complexity of integration into the existing architecture. Anticipated delivery date of the design specifications from the contract is 4/16/2004. The 4/16/2004 delivery date does not include review, modifications based on review, reexamination of the specifications after making the modifications, and sign-off. This activity is covered under task item 26, Functional Review and Acceptance.

02/20/2004 - Multifamily module (including HTC) functional requirements have been delivered. The first version has been reviewed by the business team. The consultant has also delivered approximately 50% of the prototype screens. Remaining deliverables include design specifications and completing prototype screens.

11/20/2003 - Contract services related to:

- analysis of the Housing Tax Credit (HTC) Microsoft Access database currently in use to determine the best recommended process for transferring application and award information to CMTS and to provide specification, as necessary.
- analysis of business processes to design business rules for handling and processing HTC records until the Multifamily Production module is developed. Deliverables will include recommended processes for a smooth transition of paper and electronic records from Multifamily Production to the Portfolio Monitoring and Compliance Division, including the necessary quality control points and measures.

13 Functional Review and Acceptance

4/20/2004 - The multifamily module design specifications were delivered by AIMS, Inc. on 4/19/2004. Module development will begin after functional review sessions have been completed, and Multifamily, Real Estate Analysis, and Compliance staff have provided written approval of the specifications. Because production-related work associated with the tax credit cycle is the agency's priority, the functional design review sessions are scheduled to begin August 13, 2004. To allow for changes that will result from the functional design review, ISD has targeted September 24, 2004 for final sign-off on multifamily module specifications.

17 CONTRACT SYSTEM PHASE 2

7/15/2004 - Prior to Contract System roll-out, in May 2003, the project team, with consensus of the steering committee, made a group decision to scale back on some planned functionality from the design specifications that while important was not critical to timely implementation. The project team intended to readdress this functionality after Contract System implementation and after receiving steering committee approval.

On July 9, 2004, the steering committee approved that the technical team should move forward with this postponed functionality, which includes 1) contract and activity amendments, 2) contract schedules, and 3) document tracking. ISD has not yet performed a revised time estimate for this work. Accordingly, the projected end date of 8/31/05 is preliminary and tentative.

19 * APPLICATION AND CONSTRUCTION MODULE

This module will provide the ability to create and store application guidelines, threshold information, scoring criteria, and templates to be used in the application scoring process. The system will allow the applicant to enter and submit the application online and submit any supporting documentation via hardcopy and electronic means. Where possible, automated scoring will be invoked but regardless, all scoring will be performed in the system and summarized automatically.

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

This module will also coordinate and manage the construction monitoring activities performed at projects, subrecipients, etc. The system will provide the ability to capture pertinent information regarding construction monitoring activity and consolidate the results of all construction monitoring activities at the entity in a common location for operational, risk assessment and reporting purposes.

Capital Expenditures: FY 02-03 \$5,000 (contract services)

21 MODULES REMOVED FROM CDB PROJECT

8/6/2004 - The steering committee met on 8/6/2004 to discuss each of the remaining modules to be prioritized and evaluate each module's need in context of the CDB business goals and then to arrive at a decision about which modules are critical to CDB project completion.

The steering committee approved the following prioritization of remaining CDB modules and reporting specifications:

1. Implement Reporting Specifications delivered by AIMS as part of its FY 2004 contract with TDHCA.
2. Contract System Phase 2.
3. Program Monitoring Module and Multifamily Module.
4. Application and Construction Module.

The steering committee removed the following modules from the CDB project at the 8/6/2004 meeting:

1. Asset Management Module
2. Bond Finance Module
3. Credit Underwriting Module
4. OCI Module
5. Program Module

8/4/2003 - The Central Database Steering Committee met on 8/4/03 and prioritized the remaining modules. Factors considered in the prioritization included the following:

- The need for global performance measures.
- The current Community Affairs' program systems are mature and can continue to function.
- Time necessary for post-implementation enhancements for the TDHCA Contract System (including "Phase 2" HOME enhancement change requests and HTF enhancements, the remaining Program Module, and fixes on bugs as they are identified with system usage).
- Delay the Application Module - Single and Multi-family staff will need to continue to use Genesis to enter applications; however, contracts will be entered and maintained in the new TDHCA Contract System. General consensus was to delay the Application module until after the remaining program modules are incorporated in the Contract system.

The remaining modules were prioritized as follows:

- The Program Module, HTF enhancements, other HOME post-implementation enhancements were prioritized at the 8/4/03 meeting and, subsequently, at the

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

9/24/03 Steering Committee, it was agreed that associated needs and work will be reassessed prior to proceeding.

- LIHTC Module (including Cost Certification). Note - Management decided in October 2003 that the best strategy was to develop a Multifamily Module for all of the Department's multifamily programs rather than separate modules for each of the programs. See the discussion of the Multifamily Module for more information.
- OCI Module. The Department will determine if OCI contracts can be incorporated into the Contract System with a limited amount of design work and programming changes. If so, the priority of this component will be bumped up. OCI, Compliance, and ISD staff will participate in this meeting.
- Community Services/Energy Assistance Module
- Section 8 Module

The remaining modules and other enhancements were not prioritized because the development and implementation time associated with the modules prioritized above is significant. The prioritization of the remaining modules and enhancements will be assessed as the time to apply resources to those modules and enhancements approaches. The Department will have a better appreciation for the prioritized needs of the Department and the resources available to apply at that time. The remaining modules and enhancements to prioritize are the:

- Application Module,
- Asset Management Module,
- Construction Monitoring Module,
- Credit Underwriting and Cost Certification Module,
- Bond Finance Module,
- Program Module,
- Contract System - HTF enhancements, and
- Contract System - HOME enhancements.

22 ASSET MANAGEMENT MODULE

8/6/2004 - This module was dropped from the scope of the CDB project at the 8/6/04 Steering Committee meeting. Most of the data fields proposed to be collected in the Multifamily Module design specifications are largely the same as needed for asset management functions. For this reason, adding asset management functionality will not need to be handled as a separate complete module; instead, it can be addressed as an extension of/enhancement to the Multifamily Module after CDB project completion.

23 BOND FINANCE MODULE

8/6/2004 - This module was dropped from the scope of the CDB project at the 8/6/04 Steering Committee meeting. This proposed module has never been considered a high priority. The Director of Bond Finance discussed that the spreadsheets and software used by Bond Finance are adequate for handling its business, and committee members discussed that there are few to no central operating and reporting needs that require CDB integration of Bond Finance.

11/20/2003 - The Bond Finance module will capture all relevant commercial paper, single family and multifamily bond data and information for retrieval and reporting purposes. The Bond Finance module will provide this data and information in a readily accessible manner through user defined reports to provide information to other state agencies. Financial concerns, such as rating agencies, bond insurers, investors, investment banks, etc. also will use these reports. The Bond Finance module will consolidate current report preparation processes, thereby increasing Bond Finance's efficiency and productivity with the issuance of new bonds and the management of outstanding bonds.

24 CREDIT UNDERWRITING

8/6/2004 - This module was dropped from the scope of the CDB project at the 8/6/04 Steering Committee meeting. Most of the data fields proposed to be collected in the

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

Multifamily Module design specifications are largely the same as needed for credit underwriting functions. For this reason, adding credit underwriting functionality will not need to be handled as a separate complete module; instead, it can be addressed as an extension of/enhancement to the Multifamily Module after CDB project completion.

11/20/2003 - This module will provide the ability to capture and track underwriting details and apply pre-established thresholds and tolerances to determine eligibility or compliance with established standards.

25 OCI MODULE

8/6/2004 - This module was dropped from the scope of the CDB project at the 8/6/04 Steering Committee meeting. Committee members discussed the need for contracts supporting OCI programs (as well as miscellaneous “boutique” contracts) to be tracked in CDB. Most of the OCI’s funding sources are other Department programs and the CDB can already handle multiple funding sources through the Program Activity type and Fund Source/Program Source functionality. New Program Activity types and funding sources can be handled through the change request process; there is no need to approach these requirements as a separate module.

11/20/2003 - This module will provide the capability to track its programs (Texas Bootstrap Loan Program, Contract for Deed Conversion Loan Programs, Builder Incentive Partnership Program, Contract for Deed Conversion Loan Guarantee Program, Colonia Self-Help Center Program, and Colonia Consumer Education Programs) through the database. This will enable the creation of various reports regarding the colonias and these programs. There will also be a capability to search on the database for other funding activities in the colonias by other programs within the Department.

Plans include determining whether the OCI contracts can be incorporated into the Contract System with a limited amount of design work and programming changes.

26 PROGRAM MODULE

8/6/2004 - This module was dropped from the scope of the CDB project at the 8/6/04 Steering Committee meeting. The driving concept behind the Program Module was to allow users to change Program Activity types through a user interface, instead of requesting changes from IS. Although the Program Module could result in increased efficiency, it would not directly support any CDB business goals and is not critical to project completion.

11/20/2003 - The Program Module will provide the ability to store online program level information. The information to be stored includes: Program name, the type of program (multi family or single family), program activities with each activity’s specific strategies, targets (income targets, geographic, special needs, non-profit participation etc.) and requirements.

Capital Expenditures: FY 02-03 \$3,250 (contract services)

8/31/2003 - The 11% reported is rolled forward from the last status report to the Department's Governing Board, April 30, 2003, and relates to requirement and design work that has been completed.

27 COMMUNITY SERVICES/ENERGY ASSISTANCE MODULE

7/15/2004 - At a June 22 meeting, the CDB Steering Committee approved a change in strategy to accommodate the information technology needs of Community Services and Energy Assistance (CS/EA) programs. Instead of completely integrating CS/EA contract systems into the CDB framework, which would mean rebuilding all CS/EA systems in Java, some of which are already web-enabled and written in PL/SQL, ISD recommended the approach of building on existing systems and creating CDB reporting tables to handle integration of housing and community affairs contracts for agency wide operating and reporting purposes. With this approach, the CS/EA systems on TDHCA's legacy platform, APPX, will be ported to PL/SQL.

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

The primary benefit of this approach is faster development at a lower cost, because less development will be required and the programmers most familiar with CS/EA programs have a high skill level in PL/SQL.

11/20/2003 - The Community Services/Energy Assistance Module will extend the Contract System functionality of the TDHCA Contract System to the CS and EA programs. The module will allow funds to be tracked from source through award and contract closeout for the following fund sources: General Revenue, US Dept. of Health and Human Services, HUD, HHS Community Food and Nutrition Program, ENTERP, DOE, and Investor Owned Utilities. The module will incorporate the contract and program rules of the CS and EA program activity types: ESG, CSBG, CFNP, ENTERP, Weatherization, LIHEAP-CEAP, LIHEAP-WAP, SBF, and IOU. Monthly reporting functions for program activity types will be incorporated. The module will also allow for the tracking of budgets, draws, and expenditures. Existing historical and financial data will be converted to the new database as appropriate.

28 SECTION 8 MODULE

7/15/2004 - In May 2004, Community Affairs Division-Section 8 (CAS8), Financial Administration Division-Accounting Operations (FAAO), and Information Systems Division (ISD) identified the need to review current Section 8 processes and systems with the goals of determining if systems upgrades or software purchases are required and if so recommending a course of action. This need was identified in meetings where CAS8 and FAAO staff discussed difficulties in using the current Section 8 systems to project program expenses and develop accurate budgets, and the planning project was supported by Executive. A Section 8 Systems Planning team was formed to accomplish the following goals: 1) document system requirements through a series of work sessions with CAS8, FS, and ISD; 2) investigate the Section 8 systems in use at a sample of other state housing agencies; and 3) determine if a) upgrading existing systems, b) internally managing the development of new systems, or c) purchasing a commercial off-the-shelf product is required for Section 8.

If needed, the team would recommend an FY 2006-2007 Biennial Operating Plan (BOP) capital budget project.

The team is nearing completion of this planning project and will have a recommendation in August. The recommendation will be presented to the CDB Steering Committee for approval.

11/20/2003 - The Section 8 module will consist of 4 major components. They are Family Reports, Contracts, Payments and Contract Tracking. The Family Reporting System (i.e., application system) is modeled after HUD's automated Form 50058 application process which is used to collect, store and generate reports on families who participate in the Section 8 rental subsidy program. Once a family's application has been submitted and processed by HUD, it is ready to become a contract in TDHCA's Section 8 program. The Contract System is almost an exact mirror of the Family Reporting System except that it abstracts the information to a higher level and presents it in a more summarized form to agency users. A contract then provides the Section 8 Payment System with the information it needs to process payments for local operators, landlords and tenants. This system then feeds the information to Accounting's CSAS System which, in turn, gives accounting the information they need to produce their monthly checks for the aforementioned groups. Lastly, the Section 8 Contract Tracking System is used to help the program area "keep track" of which contracts have received their payments and/or have reimbursed the agency for the services rendered.

30 COMPLETED/ACCOMPLISHED

Capital Expenditures Not Associated with Individual Milestones FY 02-03:

Java Training, \$7,640

Server Hardware, \$42,987

Software and Misc., \$4,620

**TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004**

31 Software Dev Environ Infrastructure & Arch Plng

The software development environment was restructured and a more refined process that accommodated both existing and new programming languages, databases and standards were put into place. This includes the development of a project charter, the creation of a detailed project plan, selection of a source code control tool, the addition of a modified QA process that involves more user participation, the creation of web and graphical user interface standards, Java coding standards, database naming convention standards, Java software development platform standard, and software change control, management and deployment process improvements.

Capital Expenditures: FY 02-03 \$11,700 (contract services)

32 Main Menu and Login Process

The Central Database Main Menu for navigation through the system. The Login Process entailed developing the interface and preliminary security mechanisms for internal users. This also included development of a standardized interface stylesheet for use in the application.

Capital Expenditures: FY 02-03 \$14,000 (contract services)

33 LIHTC Microsoft Outlook Contact Log Solution

Provided an immediate Microsoft Outlook solution to a SB322 item where oral (phone) or written communication can be logged for the LIHTC program. This is the short-term solution to the SB322 item. The longer-term solution will be in the form of the LIHTC Contact Log.

34 Housing Sponsor Report

The Housing Sponsor Report is used by the property owners and property managers to report property and unit information into the Central Database. The Housing Sponsor Report is required to be submitted to TDHCA on an annual basis for any properties where program participation was involved.

Capital Expenditures: FY 02-03 \$650 (contract services)

35 HRC Information Clearinghouse

The Housing Resource Center Information Clearinghouse provides the citizens of Texas easy access to information on homebuyer assistance, rental housing assistance, home repair, and other community services throughout the state. A brief description of several programs offered by TDHCA and other state and federal programs, including hyperlinks, is also available.

Capital Expenditures: FY 02-03 \$51,034 (contract services)

36 Data Migration and Population

Capital Expenditures: FY 02-03 \$22,885 (contract services)

41 Software Architecture

The software infrastructure required for current and future projects which included the design, technical design and software development of data access routines, object model development and user interface framework.

Capital Expenditures: FY 02-03 \$18,750 (contract services)

42 Housing Sponsor Report - Historical

The Housing Sponsor Report - Historical information is used to query for property and unit information that has been provided in prior Housing Sponsor Report reporting

TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004

years. The Housing Sponsor Report is required to be submitted to TDHCA on an annual basis for any properties where program participation was involved. This portion of the system is specific to historical information as previously reported by prior Housing Sponsor Reports entered by property owners and property managers.

43 COMPL. MONITORING & TRACKING SYSTEM (CMTS)

CMTS was Phase I of the Central Database Project. The goal of Phase I was to develop a fully integrated system to address the compliance monitoring needs for all multifamily housing programs. The system was designed to provide full integration and reporting, provide automated compliance functions for the LIHTC, AHDP, HOME, HTF, and Tax Exempt Bond programs during the affordability period, allow remote property managers to access and update tenant information through the Internet, and improve productivity through the use of a sound business process design, a graphical user interface, and improved access to data.

Capital expenditures for AIMS Contract: \$309,038 (\$262,955 paid in FY 01; \$46,083 paid in FY 02)

Capital Expenditures for External Property Owner's Interface: FY 02-03 \$8,375 (contract services)

Capital Expenditures for Functional Planning and Deployment: FY 02-03 \$12,900 (contract services)

Capital Expenditures for FY 03 Post Implementation Enhancements (\$44,355)

48 CONTRACT SYSTEM

The Contract System was moved into production (go-live) on December 2, 2003 for internal users and December 3, 2003 for external users.

The Fund Allocation portion of this module allows each of the program areas to distribute and track funds from the original fund source (HUD, General Revenue, and others) to programs, regions, and activities (Rental Housing Development, Owner Occupied, SECO, and others) and specific setasides (CHDO, Special Needs, and others). The tracking of the funds includes source of the funds and expiration dates (Federal and State) for each of the source types to the contract level. Program Income, Deobligated Funds and Administration Funds are also tracked at a detail level from source to final use. Balances are automatically maintained in each of the funds.

A history of all transactions against any of the funds is maintained. The transaction history contains the type of transaction, date, amount, by whom and comments.

The Contract and Draw portion of this module is inclusive of budgets and draws. This segment of the module provides the ability for program areas to set up a contract in the system; associate the contract to organizations and persons involved in the development and execution of the contract; track the use of leveraging and matching funds for individual contracts; provide the ability to create contract activities associated with the contract; create and maintain the budget including balances as funds get drawn, deobligated or refunded; track the application of program income to contracts and maintain the balances of deobligated funds to ensure deobligated funds are used immediately upon availability; and provide the ability to track the receipt of Program Income as well as tracking the program income proceeds at the contract level.

The System also provides the ability for the subrecipients to create and manage their own detail budget online. Management of the budget by the subrecipient includes the transfer of funds between budget items but not changes to the overall budget, which requires a formal amendment. Balances are maintained by the system as funds are drawn, refunded, etc.

The initial release of this module accommodates the functional needs of the HOME and Housing Trust Fund programs. While the timelines planned incorporate the design work for the Energy Assistance (EA) and Community Services (CS) programs, the development, testing and acceptance of work for these programs is not anticipated until subsequent releases not currently scheduled. Additionally, any functionality offered by the Contract System applicable to the LIHTC, OCI and Bond programs will not be

* If asterisked (*), the detailed plans identifying tasks and resources are pending finalization of design requirements. Accordingly, start/end dates are general estimates. After design review, more reliable time estimates can be established. 12

TDHCA Central Database
Summary Project Plan/Status
As of July 15, 2004

fully designed, developed, tested and accepted until consideration of those program modules.

Capital Expenditures: \$210,095 (contract services)

51 POST IMPLEMENTATION REVIEW (PIR)

7/15/2004 - A revised project charter was approved by the Steering Committee on May 7, 2004.

4/20/2004 - The results/lessons of the review have been incorporated into the draft project charter pending completion and final review.

3/31/2004 - Post implementation review completed; PIR report distributed to project team, steering committee, and management.

02/17/2004 - The post implementation review kickoff meeting took place. In this meeting ISD discussed the steps in the review and handed out a survey. This survey will be used to collect information from participants.

11/20/2003 - The post implementation review involves all individuals associated with the development of the CMTS and Contract Systems with the goal of identifying opportunities to improve the development process and governance procedures. The Project Charter will be revisited and modified as necessary to ensure that the composition and the roles and responsibilities of the following are well defined:

- * the steering committee,
- * the project sponsor,
- * the project manager,
- * the project team leaders, and
- * the project team members.

The project charter will be enhanced, as necessary, to clearly define project management and reporting tools and reports, the frequency of reporting, to whom reports are to be provided, and responsibilities associated with preparing, reviewing and approving the reports. Accountability will be clearly established with approval points at well defined milestones.

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS
CENTRAL DATABASE PROJECT - ISSUES/RISKS MANAGEMENT
As of July 31, 2004**

The following issues have been prioritized for resolution.

Iss. Ref.	Issues/Risks	Impact/Potential Impact	Status
1	2001 – 2003 multifamily data has not been entered (Housing Tax Credits, HTF, and HOME properties); duplicate records such as organizations, persons and addresses in the system.	Incomplete/unreliable reporting and operating information, e.g. Compliance does not have information readily available that is necessary to perform their job duties; business processing delays resulting from cleaning or correcting data.	<ul style="list-style-type: none"> • Planning/resolution stage. • Plan identifying necessary tasks and budgets developed. While planned tasks have been approved by the Issue Owner, the necessary staff resources for the relevant tasks have not been identified in full, which may adversely affect budgets. • Preparing HTC 2001-2003 data for migration to CMTS. Analysis of requirements for HTC 2001 award cycle has led to the preparation of relevant data. Analysis of data requirements HTC 2002 and 2003 cycles and for HOME, HTF and multifamily bond is still pending. • Business processes have not been developed to update changes in data that occur over the life of an award. • Limited staff resources preclude timely analysis of existing information systems (Microsoft Access / Excel database) that may change on a yearly basis. Analysis work is necessary for data migration to central database.
2	Formal standardized processes, policies and procedures have not been developed for current and future entry of multifamily data for new awards (Housing Tax Credits, HTF, and HOME properties).	Incomplete, inaccurate reporting information. Confusion relating to roles and responsibilities. Data not being controlled and entered efficiently. Lack of quality assurance and accountability.	<ul style="list-style-type: none"> • Planning stage. • Plan identifying necessary tasks and budgets developed. However, necessary staff resources for relevant tasks not identified in full, which may adversely affect budgets. Final plan pending appropriate director approval. • The MF Division has processed the paperwork to hire an employee who will be dedicated to the entry of 2004 multifamily data for new awards and forward. Appropriate training is being planned for the employee to ensure data is entered efficiently and is complete and accurate. • The Issue Manager has expressed concerns about team members indicating workloads are high and that additional tasks may be burdensome.
3	Duplicate records such as organizations, persons and addresses in the system.	Business processing delays resulting from cleaning or correcting data. Unreliable reporting information.	<ul style="list-style-type: none"> • Issue rolled into Iss. Ref. #1 and will be reported as such in future reports. • An initial centralized clean up of duplicate data has been completed. Accuracy and completeness needs appropriate user review prior to moving data into production.

TDHCA
CENTRAL DATABASE PROJECT - ISSUES/RISKS MANAGEMENT
As of July 31, 2004

Iss. Ref.	Issues/Risks	Impact/Potential Impact	Status
4	Training for the Contract System and CMTS has not been sufficient.	Inefficient and ineffective use of the system; frustration on behalf of users.	<ul style="list-style-type: none"> • Planning stage. • A draft plan identifying necessary tasks has been developed. However, necessary staff resources have not been identified and budgets have not been developed. Two significant dependencies are (1) the completion of the User Manual, currently estimated to be September 30, 2004, and (2) formalization of business processes (see Issue Ref. #2). • An Issue Manager has not been identified. An Acting Issue Manager has temporarily assumed the role; however, has indicated that he needs to focus more on his normal duties. The Department is in the process of procuring related contract services from Texas Department of Information Resources.
5	Internal user documentation for the contract system and CMTS is not adequate.	Inefficient and ineffective use of the system; frustration on behalf of users.	<ul style="list-style-type: none"> • Issue rolled into Iss. Ref. #4 as a dependency and will be reported as such in future reports.
6	CMTS and the Contract System web applications are built on different Java frameworks and code has not been created for authentication interoperability. Additionally, due to implemented security practices, after 15 minutes of inactivity users are required to login again.	Users are required to login twice, sometimes repeatedly if the system times out, giving the appearance of two separate systems. User confusion and frustration with the system.	<ul style="list-style-type: none"> • It was decided in a May 2004 meeting that this circumstance was more appropriately classified as a Change Request rather than an issue precluding successful implementation. Accordingly, it was dropped from the Issues list and is being processed in accordance with Department standards established for Change Requests.
10	IDIS, HUDs Accounting and Management Information System, is not in alignment, in agreement, or reconciled with the Contract System (Dept.'s program system) and CSAS (Dept.'s Accounting System).	Incomplete and/or inaccurate data in any of the three systems; possible loss of funds' non-recognition of funds that should be deobligated/reobligated.	<ul style="list-style-type: none"> • Planning stage. • Issue Owners and Issue Managers identified. • Developing an understanding of reconciliation/balancing considerations relating to each of the three systems and of the appropriate level of detail each of the three systems should be reconciled.

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS
CENTRAL DATABASE SYSTEMS MAINTENANCE DETAIL
As of July 15, 2004**

The table below summarizes CDB maintenance work completed and in progress by technical staff from **April 20, 2004 through July 15, 2004**. The maintenance work is divided into four categories and covers the three production CDB systems: CMTS, the TDHCA Contract System, and the Housing Resource Center Information Clearinghouse (HRC-IC).

Technical time spent on tasks and activities which are not directly related to software maintenance of production CDB systems is not included in the table. These additional tasks and activities include: 1) training two new developers hired in April, 2) planning and providing development time estimates for the Program Monitoring (PM) Module and the Multifamily Module, 3) end-user CDB system support, 4) software development process and tools work, such as Concurrent Versioning System (CVS) improvements to streamline software release management, 5) database performance tuning, and 6) database administrator support on other systems and projects, especially the Section 8 Systems Planning project and the web-based Easy Audit system (EZ3W) used by Energy Assistance.

Maintenance Category	Requests Completed	Requests In Progress	Summary
Enhancements – Change requests approved by the steering committee.	6 (216 hours)	8 (258 hours)	<ul style="list-style-type: none"> • 4 Contract System change requests completed totaling 160 hours • 2 HRC-IC change requests completed totaling 56 hours • 6 Contract System change requests in progress totaling an estimated 156 hours • 2 CMTS change requests in progress totaling an estimated 102 hours
Bug Fixes – Completed CDB system problems, reported by business staff or the technical team.	22 (390 hours)	57	<ul style="list-style-type: none"> • 22 bugs completed totaling 390 hours • 57 work orders in progress
Data Management – Work performed by the agency database administrator, consisting of data migration, mass changes, and corrections that cannot be performed through user interfaces.	105 (85 hours)	17	<ul style="list-style-type: none"> • 105 work orders completed totaling 85 hours • 17 work orders in progress
Reports – Completed report requests or views that facilitate adhoc reporting .	3 (75 hours)	NA	<ul style="list-style-type: none"> • 25 hours on Match reporting • 20 hours on Activity Fund Detail reporting • 30 hours creating reporting views to support ad hoc queries

Texas Department of Housing and Community Affairs
Status of Funds as of July 15, 2004
Centralized Database Project/Enhancements to Compliance System

	Enhancements to Compliance System		
	2004	2005	Biennium
Approved Appropriations	\$ 135,000	\$ 110,000	\$ 245,000
Cash Expenditures by Object of Expense:			
Computer Programming Services	(109,560)		(109,560)
Subtotal	(109,560)	-	(109,560)
Payables - Programming	(20,050)		(20,050)
Total Expenditures	(129,610)	-	(129,610)
 Total, Appropriation Balance	 \$5,390	 \$110,000	 \$115,390

	Central Database Project		
	2004	2005	Biennium
Approved Appropriations	\$ 135,000	\$ 125,000	\$ 260,000
Cash Expenditures by Object of Expense:			
Computer Programming Services	-	-	-
Subtotal	-	-	-
Payables - Programming	-	-	-
Total Expenditures	-	-	-
 Total, Appropriation Balance	 \$135,000	 \$125,000	 \$260,000

Planned use of Appropriated Balances:

2 contract programmers in FY 05 for reports development, Contract System Phase 2, the Program Monitoring and Multifamily modules, and CDB maintenance.

1 contract programmer in FY 05 dedicated to CMTS reports and maintenance.

1 technical writer in FY 05 to complete the CDB internal user manual and develop and provide training to staff and external system users.

EXECUTIVE OFFICE

**BOARD ACTION REQUEST
AUGUST 19, 2004**

Action Item

Report on Personnel Evaluation of Internal Auditor

Required Action

The Board should approve the Evaluation of the Auditor.

Background

The Audit Committee will conduct a performance evaluation of the Internal Auditor as the Internal Auditor reports directly to the Board.

Recommendation

Approve the evaluation with any changes, corrections, etc.

EXECUTIVE SESSION

Elizabeth Anderson

If permitted by law, the Board may discuss any item listed on this agenda in Executive Session

Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning an Investigation by the Brazoria County Criminal District Attorney on Forged Letters Concerning Tranquility Bay Apartments

Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning Pending or Contemplated Litigation

Personnel Matters – Discussion Under Sec. 551.074, Texas Government Code, of Performance Evaluation for Internal Auditor

OPEN SESSION

Elizabeth Anderson

Action in Open Session on Items Discussed in Executive Session

REPORT ITEMS

Executive Directors Report

1. National Award for Excellence in Community Action for Community Action Council of South Texas
2. Department Outreach Activities – Meetings, Trainings, Conferences, Workshops for July, 2004
3. Special Recognition Award from Community Affairs Division
4. Draft Legislative Appropriations Request

ADJOURN

Elizabeth Anderson

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.