BOARD MEETING OF SEPTEMBER 15, 2011

J. Paul Oxer, Chair



Tom Gann, Vice-Chair C. Kent Conine, Member Leslie Bingham Escareño, Member Lowell Keig, Member Juan Muñoz, 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

AGENDA

9:30 a.m. September 15, 2011

Capitol Extension Auditorium 1500 North Congress Ave. Austin. TX

Swearing In of Mr. Oxer

CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM

J. Paul Oxer, Chairman

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.

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

Various action items below, (including consent agenda items and other items) relating to awards or other actions under different programs list specific applicants by name. These lists are informational and do not limit the Board's ability to take action with respect to others under the specific program action items.

Recognition of Mr. Conine

Item 1: Approval of the following items presented in the Board materials:

Executive

d July

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summaries for July 18 and July 28, 2011
- b) Presentation, Discussion, and Possible Action of the Board of Directors rescinding Resolution No. 10-001 and adopting Resolution No. 11-030, designating signature authority due to the transfer of the Disaster Recovery Division
- c) Presentation, Discussion, and Possible Action on a proposed Agreed Final Order with respect to Arturo Figueroa Homes (HOME 532307), Francisco Zarate Homes (HOME 532306), Tomas Molina Homes (HOME 532329)

Internal Audit

Sandy Donoho Dir. Internal Audit

Timothy K. Irvine Acting Director

- d) Report on the meeting of the Audit Committee
- e) Presentation, Discussion, and Possible Action on the FY2012 Audit Plan

Bond Finance

f) Presentation, Discussion, and Possible Action of staff's recommendation for outside bond counsel and for approval to proceed with negotiating a contract and obtaining the approval of the Office of the Attorney General

Jeff Pender Acting General Counsel

Presentation, Discussion, and Possible Action on Resolution 12-002 authorizing application to the Texas Bond Review Board for reservation of single family private activity bond authority, the issuance of Residential Mortgage Revenue Bonds, Series 2011C, the conversion of third tranche of 2009C (Program 77) and approval of the Single Family Residential Mortgage Revenue Bonds Underwriting Team

Tim Nelson Dir. Bond Finance

- Presentation, Discussion, and Possible Action on Resolution 12-003 authorizing the purchase of warehoused mortgage backed securities with proceeds of Residential Mortgage Revenue Bonds, Series 2011B (Program 77)
- Presentation, Discussion, and Possible Action on Resolution 12-004 authorizing program changes to the Mortgage Credit Certificate Program (MCC)
- j) Presentation, Discussion, and Possible Action on Resolution 12-005 authorizing a new range of mortgage interest rates for the Single Family Mortgage Revenue Bond (MRB) Program 77
- k) Presentation, Discussion, and Possible Action on Resolution No. 12-006 authorizing application to the Texas Bond Review Board for reservation of the 2011 single family private activity bond authority carryforward from the Unencumbered State Ceiling
- Presentation, Discussion, and Possible Action on Resolution No. 12-007 authorizing the Procurement of a Replacement Master Servicer, if necessary

Michael DeYoung Dir. Community Affairs

Community Services

m) Presentation, Discussion and Possible Action to Authorize the necessary action to fund the Homeless Housing and Services Program ("HHSP") in the amount of \$5,000,000 during fiscal year 2012, direct staff to look for additional opportunities to fund HHSP, and to approve a method of funding distribution

Texas Homeownership Division

Eric Pike

Center

n) Presentation, Discussion, and Possible Action to authorize issuance of a Request For Proposal (RFP) for Master Servicer for the Single Family Mortgage Revenue Bond Program

Dir. Texas Homeownership Division

Housing Resource Center

Elizabeth Yevich Dir. Housing Resource

- Presentation, Discussion, and Possible authorization to publish for public comment the 2012 Regional Allocation Formula Methodology
- Presentation, Discussion, and Possible authorization to publish for public comment the 2012 Affordable Housing Needs Score
- Presentation, Discussion, and Possible authorization to publish for public comment the 2012 State of Texas Consolidated Plan: One-Year Action Plan
- Presentation, Discussion, and Possible Action to approve a policy to guide TDHCA in serving persons with Limited English Proficiency

Multifamily Division Items - Housing Tax Credit Program

Tom Gouris DED Housing Programs

s) Presentation, Discussion, and Possible Action regarding of Housing Tax Credit Amendments

04464 Pepper Tree Apartments Houston
09312 Villas at El Dorado Friendswood

t) Presentation, Discussion, and Possible Action on Housing Tax Credit and Exchange Program Extensions

08603	West Oaks Seniors	Houston
09914	Stoneleaf at Dalhart	Dalhart
09914	Heritage Square	Texas City
09945	Park Place	Cleveland

- u) Presentation and Discussion on the Housing Tax Credit Exchange Program and Portfolio
- v) Presentation, discussion, and possible approval of ownership transfer prior to the issuance of Form(s) 8609 for Mission Del Rio #04488, San Antonio

HOME

Tom Gouris

w) Presentation Discussion and Possible Action to Ratify HOME Program Reservation System Participants

DED Housing Programs

DED Housing Programs

w) Presentation, Discussion, and Possible Action to Ratify HOME Program Reservation System Participants approved by the Acting Executive Director

DED HOUSING PROGRAM

 Presentation, Discussion, and Possible Action regarding the 2010 Single Family Development Program Award Recommendation

10591 Architecture for Charity of Texas, Inc.

Los Fresnos

- y) Presentation, Discussion, and Possible Action to authorize the issuance of the 2011 HOME Multifamily Development Program Notice of Funding Availability (NOFA)
- z) Presentation, Discussion, and Possible Action to authorize the issuance of the 2011 HOME Single Family Development Program Notice of Funding Availability (NOFA)
- aa) Presentation, Discussion, and Possible Action to authorize the issuance of the revised HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA)
- bb) Presentation, Discussion, and Possible action to authorize the issuance of the 2011 HOME Single Family Programs Notice of Funding Availability for Contract Award (NOFA)

Compliance and Asset Oversight

Patricia Murphy Chief of Compliance and Asset Oversight

- cc) Presentation, Discussion and Possible Action on a material amendment to the Land Use Restriction Agreement for Autumn Creek Apartments
- dd) Presentation, Discussion and Possible Action on a material amendment to the Land Use Restriction Agreement for NWTH Meridian

Neighborhood Stabilization Program

Tom Gouris
DED Housing Programs

- ee) Presentation, Discussion, and Possible Action regarding termination of the NSP Agreement between TDHCA and TDRA, and transition of administration of the TDRA NSP to TDHCA
- ff) Presentation, Discussion, and Possible Action to approve the revised Texas NSP1 Program Income Notice of Funding Availability
- gg) Presentation, Discussion, and Possible Action regarding the recommendation to amend the NSP1 contract No. 77090000154 with the City of Port Arthur

RULES:

Homero Cabello Dir. Office of Colonia Initiatives/Housing Trust

- hh) Presentation, Discussion, and Possible Action regarding the adoption of a final order adopting the proposed repeal of 10 TAC Chapter 51, §§51.1 51.16 and the adoption of a final order adopting a new 10 TAC Chapter 51, §§51.1 51.11 Housing Trust Fund Rules for publication in the *Texas Register*
- ii) Presentation, Discussion, and Possible Action regarding the adoption of a final order adopting amendments to 10 TAC Chapter 3, concerning the Colonia Self Help Center Program for publication in the *Texas Register*
- jj) Presentation, Discussion, and Possible Action regarding the adoption of a final order adopting amendments to 10 TAC Chapter 2, concerning the Texas Bootstrap Loan Program for publication in the *Texas Register*
- kk) Presentation, Discussion, and Possible Action regarding the adoption of a final order adopting amendments to 10 TAC Chapter 53, Subchapters B, C, and D, concerning the HOME Program Rule for publication in the *Texas Register*

Tom Gouris

DED Housing Programs

- II) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 33, concerning 2010 Multifamily Housing Revenue Bond Rules, and a proposed new 10 TAC Chapter 33, concerning 2012 Multifamily Housing Revenue Bond Rules for publication and public comment in the *Texas Register*
- mm) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1, §§1.31 1.37, concerning 2011 Real Estate Analysis Rules and Guidelines and a proposed new 10 TAC Chapter 1, §§1.31 1.37, concerning 2012 Real Estate Analysis Rules and Guidelines for public comment and publication in the *Texas Register*

Brent Stewart Dir. Real Estate Analysis nn) Presentation, Discussion, and Possible Action regarding proposed new 10 TAC §1.24, Foreclosure Data Collection, for public comment and publication in the *Texas Register*

Elizabeth Yevich Dir. Housing Resource Center

oo) Presentation, Discussion, and Possible Action regarding proposed amendments to 10 TAC Chapter 60, Subchapter A §§60.101 – 60.129, Compliance Rules, and a proposed new §60.130 regarding Material Amendments to Land Use Restriction Agreements for public comment and publication in the *Texas Register*

Patricia Murphy Chief of Compliance and Asset Oversight

ACTION ITEMS

Item 2: Board

a) Presentation, Discussion, and Possible Action to approve the employment and set the compensation of Timothy K. Irvine as Executive Director and to authorize the Chair to seek the necessary approval of the Governor J. Paul Oxer Board Chairman

Item 3: Appeals

a) Presentation, Discussion, and Possible Action on Multifamily Program Appeals:

Tom Gouris
DED Housing Programs

Appeals Timely Filed

b) Presentation, Discussion and Possible Action on Neighborhood Stabilization Program Appeals:

Appeals Filed Timely

c) Presentation, Discussion, and Possible Action on HOME Program Appeals:

Appeals Filed Timely

d) Presentation, Discussion, and Possible Action on Underwriting Appeals:

Brent Stewart Dir. Real Estate Analysis

Appeals Filed Timely

Item 4: Multifamily Division Items – Tax Credit Program:

a) Presentation, Discussion and Possible Action regarding the status of the Waiting List and the Consideration of Forward Commitments for Allocations for the 2011 Competitive Housing Tax Credit Application Round

Tom GourisDir. Housing Programs

Item 5: RULES:

Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 50, concerning 2010 Housing Tax Credit Program Qualified Allocation Plan and Rules, and a proposed new 10 TAC Chapter 50, concerning 2012 Housing Tax Credit Program Qualified Allocation Plan for publication and public comment in the *Texas Register*

Tom GourisDir. Housing Programs

b) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1, §1.1 concerning Definitions for Housing Program Activities and a proposed new 10 TAC Chapter 1, §1.1 concerning Definitions and Amenities for Housing Program Activities for public comment in the *Texas Register*

Item 6: Emergency Disaster Response:

Tom Gouris Dir. Housing Programs

 Presentation, Discussion and Possible Action to authorize the use of Single Family Bond Fees for wildfire recovery assistance

REPORT ITEMS

- 1. TDHCA Outreach Activities, August 2011
- 2. Announcement of the Texas Department of Housing and Community Affairs' Schedule for Four Public Hearings to Gather Public Comment on Planning Documents and Rules for Fiscal Year 2012
- 3. Report item on HTF Program Administrators that have been approved to participate in the funding reservation process
- Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

Elizabeth Yevich Dir. Housing Resource Center

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

- Timothy K. Irvine Acting Director J. Paul Oxer Chairman
- The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, including the possible employment and setting of the compensation of Timothy K. Irvine as Executive Director;
- Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al filed in federal district court, Northern District of Texas
 - b) Heston Emergency Housing, LP and Naji Al-Fouzan vs. Texas Department of Housing and Community Affairs, Michael Gerber, Martin Rivera, Jr., Marisa Callan, and Timothy Irvine; Civil Action No. H-11-1121 in the United States District Court for the Southern District of Texas, Houston Division
 - c) Claim of Gladys House filed with the EEOC;
 - d) Complaint of James Reedom filed with U.S. HHS/OCR (No. 09-99008)
 - e) TDHCA v. William Ross & Susan Ross; Cause No. D-1-GN-11-002226, filed in district court, Travis County
- 3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't. Code, Chapter 551; or
- 4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session

J. Paul Oxer Chairman

ADJOURN

To access this agenda & details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Nidia Hiroms, 512-475-3934; TDHCA, 221 East 11th Street, Austin, Texas 78701, 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 Nidia Hiroms, 512-475-3930 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.

BOARD SECRETARY

BOARD ACTION REQUEST

SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action regarding the Board Minutes Summaries for July 18 and July 28, 2011.

RECOMMENDED ACTION

Approve Board Meeting Minutes Summaries for July 18 and July 28, 2011.

RESOLVED, that the Board Meeting Minutes Summaries for July 28, 2011, as having been specifically approved, is hereby approved as presented.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS BOARD MEETING

July 18, 2011; 9:00 a.m.

Capitol Extension Auditorium 1500 North Congress Ave., Austin, TX

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 18, 2011 was called to order by Chair, Kent Conine, at 9:00 a.m. It was held at the Capitol Extension Auditorium, 1500 North Congress, Austin, Texas. Roll call certified a quorum was present.

Members Present:

Kent Conine, Chair Tom H. Gann, Vice Chair Leslie Bingham-Escareño, Member Juan Muñoz, Member Mr. Keig, Member, *arrived at 9:15 a.m.* J. Paul Oxer, Member

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 Honorable Commissioner Joey Treviño, City of Harlingen, provided testimony in support of Hacienda La Casitas.

Tina Goltl, North Park Manor representative of Leopard at Palms, provided testimony in support of Leopard at Palms.

<u>Jeff Wes</u>, Matthews Southwest, provided testimony in support of 1400 Bellview, #11127.

<u>Daniel Esparza</u>, representing the <u>Honorable Senator Eddie Lucio, Jr.</u>, provided testimony in support of application 11031, La Hacienda Casitas.

<u>Mark Hey</u>, representing the <u>Honorable Senator Jerry Madden</u>, provided testimony in support of Evergreen at Marsh Lane, Project Number 11145.

<u>Rachael Hendrickson</u>, representing the <u>Honorable Representative Jodie Laudenberg</u>, provided testimony in support of Silver Spring Grant Heritage.

Susan McDowell, Executive Director, LifeWorks, provided testimony in support of the Works at Pleasant Valley.

Eugene Sepulveda, president of the Entrepreneurs Foundation, provided testimony in support Works at Pleasant Valley.

Diana McIver, DMA Development, provided testimony regarding suggested changes to the QAP.

<u>Craig Lintner</u>, Pedcor Investments, provided testimony in support of project #11072, The Landings at Westheimer Lakes and # 11073, Cypress Run in Universal City.

<u>Deborah Sherrell</u>, Senior Vice President of Housing and Community Development for the Corpus Housing Authority, provided testimony in support of #11079 Lexington Landing.

Thelma Reyes, provided testimony in support of #11079 Lexington Landing.

<u>Matt Fuqua</u>, Blazer Residential, Blazer, Inc., provided testimony on behalf of <u>Chris Richardson</u>, in support of 11255 Justice Park Seniors Villas.

<u>Lee Sherman</u>, provided testimony in opposition to Marshall Project #11400 on 12th Street in the Kealing neighborhood in Austin.

<u>Tracy Witte</u>, provided testimony in opposition to Marshall Project #11400 on 12th Street in the Kealing neighborhood in Austin

<u>Ernesto Silva</u>, Chair, Harlingen Economic Development Corporation, provided testimony in support of 11031 La Hacienda Casitas, Harlingen.

<u>Larry Hollmann</u>, Community Development Corporation of Brownsville, provided testimony in support of the Hacienda Casitas, Project 11031.

<u>Bitty Truan</u>, Community Development Corporation of Brownsville, provided testimony in support of the Hacienda Casitas, Project 11031.

<u>Darrell Jack</u>, Apartment Market Data, provided follow-up testimony to comments made regarding the Marshall Project #11400 on 12th Street in the Kealing neighborhood in Austin.

The Board took a brief recess.

<u>Winston Shows</u>, resident of the Wellington Run neighborhood, and a representative of the Estates of Wellington Run Homeowners Association, Carrollton, TX, provided testimony in opposition to 11145, Evergreen at Churchill.

<u>Emanuel Glockzin</u>, developer Stonebridge Place Senior Housing, provided testimony in support of 11221, Palestine, TX and requesting a forward commitment.

Gwen Nickerson, resident of North Side Manor Apts., Corpus Christi, TX, provided testimony in support of New Palms at Leopard.

<u>Gil Piette</u>, Executive Director of Housing and Community Services in San Antonio, provided testimony in support of a forward commitment for New Palms at Leopard.

<u>David Potter</u>, read into the record a letter from the <u>Honorable Mayor Lee Leffingwell</u>, <u>Austin</u>, in support of Pleasant Valley Works, LP tax credit application, Project 11218.

<u>Tamea Dula</u>, Coates Rose, provided testimony, regarding concern about the QAP scoring system and challenging processes this year.

Paul Holden, Zimmerman properties, provided testimony in support of Dunes Apartments in Seminole, TX, #11181.

Rosa Linda Silva, board chair of the America GI Forum Village I and II in Robstown, TX, provided testimony in support of American GI Forum Village Number I and Number II.

<u>David Koogler</u>, Mark Dana Corporation, the developer of Spring Trace, Number 11037, provided testimony requesting a forward commitment for Spring Trace.

<u>Barbara Thomason</u>, President of the Houston Northwest Chamber of Commerce, provided testimony in support of #11037, Spring Trace Senior Community.

<u>Joy Horak-Brown</u>, Executive Director of New Hope Housing, Houston, TX, provided testimony in support of a forward commitment for 11150. Rittenhouse.

<u>Mike Fowler</u>, board chair of New Hope Housing, provided testimony in support of a forward commitment for 11150, Rittenhouse.

Ronald Hammons, provided testimony in opposition of Application Number 11056, St. Paul Apartments, Dallas, TX.

Julia Wiblin, provided testimony in opposition of Application Number 11056, St. Paul Apartments, Dallas, TX.

Michelle Pryor, provided testimony in opposition of Application Number 11056, St. Paul Apartments, Dallas, TX.

Sue Winkles, San Gabriel Senior Village, Georgetown, TX, provided testimony in support of 11169 Merritt Bryan Station.

Naomi Byrne, Executive Director, Housing Authority of Texarkana, Texas, provided testimony in support of 11097, Rose Hill Ridge.

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

Various action items below, (including consent agenda items and other items) relating to awards under different programs list specific applicants by name. These lists are informational and do not limit the Board's ability to take action with respect to others under the specific program award action items.

AGENDA ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

Community Affairs

a) Presentation, Discussion, and Possible Action on Approving Program Year 2011 Emergency Shelter Grant Program awards

Requests for Proposals

b) Authorize and direct the Executive Director to Move Forward with the Procurement of a Provider to Perform a Phase 2 Analysis of Impediments (AI) to Fair Housing Choice for the State of Texas through a Request for Proposal (RFP)

Multifamily Division Items - Housing Tax Credit Program

Presentation, Discussion, and Possible Action regarding of Housing Tax Credit Amendments
10709 San Elizario Palms San Elizario

HOME

- d) Presentation, Discussion, and Possible Action to Ratify HOME Program Reservation System Participants approved by the Executive Director
- e) Presentation, Discussion, and Possible Action to publish proposed amendments to the rule for the HOME Program, 10 TAC Chapter 53, Subchapters B, C, and D for public comment and publication in the *Texas Register*

Motion by Ms. Bingham-Escareño to approve Consent Agenda; duly seconded by Mr. Gann; passed unanimously.

ACTION ITEMS

AGENDA ITEM 2: MULTIFAMILY DIVISION ITEMS - TAX CREDIT PROGRAM:

a) Presentation, Discussion, and Possible Action of Challenges Made in Accordance with §49.(10)(e) of the 2011 Qualified Allocation Plan and Rules (QAP) Concerning 2011 Housing Tax Credit (HTC) Applications

11045	Lexington Villa	
11050	Palm Gardens	Resolved.
11051	Sweetwater Bend	
11057	The Mercer	
11073	Cypress Run	
11074	The Villas of Tuscany	Resolved.
11077	Main Street Commons	Resolved.
11080	Hidden Valley Estates	
11087	Tidwell Lakes Ranch	
11115	Castle Manor	
11124	People's El Shaddai	
11136	Sphinx at Lawnview	
11140	Villas of Giddings	
11163	The Grove at Elm Park	Resolved.
11169	Merritt Bryan Station Senior Deve	lopment
11217	The Overlook at Plum Creek	
11227	Dolphin's Landing	
11237	Summer Crest Senior Developme	ent
11241	Park Hudson	
11245	Bar T Apartments	
11246	Tylor Grand	
11248	Singing Oaks	
11258	Brook Village Apartments	

No Action Taken.

EXECUTIVE SESSION

At 11:48 a.m. Mr. Conine convened the Executive Session.

- 1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;
- 2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al filed in federal district court, Northern District of Texas
 - b) Claim of Gladys House filed with the EEOC;
 - c) Heston Emergency Housing, LP and Naji Al-Fouzan vs. Texas Department of Housing and Community Affairs, Michael Gerber, Martin Rivera, Jr., Marisa Callan, and Timothy Irvine; Civil Action No. H-11-1121 in the United States District Court for the Southern District of Texas, Houston Division
- 3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Tex. Gov't. Code, Chapter 551; or
- 4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

OPEN SESSION

At 1:00 p.m. Mr. Conine reconvened the Open Session and announced that no action had been taken during the Executive Session and certified that the posted agenda had been followed.

AGENDA ITEM 3: APPEALS:

a) Presentation, Discussion, and Possible Action on Multifamily Program Appeals:

11033 American GI Forum Village I & II Robstown

Cynthia Bast, Locke, Lord, representing the applicant, provided testimony in support of American GI Forum Village I & II.

Filiberto Garcia, provided testimony in support of American GI Forum Village I & II.

Rudy Blanco, provided testimony in support of American GI Forum Village I & II.

<u>Walter Martinez</u>, National Housing Management Corporation, provided testimony on Mr. Blanco's position on the resident's council board for American GI Forum Village I & II.

Motion by Dr. Muñoz to grant the appeal of 11033; duly seconded by Mr. Gann; passed unanimously.

11037 Spring Terrace Spring

Withdrawn from Consideration.

11045 Lexington Vista Corpus Christi

Tamea Dula, Coates Rose, provided testimony in support of Lexington Vista Apartments.

Mark Lechner, MBL Derby City Development, provided testimony in support of Lexington Vista Apartments.

Motion by Mr. Keig to deny the appeal; duly seconded by Mr. Gann; passed unanimously.

11046 Buckhorn Place Huntsville

Motion by Dr. Muñoz to approve staff recommendation to deny the appeal; duly seconded by Mr. Oxer;

passed unanimously.

11048 La Privada Edinburg

Withdrawn from Consideration.

11049 Palisades at Inwood Houston

<u>Marvalette Hunter</u>, Development Owner, Palisades at Inwood, provided testimony to support a reinstatement of three points to the application.

<u>Wayne Norton</u>, President, Near Northwest Management District, provided testimony in support of Palisades at Inwood.

<u>Elena Peinado</u>, TDHCA staff, read into record a letter from <u>The Honorable Representative Sylvester Turner</u> in support of Palisades at Inwood.

Motion by Mr. Keig to approve staff recommendation; duly seconded by Ms. Bingham-Escareño; passed unanimously.

11050 Palm Gardens Apts. Corpus Christi

Motion by Mr. Keig to approve staff recommendation; duly seconded by Dr. Muñoz; passed unanimously.

11051 Sweetwater Bend Galveston

Barry Palmer, Coates Rose, provided testimony in support of Sweetwater Bend.

Mark Lechner, Developer, Derby City MBL, provided testimony in support of Sweetwater Bend.

Justin Hartz, provided testimony in support of Sweetwater Bend.

Motion by Mr. Oxer to approve staff recommendation; duly seconded by Mr. Keig; passed unanimously.

11056 St. Paul Apartments Dallas

Withdrawn from Consideration.

The Mercer 11057 Bryan

Withdrawn from Consideration.

Robinson Seniors 11065 Robinson

Withdrawn from Consideration.

Anson Park III Abilene 11066 Eric Opiela, provided testimony in support of Anson Park III.

Motion by Mr. Oxer to grant the appeal; duly seconded by Mr. Gann; passed unanimously.

11074 The Villas at Tuscany Lubbock

Sarah Andre, provided hand outs and testimony in support of The Villas at Tuscany.

<u>Pat Beatty</u>, Overland Property Group, provided testimony in support of The Villas at Tuscany. Motion by Mr. Keig to grant the appeal; duly seconded by Mr. Oxer; passed unanimously.

11076 Saddlebrook Apts. Burkburnett

Withdrawn from Consideration.

11087 Tidwell Lakes Ranch **Spring**

Cynthia Bast, Locke Lord, provided a handout and testimony in support of Tidwell Lakes Ranch.

Barry Kahn, provided testimony in support of Tidwell Lakes Ranch.

Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by Mr. Oxer; passed

unanimously.

11090 Sutton Oaks II San Antonio

Withdrawn from Consideration.

Mariposa at Hwv. 6 11094 Bryan

Withdrawn from Consideration.

RoseHill Ridge 11097 Texarkana

Withdrawn from Consideration.

Villas of Giddings Giddinas 11140

John Shackelford, provided testimony in support of Villas of Giddings.

<u>Jeff Spicer</u>, State Street Housing Advisors, provided testimony in support of Villas of Giddings.

Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by Mr. Keig; passed unanimously.

11142 Veteran's Place Dallas Yigal Lelah, provided testimony in support of Veteran's Place.

Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by Mr. Keig; Dr.

Muñoz opposed, motion passed.

11156 Montabella Senior San Antonio

Withdrawn from Consideration.

Andalusia Pointe 11157 Combes

Withdrawn from Consideration.

11169 Merritt Bryan Station Senior Village Bryan

Cynthia Bast, Locke Lord Liddell, provided testimony in support of Merritt Bryan Station Senior Village.

Granger McDonald, provided testimony in support of Merritt Bryan Station Senior Village.

Colby Dennison, provided testimony in support of Merritt Bryan Station Senior Village.

Motion by Mr. Gann to approve staff recommendation; duly seconded by Mr. Oxer; passed unanimously.

Lubbock

Esperanza Cove Senior Apts. 11178

Fort Worth

Withdrawn from Consideration.

Stonebridge of Lubbock 11195

Dru Childers, provided testimony in support of Stonebridge of Lubbock.

Motion by Mr. Oxer to grant the appeal; duly seconded by Dr. Muñoz; passed unanimously.

Cobblestone Village Brvan

Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by Dr. Muñoz; passed unanimously.

11216 The Sierra on Pioneer Road Mesquite

Janine Sisak, provided testimony in support of The Sierra on Pioneer Road.

Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by Mr. Gann; passed unanimously.

River Valley Apartments 11232 Harlingen

Cynthia Bast, Locke Lord, provided testimony in support of River Valley Apartments.

Motion by Mr. Gann to grant the appeal; duly seconded by Mr. Oxer; passed unanimously.

Summercrest Senior Development San Angelo

Withdrawn from consideration.

11241 Park Hudson Senior Bryan

Kenneth Fambro, provided testimony in support of Park Hudson Senior.

Granger McDonald, provided testimony in support of Park Hudson Senior.

Motion by Dr. Muñoz to approve staff recommendation to deny the appeal concerning Representative Brown's letter; duly seconded by Mr. Oxer; passed unanimously.

Motion by Mr. Oxer to approve staff recommendation to deny the appeal concerning the community revitalization issue; duly seconded by Mr. Gann; passed unanimously.

Green Haus on the Santa Fe Trail Dallas

Chris Luna, provided testimony in support of Green Haus on the Santa Fe Trail.

Motion by Ms. Bingham-Escareño to reinstate the application, waiving the ex parte issue; duly seconded by Mr. Oxer; passed unanimously.

Motion by Mr. Oxer to grant the appeal; duly seconded by Dr. Muñoz; passed unanimously.

Board took a brief recess.

11072 The Landings at Westheimer Lakes Houston

Withdrawn from Consideration.

Azure Pointe 11185 Beaumont

Withdrawn from Consideration.

Dolphin's Landing Corpus Christi 11227

Withdrawn from Consideration.

b) Presentation, Discussion, and Possible Action on Tax Credit Assistance Program Appeals: None filed.

c) Presentation, Discussion and Possible Action on Neighborhood Stabilization Program Appeals:

d) Presentation, Discussion, and Possible Action on **HOME Program Appeals**:

None filed.

None filed.

e) Presentation, Discussion, and Possible Action on **Underwriting Appeals**:

None filed.

ADJOURN Since there was no other business to come before the Board, the meeting was adjourned at 4:45 pm on July 18, 2011.	
Michele Atkins, Assistant Board Secretary	
For a full transcript of this meeting, please visit the TDHCA website at www.tdhca.state.tx.us.	

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS BOARD MEETING

July 28, 2011; 9:00 a.m.

Capitol Extension Auditorium 1500 North Congress Ave. Austin. TX

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 28, 2011 was called to order by Chair, Kent Conine, at 9:03 a.m. It was held at the Capitol Extension Auditorium, 1500 North Congress Ave, Austin, Texas. Roll call certified a quorum was present.

Members Present:

Kent Conine, Chair Tom H. Gann, Vice Chair Leslie Bingham-Escareño, Member Juan Muñoz, Member (was a few minutes late) Lowell Keig, Member J. Paul Oxer, Member

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.

<u>Jackie King</u>, Chief of Staff, on behalf of the <u>Honorable Representative Charles Perry</u>, provided testimony in support for the Seminole Apartment development.

<u>Joy Horak-Brown</u>, Executive Director, New Hope Housing, provided testimony and information on a new property that will be breaking ground soon, 4415 Perry.

<u>Leslie Inqendorf</u>, Dallas DSL Property Management and stakeholders in the Dallas Farmers Market District, provided testimony in opposition of the proposed St. Paul Apartments.

The Honorable Commissioner George Deshotels, provided testimony in support of a forward commitment for the Monarch at Bay City.

<u>Ron Williams</u>, Executive Director, Southeast Texas Housing Finance Corporation, provided testimony in support of a forward commitment of 2012 tax credits for the Monarch at Bay Prairie in Bay City.

<u>Trent Thomas</u>, Chief of Staff, on behalf of the <u>Honorable Representative Drew Darby</u>, read a letter of support for the North Angelo Housing Estates project.

Kevin Kieschnick, City Councilman, Superdistrict 1, Corpus Christi, provided testimony in support of relocating 11166.

Mark Scott, City Councilman, Corpus Christi, provided testimony in support of 11166, the Palms of Leopard Street.

Gilbert Piette, Executive Director, Housing and Community Services in San Antonio, provided testimony in support of a forward commitment for the Palms of Leopard Street.

The Honorable Mayor Boyce Hadley, of Midlothian, provided testimony in support of 11223, the Terrace at Midlothian.

<u>Diana McIver</u>, President, DNA Development, provided testimony and requested forward commitments for Terrace of Midlothian.

<u>Linda Flores-Guerra</u>, Client Services Manager, Bexar County Department of Community Resources, provided testimony on behalf of <u>The Honorable Nelson W. Wolff, Bexar County Judge</u>, requesting reconsideration of the decision to move the Heating and Cooling program from Bexar County Department of Community Resources to a weatherization agency.

<u>Marcela Deleon</u>, provided testimony on behalf of <u>The Honorable Representative Aaron Peña</u> in support of La Privada Apartments.

<u>Scott Brian</u>, SunTex, provided testimony in support of a forward commitment for #11048, La Privada Apartments in Edinburg.

<u>Lauren Franks</u>, on behalf of <u>The Honorable Representative Kel Seliger</u>, provided testimony and a written letter of support for a forward commitment for the Dunes Apartments at Seminole.

<u>Tommy Phillips</u>, City Administrator, City of Seminole, provided testimony and read a letter of support from the <u>Honorable</u> Mayor Wayne Mixon, Seminole for the Dunes Apartments of Seminole.

<u>Paul Holden</u>, Zimmerman Properties, provided testimony and read a letter of support from the <u>Honorable County Judge</u> <u>Lance Celander, Gaines, Co</u>, for Dunes Apartments at Seminole.

<u>Paul Herrera</u>, Chairman of the State Housing Committee for the American G.I. Forum of Texas Inc., provided testimony in support of American G.I. Forum project.

<u>Henry Rodriguez</u>, League of United Latin American Citizens, provided testimony in support of the American G.I. Forum project.

<u>David Koogler</u>, President, Mark Daniel Corporation, provided testimony in support of Spring Trace.

Don Berglund, provided testimony in support of Spring Trace senior housing.

<u>Katy Donahue</u>, on behalf of the <u>Honorable Representative Raul Torres</u>, read a letter of support for a forward commitment for Lexington Landings.

Steven Lawrence, Vice President, Michaels Development, provided testimony in support of the Lexington Landings.

Mark Lechner, NBL Dobie City Development, provided testimony in support of Lexington Vista, 11045.

<u>Barry Kahn</u>, Principal, Hettig/Kahn Development Corporation, provided testimony and requested a forward commitment for Tidwell Lakes Ranch, 11087.

<u>Karina Cantu</u>, Board of Commissioners, San Antonio Housing Authority, provided testimony in support of a forward commitment for Sutton Oaks II.

<u>Kathy McCormick</u>, San Antonio Housing Authority, provided testimony in support of a forward commitment for Sutton Oaks II.

Ryan Wilson, Franklin Development, provided testimony in support of a forward commitment for Sutton Oaks II.

Board took a brief recess

Michael Hartman, Round Stone Development, provided testimony in support of 11105, Aster Villas in Del Rio.

The Honorable Mayor Betty Ann Matthies, City of Seguin, provided testimony in support of Walnut Springs.

<u>Juan Ayala</u>, Chief of Staff, on behalf of the <u>Honorable Representative Eric Johnson</u>, read a letter of support for #11127, 1400 Belleview.

<u>Katy Donahue</u>, on behalf of the <u>Honorable Representative Raul Torres</u>, read a letter of support for #11045, Lexington Vista. <u>Winston Shows</u>, Wellington Run Neighborhood, provided testimony in opposition of a forward commitment for #11145 Evergreen at Marsh.

<u>Randy Graves</u>, Homeowners Association, Estates at Wellington Run, provided testimony in opposition of #11145, Evergreen on Marsh, rescinds their letter of support for Evergreen on Marsh.

Herbert Gears, City of Irving, provided testimony in support of TDHCA 11107, Kinwest Manor in Las Colinas.

<u>Clifton Phillips</u>, Unified Housing Foundation, provided testimony and a handout in support of Kinwest Manor in Las Colinas.

<u>David Marquez</u>, provided testimony in support of project 11036, Hidalgo Senior Apartments.

<u>Loretta Edelen</u>, Director of Community Outreach, Austin Community College, provided testimony in support of The Works of Pleasant Valley.

<u>Jim Hopke</u>, Executive Vice President, Project Management and Construction, American Campus Communities, provided testimony in support of a forward commitment for The Works at Pleasant Valley.

Tony Sisk, Principal, Churchill Residential, provided testimony in support of Evergreen at Marsh Lane.

Crispin Lawson, Downtown Dallas Residents, provided testimony in support of E2 Flats project.

<u>Alonzo Tutson</u>, Chairman, McKinney Housing Authority Board of Commissioners, provided testimony in support of The Millennium-McKinney, testified that the owner will adhere to the terms outlined by the consent decree between the McKinney Housing Authority and the Inclusive Communities project.

<u>Melissa Adami</u>, Odyssey Residential, provided testimony in support of a forward commitment for Champion Homes at Copper Ridge in Dallas.

<u>Hal Fairbanks</u>, Historic Restoration, Inc. of New Orleans, provided testimony regarding initiatives that they have working on. Reverend Fritz Williams, provided testimony in support of the E. Thurman Walker Living Center.

<u>Herman Price, Jr.</u>, Chairman, Community of Churches for Social Action, provided testimony in support of the E. Thurman Walker Living Center.

Reverend L. J. Gillespie, Pastor, Greater Love Church, provided testimony in support of E. Thurman Walker Living Center.

Nick Mitchell-Bennett, provided testimony in support of La Hacienda Casitas, TDHCA 11031.

Granger McDonald, provided testimony in support of forward commitments in general.

<u>Michael Lyttle, Director</u>, Division of Policy & Public Affairs, TDHCA, read into record a letter from The Honorable Judith Zaffirini in support of Colonia at Guadalupe, project 11059.

<u>Michael Lyttle, Director</u>, Division of Policy & Public Affairs, TDHCA, of support from the <u>Honorable Representative Kevin</u> Eltife, for Rose Hill Ridge, project 11097.

The Honorable Dan Sanchez, County Commissioner, Cameron County, provided testimony in support of Las Casitas.

Mr. Conine announced that the next Board Meeting would most likely be held in August, to be confirmed at a later date.

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

Various action items below, (including consent agenda items and other items) relating to awards or other actions under different programs list specific applicants by name. These lists are informational and do not limit the Board's ability to take action with respect to others under the specific program action items.

AGENDA ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

Executive

- a) Presentation, Discussion, and Possible Action regarding the Board Minute Summary for June 30, 2011 *Financial Administration*
- b) Presentation of the Department's 3rd Quarter Investment Report

Community Affairs

- c) Presentation, Discussion, and Possible authorization to release a Request for Applications for provision of Services for the Community Services Block Grant (CSBG) in Loving, Reeves, Ward, and Winkler Counties
- d) Presentation, Discussion, and Possible Action regarding submission of the revised 2012 Low Income Home Energy Assistance Program Draft State Plan to US Department of Health and Human Services

 Motion by Dr. Muñoz to approve staff's recommendation; duly seconded by Lowell Keig; passed
- unanimously.
 e) Presentation, Discussion, and Possible Action regarding approval for publication in the *Texas Register* a final order adopting Amendments to 10 TAC Chapter 5, §§5.900 5.905, the Weatherization Assistance Program Department of Energy American Recovery And Reinvestment Act (WAP ARRA

Section 8

- f) Presentation, Discussion, and Possible Action regarding the Section 8 Program 2012 Annual Public Housing Agency (PHA) Plan for the Housing Choice Voucher Program.
- g) Presentation, Discussion, and Possible Action regarding approval for publication in the *Texas Register* proposed amendments to 10 TAC Chapter 5, Subchapter H, Section 8 Housing Choice Voucher Program, §5.801, concerning the Project Access Initiative

Housing Trust Fund

h) Presentation, Discussion and Possible Action regarding the approval of the proposed 2012-2013 Housing Trust Fund (HTF) Biennial Plan

Presentation, Discussion, and Possible Action regarding a Memorandum of Understanding between the Texas Department of Housing and Community Affairs and the Texas Veteran's Commission regarding the transfer of up to \$2,000,000 from the Housing Trust Fund for purpose of administering and operating a Veteran's Housing Assistance Program

Motion by J. Paul Oxer to approve staff's recommendation for Item 1i); duly seconded by Dr. Muñoz; passed unanimously.

Housing Resource Center

- j) Presentation, Discussion, and Possible Action to authorize and direct the Acting Director to Procure a Provider for Research and a Report of the Prevalence of Contracts for Deed in Texas Colonias through a State Interagency Contract or Memorandum of Understanding
- k) Presentation, Discussion, and Possible Action to approve a partnership between the Texas Department of Housing and Community Affairs (TDHCA) and the Texas State Medicaid Agency, the Texas Health and Human Services Commission (HHSC) and the Texas Department of Aging and Disability Services (DADS) for the submittal by HHSC of an application to the U.S. Department of Health and Human Services (HHS) for a Real Choice Systems Change, Building Sustainable Partnerships for Housing Grant

Multifamily Division Items - Housing Tax Credit Program

Presentation, Discussion, and Possible Action regarding of Housing Tax Credit Amendments
 09934 Harris Manor Pasadena

m) Presentation, Discussion, and Possible Action on Housing Tax Credit and Exchange Program Extensions

Hometowne at Tomball	Tomball
Cypress Gardens	Houston
Woodlawn Ranch Apartments	San Antonio
Golden Bamboo Village III	Houston
	Cypress Gardens Woodlawn Ranch Apartments

HOME

n) Presentation, Discussion, and Possible Action regarding the revised HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA)

Compliance and Asset Oversight

o) Presentation, discussion and possible approval of an amendment to the Land Use Restriction Agreement for St. Johns' Village Apartments

Withdrawn from consideration.

Motion by Ms. Bingham-Escareño to approve Consent Agenda, with the exception of Agenda Items 1d) and 1i) for further discussion. Agenda item 1o) was withdrawn from consideration; seconded by Tom Gann; passed unanimously.

ACTION ITEMS

AGENDA ITEM 2: FINANCIAL ADMINISTRATION:

- a) Presentation, Discussion, and Possible Action regarding the FY 2012 Draft Operating Budget Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by Tom Gann; passed unanimously.
- b) Presentation, Discussion, and Possible Action regarding the FY 2012 Draft Housing Finance Operating Budget Motion by Ms. Bingham-Escareño to approve staff recommendation; duly seconded by J. Paul Oxer; passed unanimously.

AGENDA ITEM 3: APPEALS

a) Presentation, Discussion, and Possible Action on Multifamily Program Appeals: 11080 Hidden Valley Estates Houston

Withdrawn from consideration.

11227 Dolphin's Landing Apartments Corpus Christi

<u>Cynthia Bast</u>, Locke Lord Liddell, provided testimony regarding interpretation of the QAP as it pertains to funding and in support of Dolphin;s Landing Apartments.

<u>Dan French</u>, Chairman, Atlantic Housing Foundation, provided testimony in support of Dolphins Landing.

Chris Kaufman, Highland Properties Development, provided testimony in support of Dolphins Landing.

Barry Palmer, provided testimony in opposition of Dolphin's Landing Apartments.

Motion by Mr. Gann to approve staff's recommendation to deny the appeal; duly seconded by Mr. Keig; Dr. Muñoz opposed; motion passed.

- b) Presentation, Discussion and Possible Action on Neighborhood Stabilization Program Appeals:
- c) Presentation, Discussion, and Possible Action on HOME Program Appeals: None filed.
- d) Presentation, Discussion, and Possible Action on Underwriting Appeals:

11085 Whitetail Ridge Hemphill

<u>Jerry Moore</u>, provided testimony in support of Whitetail Ridge.

<u>David Berthold</u>, Texas Medical Enterprise, provided testimony in support of Whitetail Ridge.

Mr. Gann recused himself. Motion by Mr. Keig to approve staff's recommendation to deny appeal; duly seconded by Ms. Bingham-Escareño; motion passed.

EXECUTIVE SESSION

At 12:42 p.m. Mr. Conine convened the Executive Session.

- The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing
 personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or
 dismissal of a public officer or employee;
- 2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al filed in federal district court, Northern District of Texas
 - b) Heston Emergency Housing, LP and Naji Al-Fouzan vs. Texas Department of Housing and Community Affairs, Michael Gerber, Martin Rivera, Jr., Marisa Callan, and Timothy Irvine; Civil Action No. H-11-1121 in the United States District Court for the Southern District of Texas, Houston Division
 - c) Claim of Gladys House filed with the EEOC;
- 3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Tex. Gov't. Code, Chapter 551; or
- 4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

OPEN SESSION

At 1:30 p.m. Mr. Conine reconvened the Open Session and announced that no action had been taken during the Executive Session and certified that the posted agenda had been followed.

AGENDA ITEM 4: MULTIFAMILY DIVISION ITEMS – TAX CREDIT PROGRAM:

a) Presentation, Discussion, and Possible Action on a Determination Notice for Housing Tax Credits with another Issuer

11400 Marshall Apartments; Austin, Travis County; Austin Housing Finance Corporation; Requested Credit Amount \$311,600

Withdrawn from consideration until a future date.

b) Presentation, Discussion, and Possible Action regarding the Final Commitments from the 2011 State Housing Credit Ceiling for the Allocation of Competitive Housing Tax Credits and the Waiting List for the 2011 Housing Tax Credit Application Round

11020 The Grand Texan-Waxahachie Waxahachie 11021 Candlestick Village Fulton 11022 **East Houston Gardens** Houston 11024 Zion Bayou Houston 11025 Seaside Manor Ingleside 11026 Walnut Springs Seguin

Justin McDonald, provided testimony in support of Walnut Spring in Seguin.

11027Brookview VillageCopperas Cove11030Pine Ridge ManorCrockett11031La Hacienda Apartments.Harlingen11033American GI Forum Village I & IIRobstown

Walter Martinez, provided testimony in support of American G.I. Forum.

11036 Hidalgo Sr. Apartments. Weslaco 11037 Spring Trace Spring Magnolia 11039 Timberbrook Village 11041 Riverwood Commons Bastrop 11043 La Serena Harlingen 11045 Lexington Vista Corpus Christi 11046 **Buckhorn Place** Huntsville 11048 La Privada **Edinburg** 11049 The Palisades of Inwood Houston 11050 Palm Gardens Corpus Christi 11054 Beaumont Place of Grace Beaumont 11055 Pilgrim Valley Manor Fort Worth 11056 St. Paul Apartments Dallas

Kristy Macktinger, provided testimony in opposition of 11056, St. Paul Apartments in Dallas.

11057 The Mercer Bryan
 11058 Connell Villa Kingsville
 Apolonio Flores, provided testimony in support of Connell Villa.
 11059 Colonia Guadalupe Laredo

<u>Laura Llanes</u>, Executive Director, Laredo Housing Authority, provided testimony in support of Colonia Guadalupe.

<u>Doak Brown</u>, Brownstone Affordable Housing, provided testimony in support of a forward commitment for Colonia Guadalupe.

11061Pioneer Crossing for SeniorsBurkburnett11062Pioneer Crossing for SeniorsMineral Wells11065Robinson Senior VillagesRobinson11066Anson Park IIIAbilene

Eric Opiela, provided testimony in support of a forward commitment for Anson Park III.

Southwest Plains Villas 11067 Lubbock North Desert Palms El Paso 11068 11070 Presidio Palms II San Elizario 11071 Austin Heritage Oak Hill The Landings at Westheimer Lakes 11072 Houston 11073 Cypress Run **Universal City** 11074 The Villas at Tuscany Lubbock

<u>Sarah Andre</u>, provided testimony in support of The Villas at Tuscany.

John Shackleford, provided testimony in opposition of The Villas at Tuscany.

1107/		D. I.I. III
11076	Saddlebrook Apartments	Burkburnett
11077	Main Street Commons	Taylor
11079	Lexington Landing	Corpus Christi
11080	Hidden Valley Estates	Houston
11081	Northwood Apartments	Navasota
11082	Oakwood Apartments	Madisonville
11083	Countrywood Apartments	Reno
11084	Southwood Apartments	Shepherd
11085	Whitetail Ridge	Hemphill
11086	La Belle Vie	Lumberton
11087	Tidwell Lakes Ranch	Houston
11089		Wichita Falls
11090	Sutton Oaks II	San Antonio
11094	Mariposa at Highway 6	Bryan
11096	Mariposa at Calder Drive	League City
11097	RoseHill Ridge	Texarkana
11098	<u> </u>	Dallas
11102	•	Harlingen
11105		Del Rio
11107		Irving
11112		Dilley
11114	Green Haus on the Santa Fe Trail	Dallas
	bbby, provided testimony in support of the	
		of the Green Haus on the Santa Fe Trail.
		t of the Green Haus on the Santa Fe Trail.
11115	·	Corpus Christi
11120	•	Odessa
11122	•	Lavon
11123	Allegre Point	Austin
	•	tiebreaker in Region 7 and in support of Allegre Point.
11124	Peoples El Shaddai	Dallas
11127	1400 Belleview	Dallas
11134	Grand Manor Apartments	Tyler
11135	Jourdanton Square Apartments	Jourdanton
11137	Genoa Ranch	Houston
11138	SilverLeaf at Gun Barrel City	Gun Barrel City
11139	Champion Homes at Copperidge	Dallas
11140	Villas of Giddings	Giddings
11142	Veterans Place	Dallas
11145	Evergreen at Marsh Lane	Carrollton
11148	Ivy Terrace	McAllen
11149	Branch Village Apartments	Houston
11150	New Hope Housing at Rittenhouse	Houston
11151	Sage Brush Apartments	Midland
11156	Montabella Senior	San Antonio

Combes

Lubbock

Midland

Bay City

Canadian

Corpus Christi

11157

11163

11164

11165

11166

11167

Andalusia Pointe

Playa Del Pueblo

Oasis Cove

The Grove at Elm Park

The Palms at Leopard

The Monarch at Bay Prairie

11168	The Trails at Nodding Pines	Corpus Christi
11169	Merritt Bryan Station Senior Village	Bryan
11171	South Fork Apartments	Stephenville
11175	Three Forks Ranch	Kaufman
11177	Trinity East Village	Houston
11178	Esperanza Cove Senior Apartments	Fort Worth
11179	Meadowlake Village Apartments	Mabank
11180	Rainy Creek Apartments	Abilene
11181	Dunes Apartments	Seminole
11183	Lakeside Village Homes	Fort Worth
11185	Azure Pointe	Beaumont
11193	Alexander Place Apartments	Baytown
11195	Stonebridge of Lubbock	Lubbock

<u>Sarah Andre</u>, provided testimony in support of Stonebridge of Lubbock. John Shackleford, provided testimony in support of Stonebridge of Lubbock.

Central Village Apartments Plainview 11196 11197 Park Village Apartments Big Spring 11198 Casa Orlando Apartments Lubbock 11200 Silvercreek II Apartments Houston 11202 **Hunter's Chase Senior Apartments** Rockdale 11203 Woodside Village Apartments McKinney 11205 Hawk Ridge Apartments White Settlement

<u>Jim Ryan</u>, Economic Development Director, City of White Settlement, provided testimony in support of HawkRidge Apartments.

Bert Magill, provided testimony in support of HawkRidge Apartments.

Enclave on S. Main Apartments Houston 11206 **Amber Stone Apartments** 11208 Beeville Cobblestone Village 11214 Bryan 11216 The Sierra on Pioneer Road Mesquite 11217 The Overlook at Plum Creek Kyle 11218 The Works at Pleasant Valley Austin 11221 Stonebridge Place Palestine 11222 Westway Place Corsicana 11223 The Terrace at MidTowne Midlothian

<u>Rick Keeler</u>, Options Real Estate Development, provided testimony requesting a forward commitment for the Terrace at Midtown, Midlothain.

11224 Magnolia Acres Angleton Odessa 11226 Clear Springs **Dolphin's Landing Apartments** Corpus Christi 11227 11230 West Park Senior Housing Corsicana Spring Hollow Apartments 11231 Austin 11232 **River Valley Apartments** Harlingen 11234 Villas at West Mountain El Paso HomeTowne at Westheimer Lakes 11235 Houston 11237 Summer Crest Senior Development San Angelo 11238 The Sunningdale Shenandoah 11239 Sansbury Senior Greatwood 11241 Park Hudson Senior Bryan 11243 HomeTowne at Kingwood Houston 11244 E2 Flats Dallas Bar T Apartments 11245 Longview

11246	Tylor Grand	Abilene
11248	Singing Oaks	Denton
11249	Silvercreek I Apartments	Houston
11250	Cypress Creek at Four Seasons	Kyle
11251	Bluebonnet Village / Primrose Park	Bedford
11255	Justice Park Senior Villas	Houston
11257	Brazos Senior Villas	Rosenberg
11260	Bissonnet Gardens Apartments	Houston
11261	North Angelo Housing Estates	San Angelo
	D = 011 (0 A 1 11 11	

Angelica Peña, City of San Angelo, provided testimony in support of North Angelo Housing Estates.

<u>Craig Meyers</u>, West Texas Organizing Strategy, provided testimony in support of 11261, North Angelo Housing.

Granger MacDonald, provided testimony in support of North Angelo Housing Estates.

11262 The Millennium - McKinney McKinney

Motion by Ms. Bingham-Escareño to approve staff's recommendation of the revised list of applications; duly seconded by Mr. Keig; passed unanimously.

The Board acknowledged the Multifamily staff that worked on compiling the tax credit list.

AGENDA ITEM 5: HOME:

GLIVE	A II LIVI J.	TIOIVIL.			
a)	a) Presentation, Discussion, and Possible Action regarding Multifamily Development Program Applications				
	11230	West Park Senior Housing	Corsicana		
	11222	Westway Place	Corsicana		
	11221	Stonebridge Place	Palestine		
	11216	The Sierra on Pioneer Road	Mesquite		
	11223	The Terrace at MidTowne	Midlothian		
	11028	Villas of Brownwood Apartments II	Brownwood		
	11026	Walnut Springs	Seguin		
	11062	Pioneer Crossing for Seniors Mineral Wells	Mineral Wells		
	11025	Seaside Manor	Ingleside		
	11061	Pioneer Crossing for Seniors Burkburnett	Burkburnett		
	11058	Connell Villa	Kingsville		
	11077	Main Street Commons	Taylor		
	11145	Evergreen at Marsh Lane	Carrollton		
	11208	Amber Stone Apartments	Beeville		
	11033	American GI Forum Village I & II	Robstown		
	Remove	d from list.			
	11217	Ther Overlook at Plum Creek	Kyle		
	11041	Riverwood Commons	Bastrop		
	11112	Artisan at Dilley	Dilley		
	11076	Saddlebrook Apartments	Burkburnett		
	Withdra	wn from consideration.			
	11083	Countrywood Apartments	Reno		
	11030	Pine Ridge Manor	Crockett		
	11031	La Hacienda Apartments	Harlingen		
	11084	Southwood Apartments	Shepherd		
	11096	Mariposa at Calder Drive	League City		
	11135	Jourdanton Square Apartments	Jourdanton		
	11140	Villas of Giddings	Giddings		
	11164	Oasis Cove	Canadian		
	11167	The Monarch at Bay Prairie	Bay City		

11179	Meadowlake Village Apartments	Mabank
11214	Cobblestone Village	Bryan
11250	Cypress Creek at Four Seasons	Kyle
11138	SilverLeaf at Gun Barrel City	Gun Barrel City
11049	The Palisades of Inwood	Houston

Motion by Mr. Keig to approve staff's recommendation as amended; duly seconded by Mr. Gann; passed unanimously.

REPORT ITEMS

- 1. TDHCA Outreach Activities, June 2011
- 2. Report on the Transfers of American Recovery and Reinvestment Act of 2009 (Recovery Act) and Housing & Economic Recovery Act of 2008 (HERA) funds amongst subrecipients
- 3. Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

ADJOURN

Since there was no other business to come before the Board, the meeting was adjourned at 3:05 p.m. on July 28, 2011.

Michele Atkins, Assistant Board Secretary

For a full transcript of this meeting, please visit the TDHCA website at www.tdhca.state.tx.us.

EXECUTIVE DIVISION BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Approval of the Board of Directors rescinding Resolution No. 10-001 and adopting Resolution No. 11-030, designating signature authority due to reorganization

RECOMMENDED ACTION

RESOLVED, the Governing Board has now determined that Resolution No. 10-001, designating signature authority, should be rescinded because of the transfer of the Disaster Recovery Division to the General Land Office, and

FURTHER RESOLVED, adopts Resolution 11-030 designating signature authority for new signature designees.

BACKGROUND

The Texas Department of Housing and Community Affairs, a public and official governmental agency of the State of Texas, (the "Department") was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended; and

The Act authorizes the Department: (a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans of participating interests, and to mortgage, pledge or grant security interests in such mortgages of participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

This Resolution recognizes the transfer of the Disaster Recovery Division to the General Land Office effective July 1, 2011.

Texas Department of Housing and Community Affairs RESOLUTION OF THE BOARD OF DIRECTORS

RESOLUTION NUMBER 11-030 RESCINDING RESOLUTION NUMBER 10-001

DESIGNATING SIGNATURE AUTHORITY

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official governmental agency of the State of Texas, (the "Department") was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended; and

WHEREAS, the Act authorizes the Department: (a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans of participating interests, and to mortgage, pledge or grant security interests in such mortgages of participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, on October 15, 2009, the Governing Board adopted Resolution No. 10-001, designating signature authority for bond and real estate transactions; and

WHEREAS, the Governing Board has now determined that Resolution No. 10-001, designating signature authority, should be rescinded because of the transfer of the Disaster Recovery Division to the General Land Office and new signature authority designated.

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

<u>SECTION 1 – Rescission of Prior Signature Authority</u>. The Governing Board hereby rescinds Resolution No. 10-001.

<u>SECTION 2 – Designation of Signature Authority for Bond Transactions.</u> The Governing Board hereby authorizes and designates the Chairman or Vice Chairman of the Board, the Board Secretary, the Executive Director or the Acting Executive Director, the Chief of Staff, the Chief of Agency Administration, the Director of Financial Administration, the Director of Bond Finance, the Director of Texas Homeownership, and the Director of Multifamily Finance Production as signatories for single family and multifamily bond transactions including, but not limited to letters of instruction, officer's certificates, bond transactional documents and all other documents and certificates executed in connection with such bond transactions.

<u>SECTION 3 – Designation of Signatory Authority for Real Estate Transactions</u>. The Governing Board hereby authorizes and designates the following persons to execute and deliver, as specified earnest money contracts, deeds or conveyances of title, leases of real property, settlement statements on purchase or sale of real property, deposits and disbursements on agency bank accounts, real estate transactional documents and all other documents executed in connection with real estate or real estate-related transactions:

- (a) Executive Director or Acting Director, Chief of Staff, Chief of Agency Administration, Director of Financial Administration, Board Secretary, and Assistant Board Secretary: All real estate or real estate related transactions.
- (b) Deputy Executive Director for Community Based Programs: All real estate or real estaterelated transactions administered under any of the Community Based Programs areas.
- (c) Deputy Executive Director for Housing Programs: All real estate or real estate-related transactions administered under any of the Housing Programs areas programs.
- (d) Director of Multifamily Finance Production: All real estate or real estate-related transactions administered under the Multifamily Production Division.
- (e) Director of Bond Finance: All real estate or real estate-related transactions administered by the Bond Finance Division.
- (f) Director of Texas Home Ownership: All real estate or real estate-related transactions administered by the Texas Home Ownership Division.
- (g) Director of the HOME Program: All real estate or real estate-related transactions administered under the HOME Division.
- (h) Director of Program Services: All real estate or real estate-related transactions administered under Program Services.
- (i) Signatory authority on deposits and disbursements on agency bank accounts is limited to those persons designated on the applicable signature cards, as specified by the Executive Director or Acting Executive Director; provided however, that no person may be so designated other than the Executive Director or Acting Executive Director, the Chief of Staff, the Chief of Agency Administration, a Deputy Executive Director, or a Director.

<u>SECTION 4 – Execution of Documents</u>. The Governing Board hereby authorizes the Executive Director or, in the absence of the Executive Director, the Chief of Staff to execute, on behalf of the Department, any and all documents, instruments reasonably deemed necessary to effectuate this Resolution.

<u>SECTION 5 – Effective Date</u>. This Resolution shall be in full force and effect from and upon its adoption.

<u>SECTION 6 – Notice of Meeting.</u> 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* and Administrative Code Acts, Chapters 2001 and 2002, Texas Government Code, as amended.

	PASSED AND APPROVED this 15th day of Septe	mber, 2011.
	Chair of the Gove	rning Board
[SEAL]		
Attest:		
Secretary of the Board	_	

EXECUTIVE

BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action on a proposed Agreed Final Order with respect to Arturo Figueroa Homes (HOME 532307), Francisco Zarate Homes (HOME 532306), and Tomas Molina Homes (HOME 532329)

Recommended Action

WHEREAS, Community Action Council of South Texas ("CACST") is the owner of multiple properties with a history of continued uncorrected violations of the applicable land use restriction agreements,

WHEREAS, on January 20, 2011, this Board approved the issuance of a Notice of Violation to CACST and authorized the Executive Director to do all things necessary to pursue the assessment of administrative penalties in the amounts of \$26,475.00 for Arturo Figueroa Homes; \$19,700.00 for Francisco Zarate Homes and \$2,625.00 for Tomas Molina Homes as a result of continued uncorrected violations of the applicable land use restriction agreements,

WHEREAS, CACST has corrected all outstanding violations,

WHEREAS, staff has revised its recommendations for the assessment of administrative penalties based on the Department's rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case,

It is hereby

RESOLVED, that the Agreed Final Order assessing probated administrative penalties for noncompliance at Arturo Figueroa Homes (HOME 532307), Francisco Zarate Homes (HOME 532306), Tomas Molina Homes (HOME 532329), substantially in the form presented at this meeting, and including any non-substantive technical corrections, is hereby adopted as the order of this Board.

Background

CACST is the owner of multiple properties that were in material noncompliance at the time of the January 20, 2011 Board meeting. Arturo Figueroa Homes are encumbered by a HOME loan dated November 18, 1994 in the amount of \$222,500, Francisco Zarate Homes are encumbered by a HOME loan dated December 23, 1994 in the amount of \$356,200 and Tomas Molina Homes are encumbered by a HOME loan dated June 21, 2000 in the amount of \$235,050. All violations of the associated land use restriction agreements have been resolved.

Consistent with direction from the Department's Enforcement Committee, a fully probated penalty in the amount of \$11,275 is recommended. The recommended penalty would be fully probated for five years and forgiven upon completion of the probationary period if CACST does not violate the terms of the Agreed Order which, among other things, requires timely resolution of all violations identified during future file monitoring reviews and inspections. As required by HUD, extensions to the applicable Land Use Restriction Agreements will also be filed in the county records, extending each term by the number of days each property was out of compliance.

SOAH DOCKET NO. 332-11-7187

ENFORCEMENT ACTION BEFORE THE AGAINST COMMUNITY ACTION TEXAS DEPARTMENT OF § COUNCIL OF SOUTH TEXAS **HOUSING AND COMMUNITY AFFAIRS** (HOME FILE# 532307, 532306 AND

532329

AGREED FINAL ORDER

General	Remarks	and	official	action	takens
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On this _____, day of _____ _____, 2011, the Governing Board of the Texas Department of Housing and Community Affairs ("Board") considered the matter of whether disciplinary action should be taken against COMMUNITY ACTION COUNCIL OF SOUTH TEXAS, a Texas nonprofit corporation ("CACST" or "Respondent"). The Texas Department of Housing and Community Affairs ("TDHCA" or "Department") alleges that Respondent violated 10 TEX. ADMIN. CODE, CHAPTER 60 by failing to timely correct tenant file and safety, sanitary and repair violations with respect to the following properties owned by respondent:

- 1. Arturo Figueroa Homes (HOME 532307 / CMTS No 2668 / LDLD 121);
- 2. Francisco Zarate Homes (HOME 532306 / CMTS 2665 / LDLD 122); and
- 3. Tomas Molina Homes (HOME 532329 / CMTS 2663 / LDLD 124). (together, "Properties" or "Development")

The Board has jurisdiction over this matter pursuant to Tex. Gov't Code § 2306.041-2306.0503 and TEX. GOVT' CODE §§ 2306.261-2306.273. The Board has the authority to dispose of this case pursuant to the provisions of Tex. Gov't Code § 2306.044. The Department alleges that Respondent engaged in acts or practices that violated 10 Tex. ADMIN. CODE §§ 60.105, 60.108, 60.110, 60.112, 60.116 and 60.118¹. The Department alleges that such conduct constitutes grounds for the imposition of an administrative penalty pursuant to Tex. Gov't Code § 2306.042 and 10 Tex. ADMIN. CODE §§ 60.301-3092. In a desire to conclude this matter without further delay and expense, the Board and Respondent, through their respective signatures hereto, announce that they have compromised and settled all claims and they agree to the entry of this Agreed Final Order.

 $Q:\c Enforcement\Admin\ Penalties\Properties\CACST\ Properties\SOAH\ hearing\4.\ Agreed\ Order\201108_TDHCAAgreed$ Order_CACST_v7.doc Page 1 of 12

¹ All references to 10 Tex. ADMIN. CODE §§ 60.105, 60.108, 60.110, 60.112, 60.116 and 60.118 refer to the version of the code in effect at the time of the compliance monitoring review that resulted in recording a violation. All past violations remain violations under the current code that became effective May 26, 2011 and all versions in the interim period.

² All references to 10 Tex. ADMIN. CODE §§ 60.301 – 60.309 refer to the version of the code in place at the time Respondent was initially warned that administrative penalties could be assessed for uncorrected violations.

WAIVER

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov't Code § 2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov't Code § 2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

Upon investigation and recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this order:

FINDINGS OF FACT

Jurisdiction:

- 1. CACST owns numerous properties including Arturo Figueroa Homes, Francisco Zarate Homes and Tomas Molina Homes.
- 2. Arturo Figueroa Homes, five single family units located in Zapata, Texas and owned by CACST, are subject to a Land Use Restriction Agreement ("LURA") signed and filed by TDHCA in consideration for an interest free HOME loan in the amount of Two Hundred Twenty-Two Thousand Five Hundred Dollars (\$222,500.00) issued by TDHCA on November 18, 1994;
- 3. Francisco Zarate Homes, seven single family units located in Rio Grande City, Texas and owned by CACST, are subject to a LURA signed and filed by TDHCA in consideration for an interest free HOME loan in the amount of Three Hundred Fifty-Six Thousand Two Hundred Dollars (\$356,200.00) issued by TDHCA on December 23, 1994;
- 4. Tomas Molina Homes, five single family units located in Freer, Texas and owned by CACST, are subject to a LURA signed and filed by TDHCA in consideration for an interest free HOME loan to Owner in the amount of Two Hundred Thirty-Five Thousand and Fifty Dollars (\$235,050.00) issued by TDHCA on June 21, 2000.

Compliance Violations:

ARTURO FIGUEROA HOMES:

- 5. On May 23, 2008, TDHCA sent notice that CACST had failed to submit their 2007 Annual Owner's Compliance Report which was due April 30, 2008, a violation of 10 Tex. ADMIN. CODE §60.105 which requires each development to submit an Annual Owner's Compliance Report;
- 6. An on-site monitoring review and property inspection was conducted on October 15, 2008, to determine whether Arturo Figueroa Homes were in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility and keep the properties in good condition. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and the following violations were not corrected before the February 23, 2009 corrective action deadline:
 - a. CACST collected gross rents for unit 4 that exceeded rent limits as a result of a miscalculated utility allowance. TDHCA publishes maximum rent limits for the HOME program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding rent limits is a violation of 10 Tex. ADMIN. CODE §60.118 which requires that tenant rents, including mandatory fees and utility allowances, be less than the allowable rent limits;
 - b. CACST failed to include required language in tenant leases, a violation of 10 Tex. Admin. Code §60.110 which requires leases to include language prohibiting evictions or nonrenewal of leases for other than good cause;
 - c. CACST failed to annually perform Housing Quality Standards ("HQS") inspections, a violation of 10 Tex. ADMIN. CODE §60.116 which requires rental developments to conduct annual HQS inspections on each HOME assisted unit;
 - d. A Uniform Physical Condition Standards ("UPCS") inspection showed numerous property condition violations, a violation of 10 Tex. ADMIN. CODE § 60.116. Violations included the following which were not corrected by the corrective action deadline:
 - i. *Unit 103:* broken exterior light fixtures; stained and peeling exterior trim; holes in closet door; deteriorated front door seal; laundry closet door off track; missing entry floor tiles; missing bathroom light fixture; electrical cover plate cracked in second bathroom; inoperable smoke detectors, two-inch hole in the wall near front entry;

- ii. *Unit 104:* missing fence sections; broken exterior light fixtures; stained and peeling exterior trim; missing exterior electrical covers; garbage outside; missing bathroom sink stopper; water damage to living room ceiling; deteriorated entry door seal; missing tiles at entry; stove burner plates missing; outlet cover plates broken in second bedroom; small wall holes; broken bedroom window; mold/mildew on tub surround; evidence of insect and rodent infestation in kitchen;
- iii. *Unit 105:* missing fence sections; damaged exterior door surfaces; stained and peeling trim; missing exterior light fixtures; mold and mildew on tub surround; shower pulling away from wall; shower knobs missing; laundry closet door off track; front deadbolt inoperable; front door seal deteriorating; bottom of kitchen cabinet below sink damaged; electrical switch cover in third bedroom missing; inoperable smoke detectors; bedroom window paint peeling;
- iv. *Unit 107:* garbage in yard; fire ant infestation in back yard; bathroom sink stopper missing; shower stopper missing; leaking toilet; top lock on front door missing; loose door knob for bedroom two; rear and front door seals deteriorating; missing kitchen cabinets; deteriorated refrigerator door seal; missing and/or inoperable hallway lights; missing light switch covers in bedroom two and living room cable outlet; missing smoke detector in bedroom 4; inoperable smoke detector in living room; hole in wall near front door; cable wire across living room floor;
- v. All units: lawns severely overgrown; severe driveway potholes; fencing damage;
- 7. A UPCS inspection was conducted on December 8, 2009. Inspection reports showed numerous serious property condition violations, a violation of 10 Tex. ADMIN. CODE § 60.116. Reports were mailed to CACST by TDHCA and, in conformance with 10 Tex. ADMIN. CODE § 60.117, a 90-day corrective action deadline of May 4, 2010 was set to provide CACST a reasonable opportunity to respond to the report and bring the property into compliance. Deadlines were extended but only partial corrective action was received. Violations included:
 - a. *Unit 105:* Stained and peeling exterior paint; shower head leaking water onto painted wall; tub faucet leaking in hall bathroom; front door keyless deadbolt inoperable; door surface separating from door edge on master bedroom and fourth bedroom doors; inoperable smoke detector in child's bedroom;
 - b. *Unit 107:* Hole in entry gate; stained and peeling exterior paint; tree growing onto roof; shower head leaking water onto painted wall; GFI inoperable in bathroom; water leak under kitchen sink; kitchen cabinets damaged under sink; missing range hood screen; damaged refrigerator door seal; water damage to wall behind shower head;

- c. *Unit 111:* Fence damaged in back corner and gate damaged at bottom; stained and peeling exterior paint; erosion by condenser unit at side of house; appliance stored on patio; debris in backyard by damaged fence; sink leaking in hall bathroom; missing tub spout; front door keyless deadbolt inoperable; door surface is separating on second bedroom door; damaged door frames, thresholds, lintels, trim; range hood missing screen; refrigerator seal damaged; missing/inoperable dryer vent; inoperable living room smoke detector; and
- d. *Unit 106 / 2106:* Stained and peeling exterior paint; rotten door frame for water heater closet; weed eater stored in water heater closet; light visible through damaged rear door; kitchen GFI inoperable.
- 8. Between October of 2008 and October of 2010, twenty-three notices of noncompliance and reminder notices were sent regarding the above violations but only partial compliance was achieved;
- 9. CACST has since provided documentation to TDHCA demonstrating that all of the above violations with respect to Arturo Figueroa Homes have been resolved. To the best of TDHCA's knowledge, no violations remain outstanding.

FRANCISCO ZARATE HOMES:

- 1. An on-site monitoring review and property inspection was conducted on October 15, 2008 to determine whether Francisco Zarate Homes was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility and keep the properties in good condition. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and the following violations were not corrected before the March 4, 2009 corrective action deadline:
 - a. CACST failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for unit 5, a violation of 10 Tex. ADMIN. CODE §60.108 and the LURA;
 - b. CACST failed to maintain or provide tenant income certification and documentation for unit 6, a violation of 10 Tex. ADMIN. CODE §60.108, which require annual certifications;
 - c. CACST collected gross rents that exceeded rent limits as a result of a miscalculated utility allowance affecting units 1, 2, 3, 4, 5, 6 and 7. TDHCA publishes maximum rent limits for the HOME program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding income limits is a violation of 10 Tex. ADMIN. CODE §60.118 which requires that tenant rents, including mandatory fees and utility allowances, be less than the allowable rent limits;

- d. CACST failed to provide an affirmative marketing plan, a violation of 10 Tex. ADMIN. CODE §60.112 which requires owners to create a plan to be used to attract applicants of all minority and non-minority groups in the housing market area, regardless of their race, color, religion, sex, national origin, disability, familial status or religious affiliation;
- e. CACST failed to include required language in tenant leases, a violation of 10 Tex. ADMIN. CODE §60.110 which requires leases to include language prohibiting evictions or nonrenewal of leases for other than good cause;
- f. Development failed to perform HQS inspections, a violation of 10 Tex. ADMIN. CODE §60.116 and HOME program requirements that rental developments conduct annual HQS inspections on each HOME assisted unit;
- g. A UPCS inspection showed numerous property condition violations, a violation of 10 Tex. Admin. Code § 60.116. Violations included the following which were not corrected by the corrective action deadline:
 - i. *Exterior:* damaged fences at all properties; overgrown vegetation in yards; severe potholes in all driveways
 - ii. *Unit 1 (159):* hole in exterior wall near entryway; trim needs paint; garbage outdoors; missing bathroom sink stopper; holes in bedroom and bathroom doors; rear and front door seals deteriorated; bedroom fire exit blocked;
 - iii. *Unit 2 (163):* front and back light fixtures missing; exterior trim needs paint; bath faucet leaking into bucket; bathroom sink stopper missing; rear door seal damaged;
 - iv. *Unit 3 (167):* wrecked car parked in yard; exterior light fixtures inoperable; clogged bathroom sink; bathroom sink stopper missing; rear door seal damaged; broken and missing tiles by back door; insect infestation in kitchen:
 - v. *Unit 5 (175):* exterior trim needs painting; garbage outdoors; missing bathroom sink stopper; and
 - vi. *Unit* 7 (1724): damaged security door pulls; exterior trim needs painting; shower handle missing and tub damaged and stained; closet door off track; inoperable light fixture near door; bedroom fire exits blocked.

- 2. A UPCS inspection was conducted on December 8, 2009. Inspection reports showed numerous serious property condition violations, a violation of 10 Tex. ADMIN. CODE § 60.116, as amended. Reports were mailed to CACST by TDHCA, and in conformance with 10 Tex. ADMIN. CODE § 60.117, a 90-day corrective action deadline of May 4, 2010 was set to provide CACST a reasonable opportunity to respond to the reports and bring the property into compliance. Deadlines were extended but only partial corrective action was received. Violations included:
 - a. Building 1 (159): Missing gate; exterior paint stained and peeling; exterior electrical duplex cover missing; second window cracked; missing bathroom sink stopper; bedroom door hardware inoperable; master bedroom door needs paint; missing electrical plug cover in living room; refrigerator seal damaged; inoperable dryer vent; inoperable smoke detectors in living room and fourth bedroom; cracked windows in master bedroom.
 - b. *Building 2 (163):* Damaged back gate; exterior paint stained and peeling; missing bathroom sink stoppers; refrigerator seal damaged;
 - c. *Building 3 (167):* Exterior paint stained and peeling; erosion by sidewalk; missing exterior electrical duplex cover; hole in ceiling in laundry room; closet bi-fold door requires paint; back door passage lock inoperable, inoperable smoke detectors in child's room and living room;
 - d. *Building 4 (171):* Condenser electrical box missing inside cover; gas stored by house; stained exterior paint; back door threshold wood is rotten; missing range hood screen;
 - e. Building 5 (175): Missing gate latch; erosion on side and front of house; bottom of water heater closet rotten; condenser electrical box missing inside cover and unsecured; exposed wires in condenser; broken light fixture at rear door; rotten roof fascia at corner of house; exterior paint stained; back door primed but not yet painted; bedroom door surface separating; inoperable GFI in bathroom;
 - f. *Building 6 (1722):* Gate and fence falling; back door primed but not painted; exterior wall staining; missing more than three window screens; tub faucet handle missing; sing stoppers missing in both bathrooms; damaged front door; laundry door missing; hole in child's bedroom door; four inoperable/missing smoke detectors:
 - g. Building 7 (1724): Front door primed but not painted; closet door needs paint; inoperable smoke detector in living room.
- 3. Between December of 2008 and October of 2010, twenty-four notices of noncompliance and reminder notices were sent regarding the above violations but only partial compliance was achieved;
- 4. CACST has since provided documentation to TDHCA demonstrating that all of the above violations with respect to Francisco Zarate Homes have been resolved. To the best of TDHCA's knowledge, no violations remain outstanding.

TOMAS MOLINA HOMES:

- 5. An on-site monitoring review and property inspection was conducted on March 1, 2007 to determine whether Tomas Molina Homes were in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility and keep the properties in good condition. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and multiple violations remained uncorrected after the July 1, 2007 deadline. On January 15, 2010, TDHCA provided additional notice of the outstanding violations and provided a new corrective action deadline, after which administrative penalties according to 10 Tex. Addin. Code §60.309 would be recommended for any violations that remained uncorrected. The following violations were not corrected before the extended February 19, 2010 corrective action deadline:
 - a. CACST failed to include required language in tenant leases, a violation of 10 Tex. Admin. Code §60.110 which requires leases to include language prohibiting evictions or nonrenewal of leases for other than good cause;
 - b. CACST failed to provide an affirmative marketing plan, a violation of 10 Tex. ADMIN. CODE §60.112;
 - c. CACST collected gross rents that exceeded rent limits as a result of a miscalculated utility allowance affecting units 1, 2, 3, 4 and 5. TDHCA publishes maximum rent limits for the HOME program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding income limits is a violation of 10 Tex. ADMIN. CODE §60.118 which requires that tenant rents, including mandatory fees and utility allowances, be less than the allowable rent limits;
- 6. On March 10, 2008, TDHCA sent notice that CACST had failed to submit the 2007 Annual Owner's Compliance Report which was due April 30, 2008, a violation of 10 Tex. Admin. Code §60.105 which requires each development to submit an Annual Owner's Compliance Report;
- 7. An on-site monitoring review was conducted on May 11, 2010 to determine whether Tomas Molina Homes were in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and the following violations were not corrected by the corrective action deadline of August 27, 2010:
 - a. CACST collected gross rents that exceeded rent limits as a result of a miscalculated utility allowance affecting units 1, 2, 3, 4 and 5. TDHCA publishes maximum rent limits for the HOME program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding income limits is a violation of 10 Tex. ADMIN. CODE §60.118 which requires that tenant rents, including mandatory fees and utility allowances, be less than the allowable rent limits;

- 8. Between March of 2008 and July of 2010, fourteen notices of noncompliance and reminder notices were sent regarding the above violations but only partial compliance was achieved;
- 9. CACST has since provided documentation to TDHCA demonstrating that all of the above violations with respect to the Tomas Molina Homes have been resolved. To the best of TDHCA's knowledge, no violations remain outstanding.

CONCLUSIONS OF LAW

- 1. Pursuant to Tex. Gov't Code §2306.041 and §2306.177, the board has personal and subject matter jurisdiction over CACST;
- 2. Pursuant to Tex. Gov't Code §2306.267, the Board may order CACST to bring the Properties into compliance with the law, Department rules and any contract or agreement, including a LURA, to which CACST is a party;
- 3. CACST violated 10 Tex. ADMIN. CODE § 60.105 by failing to submit Annual Owner's Compliance Reports;
- 4. CACST violated 10 TEX. ADMIN. CODE § 60.108 by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy;
- 5. CACST violated 10 Tex. ADMIN. CODE § 60.108 by failing to perform annual income certifications;
- 6. CACST violated 10 Tex. ADMIN. CODE § 60.110 by failing to provide language in the lease or in an addendum that evictions or terminations of tenancy for other than good cause are prohibited;
- 7. CACST violated 10 Tex. Admin. Code § 60.116 by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected;
- 8. CACST violated 10 Tex. ADMIN. CODE § 60.116 and HOME program requirements that rental developments conduct annual Housing Quality Standards (24 CFR § 982.401) inspections on each HOME assisted unit; and
- 9. CACST violated 10 Tex. ADMIN. CODE §60.118 by charging rents which exceeded allowable limits.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that, on or before September 19, 2011, CACST shall execute amendments to the LURAs on the Properties in forms acceptable to the Department, extending the term of each LURA by the amount of time each property was out of compliance:

- 3726 days for Arturo Figueroa Homes, for a final termination date of January 30, 2030;
- 4125 days for Francisco Zarate Homes for a final termination date of April 8, 2026; and
- 3348 days for Tomas Molina Homes, for a final termination date of November 8, 2030.

IT IS FURTHER ORDERED that CACST shall pay, and is hereby directed to pay, an administrative penalty of ELEVEN THOUSAND TWO HUNDRED SEVENTY-FIVE DOLLARS AND NO CENTS (\$11,275), which penalty is fully probated for five (5) years, with the five (5) year term beginning on the date the Board approves this Agreed Final Order. Provided that the probationary period is completed without CACST violating any of the terms of this agreement or failing to timely correct violations found during future file monitoring reviews or inspections ("Inspections"), the full amount of the administrative penalty will be forgiven.

IT IS FURTHER ORDERED that timely correction of future violations of 10 Tex. ADMIN. CODE § 60 will be determined as follows. There will be a 90-day period to submit corrective documentation for all violations discovered during future Inspections. The period to submit corrective documentation for online reporting violations varies but will be between 30 and 90 days, as defined in correspondence from TDHCA. Extensions may be allowed for good cause, but must be requested in writing before the end of the corrective period set in TDHCA correspondence and are at the discretion of the compliance monitor who performed the review or inspection. Any corrective documentation not submitted on or before a deadline shall be considered untimely and will constitute a violation of this agreement.

IT IS FURTHER ORDERED if CACST violates any provision of this order, then the full administrative penalty in the amount of ELEVEN THOUSAND TWO HUNDRED SEVENTY-FIVE DOLLARS AND NO CENTS (\$11,275) is due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date the Department sends written notice to CACST that it has violated a provision of this order.

Approved by the Gove	rning Board of TDHCA on	, 2011.
	By: Name: <u>J. Paul Oxer</u> Title: <u>Chair of the Board of TDHC</u>	
	By: Name: Brooke Boston Title: Secretary of the Board of TI	
THE STATE OF TEXAS COUNTY OF	\$ \$ _\$	
personally appeared J. Paul (on this day of Oxer, proved to me to be the person whose naknowledged to me that he executed the same ded.	ame is subscribed to the
(Seal)		
	Notary Public, State of Texas	
THE STATE OF TEXAS COUNTY OF TRAVIS	§ § §	
Before me, the undersigned personally appeared Brooke	notary public, on this day of Boston, proved to me to be the person whose I acknowledged to me that she executed the	se name is subscribed to
(Seal)		
	Notary Public, State of Texas	

STATE OF TEXAS§	
COUNTY OF\$	
BEFORE ME,, on this day personally app	a notary public in and for the State of beared, known to
me or proven to me through is subscribed to the foregoing instrument, and same for the purposes and consideration ther deposed as follows:	to be the person whose name acknowledged to me that (he/she) executed the
1. "My name is, I am of and personally acquainted with the facts herei	
	exas which currently holds multiple Land Use the State of Texas, and I am duly authorized by
3. Community Action Council of South Texas k Order, and agrees with and consents to the iss by the Board of the Texas Department of Hou	uance and service of the foregoing Agreed Order
	Signature
	Typed/Printed Name
Given under my hand and seal of office this	day of, 2011.
Signature of Notary Public	_
Printed Name of Notary Public	_
NOTARY PUBLIC IN AND FOR THE STATE	OF
My Commission Expires:	_

INTERNAL AUDIT BOARD ACTION REQUEST SEPTEMBER 15, 2011

Verbal report from the Audit Committee meeting of September 15, 2011.

RECOMMENDED ACTION

None, information only.

INTERNAL AUDIT BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the Fiscal Year 2012 Internal Audit Work Plan.

RECOMMENDED ACTION

WHEREAS, the Texas Internal Auditing Act and audit standards require the governing board to approve an annual audit work plan that is based on an agencywide risk assessment as well as input from the governing board and executive management, and that outlines the internal audits planned for the upcoming fiscal year,

RESOLVED, the internal audit work plan for fiscal year 2012 is hereby approved as presented.

BACKGROUND

The annual internal audit work plan is required by the Texas Internal Auditing Act and by audit standards. The plan outlines the program areas that the internal audit division will audit during the 2012 fiscal year as well as outlining the other planned activities of the internal audit division.

Department of Housing and Community Affairs Internal Audit Division – DRAFT Fiscal Year 2012 Internal Audit Plan

Program Area/Division	Audit	Hours	Comments
NSP	Neighborhood Stabilization Program (Follow-Up)	1000	Follow-Up of the FY2011 Internal Audit
Community Affairs	Homeless Housing and Services Program	1300	Scope will be Determined During Planning
HOME	HOME Multifamily	1000	Scope will be Determined During Planning
Multiple Divisions	Loan Process	1000	Scope will be Determined During Planning
Staff Services	Contracting for Services	120	Scope will be Determined During Planning
Human Resources	Human Resources	120	Scope will be Determined During Planning
Information Systems	TDHCA Website Management	120	Scope will be Determined During Planning
Community Affairs	Section 8	400	Scope will be Determined During Planning
Program	Management Assistance/		Comments
Area/Division	Special Projects		
Internal Audit	Conduct Annual Risk Assessment and Prepare Fiscal Year 2013 Audit Plan	200	Required by the Texas Internal Auditing Act and by Audit Standards
Internal Audit	Annual Review and Revision of Internal Audit Charter	40	Required by Audit Standards
Internal Audit	Quality Assurance Self-Assessment Review	80	Required by Audit Standards
Internal Audit	Review and Revise Internal Audit Policies and Procedures to Comply with New Auditing Standards	60	The GAO Will Be Releasing A Revised Version of the Government Auditing Standards
Internal Audit	Preparation for 2012 Peer Review	160	Required by the Texas Internal Auditing Act and by Audit Standards
Internal Audit	Preparation and Submission of the Fiscal Year 2012 Annual Internal Audit Report	40	Required by the Texas Internal Auditing Act
Internal Audit	Coordinate with External Auditors	60	Ongoing Requirement
All Divisions	Follow-up on the Status of Prior Audit Issues	200	Required by Audit Standards
All Divisions	Tracking the Status of Prior Audit Issues	200	Required by Audit Standards
All Divisions	Tracking, Follow-up and Disposal of Fraud Complaints	200	Internal Audit is Responsible for the Fraud Hotline and Reviewing Fraud Complaints

LEGAL SERVICES DIVISION BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action on staff's recommendation for outside bond counsel and for approval to proceed with negotiating a contract and obtaining the approval of the Office of the Attorney General

RECOMMENDED ACTION

WHEREAS, the Department has issued an RFP for outside bond counsel to which it has received five responses; and

WHEREAS, after evaluating and scoring the responses the Department has chosen Vinson & Elkins (with Bates & Coleman, PC on its team) as its recommendation to the Board;

RESOLVED, that the staff's recommendation to contract with Vinson & Elkins (with Bates & Coleman, PC on its team) as outside bond counsel and to proceed with negotiating a contract and obtaining the approval of the Office of the Attorney General is hereby ordered and it is approved.

BACKGROUND

On July 14, 2011, the Department issued a Request for Proposals seeking outside legal counsel to advise the Department in matters concerning its various bond programs. Five responses were received by the deadline, August 15, 2011 at 4:00 pm. The Department received proposals from LM Tatum, PLLC, Maholmes Bolden PC, Vinson & Elkins, The Figueroa Law Firm, and Andrews Kurth, LLP. The responses were scored based on four criteria; general experience as counsel on tax-exempt housing issues (40 points), experience with the Bond Review Board and other Texas-related bond issuance matters (30 points), qualifications and experience of assigned individuals (20 points), and an Austin presence of assigned individuals (10 points).

The evaluation committee met and deliberated on August 22, 2011, and based on the above scoring criteria voted unanimously to recommend Vinson & Elkins.

Vinson & Elkins has a long history serving as the Department's bond counsel. In this procurement process a number of firms were considered and Vinson & Elkins was selected based on the established scoring criteria. It should be pointed out that Vinson & Elkins has included in the team that is being recommended a very capable law firm that is approved as a HUB, Bates & Coleman, PC from Houston. This will provide an important added dimension to the Department's bond counsel representation.

BOND FINANCE DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action on Resolution 12-002 authorizing application to the Texas Bond Review Board for reservation of single family private activity bond authority, the issuance of Residential Mortgage Revenue Bonds, Series 2011C, the conversion of the third tranche of the New Issue Bond Program 2009C (Program 77) and approval of the Single Family Residential Mortgage Revenue Bonds Underwriting Team.

RECOMMENDED ACTION

Approve Resolution 12-002 authorizing application to the Texas Bond Review Board for reservation of single family private activity bond authority, the issuance of Residential Mortgage Revenue Bonds, Series 2011C, the conversion of the third tranche of the New Issue Bond Program 2009C (Program 77) and approval of the Single Family Residential Mortgage Revenue Bonds Underwriting Team.

WHEREAS, the private activity bond "State ceiling" (as described in Section 146(d) of the Code) applicable to the State 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 Board has determined to authorize the filing of the Applications for Reservation with respect to qualified mortgage bonds; and

WHEREAS, in accordance with the Thirtieth Series Supplement and the provisions of the NIBP, the Department is entitled, on up to six separate dates occurring no later than December 31, 2011, to convert all or a portion of the Series 2009C Bonds previously issued as taxable bonds to tax-exempt bonds and, in connection with each such conversion, to release a portion of the proceeds of the Series 2009C Bonds held in escrow to be used with the proceeds of a series of tax-exempt Residential Mortgage Revenue Bonds to be issued in connection with the respective conversion to acquire Mortgage Certificates.

WHEREAS, the Board further desires to approve an underwriting team for the Single Family Residential Mortgage Revenue Bonds for Bond Program 77;

RESOLVED, that as approved and presented at the TDHCA Board meeting, the Department is hereby authorized to file application to the Texas Bond Review Board for reservation of single family private activity bond authority.

FURTHER RESOLVED, that as approved and presented at the TDHCA Board meeting, the Department is hereby authorized to issue Residential Mortgage Revenue Bonds 2011 Series C.

FURTHER RESOLVED, that as approved and presented at the TDHCA Board meeting, the Department is hereby authorized to convert the third tranche of the New Issue Bond Program 2009C (Program 77).

FURTHER RESOLVED, board desires to approve the underwriting team for the Single Family Residential Mortgage Revenue Bonds for Bond Program 77.

BACKGROUND

As part of the Obama Administration's comprehensive plan to stabilize the U.S housing market, on October 19, 2009 the Homeowner Affordability and Stability Plan was announced for state and local housing finance agencies (HFAs) that will help support low mortgage rates and expand resources for low and middle income borrowers to purchase or rent homes that are affordable over the long term. As part of this initiative, the New Issue Bond Program (NIBP) was created to support new lending by HFAs with the issuance of bonds at below market rates.

At the November 9, 2009 Board Meeting, Resolution 10-006 was approved authorizing the issuance of \$300 million in principal amount of new money, taxable residential mortgage revenue bonds which were placed with Fannie Mae and Freddie Mac under the NIBP. The NIBP Bonds were settled on December 23, 2009 with a temporary variable interest rate that may be converted in tranches at the Department's election up to three times in 2010.

On September 1, 2010, the Department of the Treasury announced an extension of the NIBP to address the continuing difficulty of originating mortgages for HFAs across the nation. Modifications to the program include an extension of the escrow draw period from December 31, 2010 to December 31, 2011; provisions to allow additional interest rate resets; and an increase in the number of draws on the program from three to six.

Today, staff is seeking final approval of the third conversion of an amount from \$80 million and not-to-exceed \$90 million principal amount of NIBP bonds to tax-exempt conversion bonds and the issuance amount of \$10 million and not-to-exceed \$20 million principal amount of the market rate bonds for a total of not-to-exceed \$100 million of bond proceeds to be made available for mortgage loans. Each series amount will be determined at the time of pricing and will be based on market conditions.

Since May 2010, TDHCA has originated loans under Program 77 and has purchased mortgage-backed securities backed by these mortgage loans into our warehouse facility. The first tranche of the conversion of NIBP bonds was converted and closed on March 10, 2011 for \$150 million in total proceeds. The second tranche of the conversion of NIBP will be converted and closed on September 29, 2011. All proceeds from the first tranche have been expended and as of August 24, 2011, \$144 million in mortgage loans have been committed to the second tranche and \$29 million have been pooled and purchased by the Warehouse Provider. It is anticipated that proceeds from the second tranche will be completely expended by March 1, 2012.

As required by state law, 30% of the Department's bond proceeds have been set-aside for a period of not less than one year for families with income less than 80% of area median family income (AMFI). In addition, as required by federal tax law, 20% of bond proceeds will have been set-aside for use in federally designated targeted areas within the State of Texas. Proceeds made available for both set-asides - along with the remaining bond proceeds - will be marketed to mortgagors with up to five percent of down-payment assistance in the form of a 30-year term, zero percent interest second-lien, due on sale, mortgage loan. It is the intent of the Department to make down payment assistance available to all eligible borrowers; therefore staff requests the Board to waive the requirements of Texas Administrative Code, Title 10, Part 1, Chapter 7, Rule 7.3 that restricts down payment assistance to borrowers earning not more than 80 percent of the AMFI as allowed by Texas Administrative Code, Title 10, Part 1, Chapter 7, Rule 7.9.

TDHCA has issued sixteen Commitment Lots with unassisted first-lien mortgage rates between 4.00% and 4.99% and assisted first-lien mortgage rates between 4.60% and 5.74%. Once the mortgage loans have all been purchased, pooled, and delivered through the warehouse line, staff will come back to the Board to approve purchasing the resulting pools with bond proceeds. The first-lien mortgages will be securitized and all mortgages will be marketed to very low, low and moderate income residents of the State of Texas. TDHCA expects that approximately 1,300 new first-time homebuyers will be able to take advantage of this program.

The following table illustrates the various components of this proposed transaction.

Series	Principal Amount Range (Not		Purpose	Bond Description
	to Exceed)			
2009C	\$80,000,000	\$90,000,000	Tax-Exempt Conversion NIBP (Not to Exceed 60%)	Fixed Rate Non-AMT
2011C	\$20,000,000	\$10,000,000	Tax-Exempt New Issue Market Bonds (Not to Exceed 60%)	Fixed-Rate Non-AMT
	<u>\$100,000,000</u>	\$100,000,000		

The maximum transaction size will not exceed \$100 million and each series size will be dependent on market conditions not to exceed \$90 million.

Staff is also seeking approval of the Underwriting Team below.

Firm	Role
George K. Baum & Company	Book-running Senior Managing Underwriter
Morgan Stanley & Co., Inc.	Co-Senior Managing Underwriter
Morgan Keegan & Company, Inc.	Senior Manager
JP Morgan Securities LLC	Senior Manager
Piper Jaffray & Co.	Co-Manager
Fidelity Capital Markets	Co-Manager
Bank of America Merrill Lynch	Co-Manager

The following table provides certain key dates for this plan of finance.

Program Schedule	Program 77
TDHCA TEFRA Hearing	January 7, 2011
TDHCA Board Approval Date	September 15, 2011
Texas Bond Review Board Approval Date	September 22, 2011
TDHCA Board Approval Date (Approval of MBSs)	Spring 2012
Pricing Dates	November 2011
Execute Bond Purchase Agreement	One day after pricing
Pre-Closing/Closing Dates	December 2011

Resolution No. 12-002

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AUTHORIZING THE RELEASE OF A PORTION OF THE PROCEEDS OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2009C FROM ESCROW AND THE CONVERSION THEREOF; AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE DEPARTMENT'S RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2011C; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE THIRTY-THIRD SERIES SUPPLEMENT, THE DEPOSITORY AGREEMENT, THE BOND PURCHASE AGREEMENT, THE CONTINUING DISCLOSURE AGREEMENT AND THE OFFICIAL STATEMENT FOR THE SERIES 2011C BONDS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE SINGLE FAMILY MORTGAGE PURCHASE PROGRAM; 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 (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, Section 103 and Section 143 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 owner-occupied residences will be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 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 ("tax-exempt bonds"); and

WHEREAS, the private activity bond "State ceiling" (as described in Section 146(d) of the Code) applicable to the State 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 requires the Department, in order to reserve a portion of the State Ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the

Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a copy of the certified resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation with respect to qualified mortgage bonds to be issued by the Department;

WHEREAS, the Texas Housing Agency (the "Agency") or the Department, as its successor, has, pursuant to and in accordance with the provisions of the Act, issued, sold and delivered its residential mortgage revenue bonds pursuant to the Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987 (as currently amended by supplemental indentures numbered First through Thirty-First and any amendments thereto, collectively, the "RMRB Indenture") between the Department, as successor to the Agency, and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), to implement the various phases of the Agency's (now the Department's) single family mortgage purchase program by providing funds to make and acquire qualifying mortgage loans (including participations therein through the purchase of mortgage backed securities ("Mortgage Certificates") issued and guaranteed by Fannie Mae ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac") or Government National Mortgage Association ("Ginnie Mae")) (referred to herein as "Mortgage Loans"); and

WHEREAS, Section 302 of the RMRB Indenture authorizes the issuance of additional bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves and refunding outstanding bonds or notes issued by the Department under the Act; and

WHEREAS, the Department issued, under the Act and the federal government's New Issue Bond Program ("NIBP"), its Residential Mortgage Revenue Bonds, Series 2009C (the "Series 2009C Bonds") pursuant to the RMRB Indenture and the Thirtieth Supplemental Residential Mortgage Revenue Bond Trust Indenture dated as of December 1, 2009, as amended by the First Amendment to Thirtieth Supplemental Residential Mortgage Revenue Bond Trust Indenture dated as of December 1, 2010, each between the Department and the Trustee (collectively, the "Thirtieth Series Supplement"); and

WHEREAS, in accordance with the Thirtieth Series Supplement and the provisions of the NIBP, the Department is entitled, on up to six separate dates occurring no later than December 31, 2011, to convert all or a portion of the Series 2009C Bonds previously issued as taxable bonds to tax-exempt bonds and, in connection with each such conversion, to release a portion of the proceeds of the Series 2009C Bonds held in escrow to be used with the proceeds of a series of tax-exempt Residential Mortgage Revenue Bonds to be issued in connection with the respective conversion (such bonds are referred to in the NIBP and herein as "Market Bonds") to acquire Mortgage Certificates; and

WHERAS, pursuant to Resolution No. 10-019, the Governing Board approved Program Guidelines setting forth the general terms of the Mortgage Loans and authorized execution and delivery of (i) a Warehousing Agreement for the acquisition and temporary warehousing of Mortgage Certificates acquired under the Department's single family mortgage purchase program, (ii) a Program Administration and Servicing Agreement setting forth the terms under which Bank of America, N.A., as master servicer (the "Servicer"), will review, acquire, package and service the Mortgage Loans, and (iii) a Compliance Agreement setting forth the terms under which Bank of America, N.A., as compliance agent, will review and examine certain documents in connection with the Mortgage Loans to ensure compliance with the requirements of the Department set forth therein; and

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WHEREAS, the Department has previously issued its Residential Mortgage Revenue Bonds, Series 2011A in the aggregate principal amount of \$60,000,000 (the "Series 2011A Bonds") and in connection therewith, \$89,030,000 of the Series 2009C Bonds were converted from taxable bonds to tax-exempt bonds in accordance with the Thirtieth Series Supplement (such converted portion being the "Series 2009C-1 Bonds") and the proceeds of such Series 2009C-1 Bonds were released from escrow to be used with the proceeds of the Series 2011A Bonds to acquire Mortgage Certificates under the Department's single family mortgage purchase program designated as "Bond Program 77" (the "Program"); and

WHEREAS, on May 5, 2011 the Governing Board adopted Resolution No. 11-026 authorizing the conversion and release of a portion of the Series 2009C Bonds to be designated "Series 2009C-2 Bonds" and authorizing the issuance of the Department's Residential Mortgage Revenue Bonds, Series 2011B pursuant to the RMRB Indenture, for the purposes of providing funds to make and acquire qualifying Mortgage Loans through the purchase of Mortgage Certificates issued and guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae under the Program, which conversion and issuance are expected to close on September 29, 2011; and

WHEREAS, the Governing Board has determined to authorize the issuance of an additional series of the Department's Residential Mortgage Revenue Bonds, to be known as its Residential Mortgage Revenue Bonds, Series 2011C (the "Series 2011C Bonds") pursuant to the RMRB Indenture, for the purposes of providing funds to make and acquire qualifying Mortgage Loans through the purchase of Mortgage Certificates issued and guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae under the Program, to fund capitalized interest and to pay a portion of the costs of issuance; and

WHEREAS, the Governing Board desires to authorize the conversion, in accordance with the Thirtieth Series Supplement, of a portion of the Series 2009C Bonds from taxable bonds to tax-exempt bonds (such converted portion being the "Series 2009C-3 Bonds") and to authorize the release of the proceeds of the Series 2009C-3 Bonds currently held in escrow to be used with the proceeds of the Series 2011C Bonds to acquire Mortgage Certificates under the Program; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of the Thirty-Third Supplemental Residential Mortgage Revenue Bond Trust Indenture (the "Thirty-Third Series Supplement") in substantially the form attached hereto relating to the Series 2011C Bonds; and

WHEREAS, the Governing Board has determined to authorize the execution and delivery of an Eleventh Supplement to Amended and Restated Depository Agreement (the "Depository Agreement"), by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company, in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities; and

WHEREAS, the Governing Board has further determined that the Department should enter into one or more Bond Purchase Agreements relating to the sale of the Series 2011C Bonds (collectively, the "Bond Purchase Agreement") with George K. Baum & Company, as representative of the group of underwriters listed on Exhibit A to this Resolution (the "Underwriters"), and/or any other parties to the Bond Purchase Agreement as authorized by the execution thereof by an authorized representative of the Department named in this Resolution, in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters and/or any other parties to the Bond Purchase Agreement will purchase the Series 2011C Bonds from the Department and the Department will sell the Series 2011C Bonds to the Underwriters and/or any other parties to the Bond Purchase Agreement; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") in substantially the form attached hereto between the Department and the Trustee; and

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WHEREAS, the Governing Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Series 2011C Bonds (the "Official Statement") and the Governing Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Governing Board desires to approve the use of an amount not to exceed \$3,000,000 of Department funds for any purpose authorized under the Act and the RMRB Indenture, including to pay a portion of the costs of issuance of the Series 2011C Bonds and the cost of conversion of the Series 2009C-3 Bonds and the release of the proceeds thereof, and to fund capitalized interest and down payment and closing cost assistance; and

WHEREAS, the Governing Board desires to authorize the use of an amount not to exceed \$4,000,000 of funds on deposit under the RMRB Indenture, from General Funds of the Department or from any other source to fund down payment and closing cost assistance loans ("DPA Loans") and to waive the requirements of the Texas Administrative Code, Title 10, Part 1, Chapter 7, Rule 7.3 that restricts down payment assistance to borrowers earning not more than 80 percent of the area median family income and to make down payment assistance available, in the form of a second mortgage, to all eligible borrowers; and

WHEREAS, in accordance with Section 2306.142(m) of the Act, the Governing Board has determined that the issuance of bonds to finance Mortgage Loans to meet the credit needs of borrowers in underserved economic and geographic submarkets in the State is unfeasible or would damage the financial condition of the Department and desires to authorize the authorized representatives of the Department named in this Resolution to seek from the Texas Bond Review Board a waiver of the requirements of Section 2306.142(l) of the Act; and

WHEREAS, the Governing Board further desires to waive the rules contained in Chapter 7, Title 10 of the Texas Administrative Code to the extent such rules are inconsistent with the terms of the Program, this Resolution and the documents approved hereunder; and

WHEREAS, the Governing Board hereby determines that the purpose for which the Department may issue the Series 2011C Bonds constitutes "public works" as contemplated by Chapter 1371, Texas Government Code, as amended; and

WHEREAS, the Governing Board desires to approve the forms of the Thirty-Third Series Supplement, the Depository Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement and the Official Statement, in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to implement the Program in accordance with such documents by authorizing the issuance of the Series 2011C Bonds, the conversion of the Series 2009C-3 Bonds to tax-exempt bonds and the release of the proceeds thereof from escrow, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the Program; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE I APPLICATIONS FOR RESERVATION

Section 1.1--Applications for Reservation. That the Board hereby authorizes Vinson & Elkins L.L.P., as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation for qualified mortgage bonds to be issued and delivered within 180 days after receipt of a "reservation date," as defined in the Allocation Rules, in the maximum aggregate amount of \$100,000,000, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of the Reservation.

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<u>Section 1.2--Authorization of Certain Actions</u>. That the Board authorizes the Executive Director or Acting Director, the staff of the Department, as designated by the Executive Director or Acting Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the actions authorized in Section 1.1.

ARTICLE II RELEASE OF SERIES 2009C BOND PROCEEDS FROM ESCROW; ISSUANCE OF SERIES 2011C BONDS; APPROVAL OF DOCUMENTS

Section 2.1--Release of Series 2009C Bond Proceeds from Escrow. That the conversion of a portion of Series 2009C Bonds to tax-exempt bonds and the release of the proceeds thereof from escrow in an amount not to exceed \$90,000,000 to occur concurrently with the delivery of the Series 2011C Bonds is hereby authorized in accordance with the Thirtieth Series Supplement; and the authorized representatives named herein each are hereby authorized to execute, attest, affix the Department's seal to and deliver such notices, documents and supplemental disclosure documents as are required by the Thirtieth Series Supplement to implement such release.

Section 2.2--Issuance, Execution and Delivery of the Series 2011C Bonds. That the issuance of the Series 2011C Bonds is hereby authorized, all under and in accordance with the RMRB Indenture, and that, upon execution and delivery of the Thirty-Third Series Supplement, the authorized representatives named herein each are hereby authorized to execute, attest and affix the Department's seal to the Series 2011C Bonds and to deliver the Series 2011C Bonds to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Series 2011C Bonds to or upon the order of the Underwriters and/or any other parties pursuant to the Bond Purchase Agreement.

Section 2.3--Authority to Approve Form of Documents, Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Chair of the Governing Board or the Executive Director or Acting Director or the Chief of Agency Administration of the Department (i) are hereby authorized and empowered to determine whether the Series 2011C Bonds will be issued on a taxable or a tax-exempt basis and to determine whether the Series 2011C Bonds will be issued as new money bonds, refunding bonds, or governmental purpose bonds (or any combination thereof) and (ii) are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, as amended, to fix and determine the interest rates, principal amounts and maturities of, and the prices at which the Department will sell the Series 2011C Bonds to the Underwriters and/or any other parties to the Bond Purchase Agreement, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chair of the Governing Board or the Executive Director or Acting Director or the Chief of Agency Administration of the Department of the Thirty-Third Series Supplement, the Bond Purchase Agreement, the Depository Agreement and the Official Statement; provided, however, that: (a) the interest rate on the Series 2011C Bonds shall not exceed 7% per annum; (b) the aggregate principal amount of the Series 2011C Bonds shall not exceed \$20,000,000 and provided further that, the maximum aggregate amount of the Series 2011C Bonds and simultaneously released and converted Series 2009C Bonds shall not exceed \$90,000,000; (c) the final maturity of the Series 2011C Bonds shall occur not later than January 1, 2045; (d) the price at which the Series 2011C Bonds are sold to the Underwriters and/or any other parties to the Bond Purchase Agreement shall not exceed in the aggregate 106% of the principal amount thereof; and (e) the Underwriters' discount or fee shall not exceed the amount approved by the Texas Bond Review Board. In no event shall the interest rate on the Series 2011C Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 2.4--Approval, Execution and Delivery of the Thirty-Third Series Supplement. That the form and substance of the Thirty-Third Series Supplement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Thirty-Third Series Supplement, and to deliver the Thirty-Third Series Supplement to the Trustee.

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<u>Section 2.5--Approval of Depository Agreement</u>. That the form and substance of the Depository Agreement are hereby approved and that the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Texas Treasury Safekeeping Trust Company.

Section 2.6--Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Series 2011C Bonds to the Underwriters and/or any other parties pursuant to the Bond Purchase Agreement is hereby approved and that the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters and/or any other parties to the Bond Purchase Agreement.

<u>Section 2.7--Approval of Continuing Disclosure Agreement</u>. That the form and substance of the Continuing Disclosure Agreement are hereby approved and that the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 2.8-Official Statement. That the Official Statement relating to the Series 2009C-3 Bonds and the Series 2011C Bonds, in substantially the form presented to the Governing Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the authorized representatives of the Department named in this Resolution, acting for and on behalf of the Governing Board, are hereby authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Series 2011C Bonds and to the holders of the Series 2009C-3 Bonds, with such changes therein as the authorized representatives of the Department named in this Resolution may approve in order to permit such an authorized representative, for and on behalf of the Governing Board, to deem the Official Statement relating to the Series 2011C Bonds final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the authorized representatives of the Department named in this Resolution, acting for and on behalf of the Governing Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as such an authorized representative may approve, such approval to be conclusively evidenced by such authorized representative's execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12 and to the holders of the Series 2009C-3 Bonds.

Section 2.9--Execution and Delivery of Other Documents. That the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the RMRB Indenture, the Thirty-Third Series Supplement, the Depository Agreement, the Bond Purchase Agreement and the Continuing Disclosure Agreement.

Section 2.10--Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution each are hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative, and in the opinion of Vinson & Elkins L.L.P., Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

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<u>Section 2.11--Exhibits Incorporated Herein</u>. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

Exhibit B - Thirty-Third Series Supplement

Exhibit C - Depository Agreement Exhibit D - Bond Purchase Agreement

Exhibit E - Continuing Disclosure Agreement

Exhibit F - Official Statement

Section 2.12--Authorized Representatives. That the following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article II: the Chair or Vice Chair of the Governing Board, the Executive Director or Acting Director of the Department, the Chief of Agency Administration of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Governing Board.

Section 2.13--Department Contribution. That the contribution of Department funds in an amount not to exceed \$3,000,000 to be used for any purpose authorized under the Act and the RMRB Indenture, including to pay a portion of the costs of issuance of the Series 2011C Bonds and the cost of conversion of the Series 2009C-3 Bonds and the release of the proceeds thereof and to fund capitalized interest and down payment and closing cost assistance, is hereby authorized.

Section 2.14--Use of RMRB Indenture Funds and Other Funds. That the use of an amount not to exceed \$4,000,000 funds on deposit under the RMRB Indenture, from General Funds of the Department or from any other source to fund down payment and closing cost assistance loans is hereby authorized and the Governing Board waives the requirements of the Texas Administrative Code, Title 10, Part 1, Chapter 7, Rule 7.3 that restrict down payment assistance to borrowers earning not more than 80 percent of the area median family income and approves making down payment assistance available, in the form of a second mortgage, available to all eligible borrowers and finds that waiver of such Rule is appropriate to fulfill the purposes or polices of the Act.

<u>Section 2.15--Waiver of Rules</u>. That in addition to the waiver set forth in the foregoing Section 2.14, the Governing Board hereby waives the rules contained in Chapter 7, Title 10 of the Texas Administrative Code to the extent such Rules are inconsistent with the terms of the Program, this Resolution and the documents authorized hereunder.

ARTICLE III APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

<u>Section 3.1--Submission to the Attorney General of Texas</u>. That the Governing Board hereby approves the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Series 2011C Bonds.

Section 3.2--Engagement of Other Professionals. That the Executive Director or Acting Director or the Director of Bond Finance is authorized to engage Causey Demgen & Moore Inc. as verification agent to perform such verifications, functions, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Series 2011C Bonds and Bond Counsel to the Department, provided such engagement is done in accordance with applicable State law.

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- <u>Section 3.3--Certification of the Minutes and Records.</u> That the Secretary and any Assistant Secretary to the Governing Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for the Program, the issuance of the Series 2011C Bonds and all other Department activities.
- <u>Section 3.4--Approval of Requests for Rating from Rating Agencies</u>. That the Executive Director or Acting Director, the Director of Bond Finance and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.
- <u>Section 3.5--Ratifying Other Actions</u>. That all other actions taken or to be taken by the Executive Director or Acting Director and the Department's staff in connection with the Program and the issuance of the Series 2011C Bonds are hereby ratified and confirmed.
- <u>Section 3.6--Authority to Invest Funds</u>. That the Executive Director or Acting Director or the Director of Bond Finance is hereby authorized to undertake all appropriate actions required under the RMRB Indenture and the Depository Agreement and to provide for investment and reinvestment of all funds held under the RMRB Indenture.
- <u>Section 3.7--Waiver from Texas Bond Review Board</u>. That the Governing Board authorizes the authorized representatives of the Department named in this Resolution to seek from the Texas Bond Review Board a waiver of the requirements of Section 2306.142(l) of the Act in accordance with Section 2306.142(m) of the Act.

ARTICLE IV CERTAIN FINDINGS AND DETERMINATIONS

Section 4.1--Determination of Interest Rate. That the Governing Board hereby approves the purchase of participations in Mortgage Loans under the Program with interest rates no less than 3.00% and no greater than 6.25%, and as described in various Commitment Lot Notices issued by the Department containing such authorized rates, and finds that such rates will produce, together with other available funds, the amounts required to pay for the Department's costs of operation with respect to the Program and debt service on the Series 2011C Bonds and the Series 2009C-3 Bonds, and will enable the Department to meet its covenants with and responsibilities to the holders of the bonds issued under the RMRB Indenture without adversely affecting the exclusion from gross income for federal income tax purposes of interest on any of such tax-exempt bonds or the rating thereof. Such approved range of rates is subject to adjustment from time to time by action of the Governing Board.

Section 4.2--Bonds to Finance Mortgage Loans in Underserved Economic and Geographic Markets. That, in accordance with Section 2306.142(m) of the Act, the Governing Board hereby finds that the issuance of bonds to finance Mortgage Loans to meet the credit needs of borrowers in underserved economic and geographic submarkets in the State is unfeasible or would damage the financial condition of the Department.

<u>Section 4.3--Purpose of Series 2011C Bonds</u>. That the Governing Board hereby determines that the purpose for which the Department may issue the Series 2011C Bonds constitutes "public works" as contemplated by Chapter 1371, Texas Government Code, as amended.

ARTICLE V GENERAL PROVISIONS

<u>Section 5.1--Limited Obligations</u>. That the Series 2011C Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the RMRB Indenture to secure payment of the bonds issued under the RMRB Indenture and payment of the Department's costs and

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expenses for the Program thereunder and under the RMRB Indenture, and under no circumstances shall the Series 2011C Bonds be payable from any other revenues, funds, assets or income of the Department.

<u>Section 5.2--Non-Governmental Obligations</u>. That the Series 2011C Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

<u>Section 5.3--Purposes of Resolution</u>. That the Governing Board has expressly determined and hereby confirms that the issuance of the Series 2011C Bonds and the furtherance of the Program contemplated by this Resolution 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 5.4--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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

<u>Section 5.5--Effective Date</u>. That this Resolution shall be in full force and effect from and upon its adoption.

[Signature page follows]

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PASSED AND APPROVED this 15th day of September, 2011.

	Chair, Governing Board	
ATTEST:		
Secretary to the Governing Board		
(SEAL)		

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EXHIBIT A

List of Underwriters

Book-Running Senior Manager

George K. Baum & Company

Co-Senior Manager

Morgan Stanley & Co. LLC

Senior Managers

J.P. Morgan Securities LLC Morgan Keegan & Company, Inc.

Co-Managers

Merrill Lynch, Pierce, Fenner & Smith Incorporated Piper Jaffray & Co. Fidelity Capital Markets

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ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE SERIES 2011C BONDS.

BOND FINANCE DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action on Resolution 12-003 authorizing the purchase of warehoused mortgage backed securities with proceeds of Residential Mortgage Revenue Bonds, Series 2011B (Program 77).

RECOMMENDED ACTION

Approve Resolution 12-003 authorizing the purchase of warehoused mortgage backed securities with proceeds of Residential Mortgage Revenue Bonds, Series 2011B (Program 77).

WHEREAS, the Board approved Resolution 11-026 at the May 5, 2011 Board meeting authorizing the second conversion of NIBP bonds to tax-exempt bonds and the issuance of shorter-term private market rate bonds for a total of not-to-exceed \$150 million of funds for mortgage loans.

RESOLVED, that as approved and presented at the TDHCA Board meeting the Acting Director is hereby authorized and directed to approve the purchase of mortgage backed securities from the warehouse provider with bond proceeds.

BACKGROUND

At the May 5, 2011 Board Meeting, Resolution 11-026 was approved authorizing the second conversion of NIBP bonds to tax-exempt bonds and the issuance of shorter-term private market rate bonds for a total of not-to-exceed \$150 million of funds for mortgage loans. Today, staff is asking the Board to approve the purchase of mortgage backed securities from the warehouse provider with bond proceeds.

Since May 2010, TDHCA has originated loans under Program 77 and has purchased mortgage-backed securities backed by these mortgage loans into our warehouse facility. The first tranche of the conversion of NIBP bonds was converted and closed on March 10, 2011 for \$150 million in total proceeds. All proceeds from the first tranche were expended by June 2011.

Since June 2011, TDHCA has continued to originate loans under Program 77 and has purchased mortgage-backed securities backed by these mortgage loans into our warehouse facility. As of September 6, 2011, approximately \$150 million in mortgage loans have already been committed to 2011B; of which approximately \$47 million have been pooled and purchased by the Warehouse Provider.

TDHCA has issued sixteen Commitment Lots with unassisted first-lien mortgage rates between 4.00% and 4.99% and assisted first-lien mortgage rates between 4.60% and 5.74%. The first-lien mortgages are securitized and all mortgages have been marketed to very low, low and

moderate income residents of the State of Texas. Approximately 1,200 new first-time homebuyers have taken advantage of this program.

The TEFRA Hearing was held on January 7, 2011. No public comment was received.

The table below includes the mortgage backed securities that staff is seeking approval to purchase from the warehouse provider with bond proceeds:

Commitment Lot	Amount (Not to Exceed)	Unassisted Mortgage Rate	Assisted Mortgage Rate
8	\$1 million	4.75%	5.50%
9	\$3.5 million	4.85%	5.60%
10	\$6.5 million	4.75%	5.35%
11	\$17 million	4.60%	5.20%
12	\$20 million	4.50%	5.10%
13	\$27 million	4.35%	4.95%
14	\$30 million	4.35%	4.95%
15	\$20 million	4.35%	4.95%
16	\$50 million	4.00%	4.60%
Total	\$175 million		

Resolution No. 12-003

RESOLUTION AUTHORIZING THE PURCHASE OF WAREHOUSED MORTGAGE BACKED SECURITIES WITH PROCEEDS OF THE DEPARTMENT'S RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2009C-2 AND RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2011B (PROGRAM 77); MAKING CERTAIN FINDINGS AND DETERMINATIONS; 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 (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Texas Housing Agency (the "Agency") or the Department, as its successor, has, pursuant to and in accordance with the provisions of the Act, issued, sold and delivered its residential mortgage revenue bonds pursuant to the Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987 (as amended by supplemental indentures numbered First through Thirtieth and any amendments thereto, collectively, the "RMRB Indenture") between the Department, as successor to the Agency, and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), to implement the various phases of the Agency's (now the Department's) single family mortgage purchase program by providing funds to make and acquire qualifying mortgage loans (including participations therein through the purchase of mortgage backed securities ("Mortgage Certificates") issued and guaranteed by Fannie Mae ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac") or Government National Mortgage Association ("Ginnie Mae")) (referred to herein as "Mortgage Loans"); and

WHEREAS, the Department issued, under the Act and the federal government's New Issue Bond Program ("NIBP"), its Residential Mortgage Revenue Bonds, Series 2009C (the "Series 2009C Bonds") pursuant to the RMRB Indenture and the Thirtieth Supplemental Residential Mortgage Revenue Bond Trust Indenture dated as of December 1, 2009, as amended by the First Amendment to Thirtieth Supplemental Residential Mortgage Revenue Bond Trust Indenture dated as of December 1, 2010, each between the Department and the Trustee (collectively, the "Thirtieth Series Supplement"); and

WHEREAS, in accordance with the Thirtieth Series Supplement and the provisions of the NIBP, the Department is entitled, on up to six separate dates occurring no later than December 31, 2011, to convert all or a portion of the Series 2009C Bonds previously issued as taxable bonds to tax-exempt bonds and, in connection with each such conversion, to release a portion of the proceeds of the Series 2009C Bonds held in escrow to be used with the proceeds of a series of tax-exempt Residential Mortgage Revenue Bonds to be issued in connection with the respective conversion to acquire Mortgage Certificates; and

WHEREAS, the Department has previously entered into an Amended and Restated Warehousing Agreement dated as of January 1, 2011 (the "Warehousing Agreement") with the Trustee, First Southwest Company and PlainsCapital Bank (collectively, the "Warehouse Provider"), and The Bank of New York Mellon Trust Company, N.A., as custodian, providing for the acquisition and temporary warehousing by the Warehouse Provider of Mortgage Certificates acquired under the Department's single family mortgage purchase program; and

WHEREAS, on May 5, 2011 the Governing Board adopted Resolution No. 11-026 ("Resolution No. 11-026") authorizing the conversion and release of a portion of the Series 2009C Bonds to be designated "Series 2009C-2 Bonds" and authorizing the issuance of the Department's Residential Mortgage Revenue Bonds, Series 2011B (the "Series 2011B Bonds") pursuant to the RMRB Indenture, for the purposes of providing funds to make and acquire qualifying Mortgage Loans through the purchase of Mortgage Certificates issued and guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae under the Department's single family mortgage purchase program designated as "Bond Program No. 77" (the "Program"), including Mortgage Loans described in Commitment Lot Notices 9, 10, 11 and 12 and in any other Commitment Lot Notices issued subsequent to the date of Resolution No. 11-026; and

WHEREAS, the Governing Board now desires to authorize the purchase of Mortgage Certificates representing participations in Mortgage Loans described in any Commitment Lot Notice, including Commitment Lot Notice 8, with proceeds of the Series 2009C-2 Bonds and the Series 2011B Bonds;

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

Section 1.--Determination of Interest Rate. The Governing Board of the Department hereby approves, in addition to the purchases authorized in Resolution No. 11-026, the purchase of Mortgage Certificates representing participations in Mortgage Loans under the Program with interest rates of 3.00% to 6.25% as described in its Commitment Lot Notice 8 and in any other Commitment Lot Notices containing such interest rates, and finds that such rates will produce, together with other available funds, the amounts required to pay for the Department's costs of operation with respect to the Program and debt service on the Series 2009C-2 Bonds and the Series 2011B Bonds, and will enable the Department to meet its covenants with and responsibilities to the holders of the bonds issued under the RMRB Indenture without adversely affecting the exclusion from gross income for federal income tax purposes of interest on any of such tax-exempt bonds or the rating thereof.

Section 2.--Notice of Meeting. 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

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Section 3.--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 15th day of September, 2011.

	Chair, Governing Board	
ATTEST:		
Secretary to the Governing Board		
beeretary to the coverning board		
(SEAL)		

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BOND FINANCE DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action on Resolution 12-004 authorizing program changes to the Mortgage Credit Certificate Program (MCC).

RECOMMENDED ACTION

Approve Resolution 12-004 authorizing program changes to the Mortgage Credit Certificate Program (MCC).

WHEREAS, the Board approved Resolution 10-009 on December 17, 2009 authorizing a Mortgage Credit Certificate Program (Program 75);

WHEREAS, the Board approved Resolution 11-003 on September 9, 2010 authorizing a Mortgage Credit Certificate Program (Program 78);

RESOLVED, in order to more effectively compete with market rate mortgage products, the Board now desires to change the Mortgage Credit Certificate Rate from 30% to 35% effective for any MCC certificate issued on or after October 1, 2011;

BACKGROUND

A mortgage credit certificate is an instrument designed to assist persons of low to moderate income to better afford individual ownership. The procedures for issuing MCCs were established by the United States Congress as an alternative to the issuance of single family mortgage revenue bonds. As distinguished from a bond program, in an MCC program no bonds are issued, no mortgage money is actually used, many of the costs associated with a bond program are not incurred, and lenders are required to pay only nominal up-front fees. Under Federal guidelines, the Department, as an issuer of mortgage revenue bonds can trade \$1 of bond authority for \$0.25 of MCC authority.

Mortgage Credit Certificates help make ownership of a new or existing home more affordable by entitling the homeowner to a personal tax credit of up to \$2,000 against their federal tax liability for a portion of the interest paid on their home mortgage. Simply put, an MCC is a dollar for dollar reduction of income taxes owed. For example, a homeowner that purchased a home for \$130,000 at 4.40% for 30 years would pay \$5,720 in mortgage interest their first year. Thirty-five percent of the interest paid, totaling \$2,002, would be utilized as a tax credit on the borrower's federal income tax return. With an MCC, homeowners can submit a revised W-4 Withholding Form to his or her employer to reduce the federal withholding tax by \$167 per month, which increases the borrower's disposable income by reducing their federal income tax obligation.

In order to be eligible for an MCC, borrowers must comply with the same first-time homebuyer requirements stipulated by the Internal Revenue Code for mortgage revenue bonds. For

example, MCC recipients must occupy the residence as their primary residence, comply with income limits and comply with home purchase price limits. MCCs cannot be used when mortgages are funded with tax-exempt bond proceeds.

The following table illustrates the existing program and the proposed changes:

Summary of the Impact of t	he Proposed Pr	ogram Changes	Program 78	
Proposed	Program			Existing Program
Troposed	Issued	Remaining @	Blended	Existing 1 regram
Volume Cap	prior to 10/1	35%	Total	Total
Volume Cap Used	59,904,000	120,096,000	180,000,000	180,000,000
IRS MCC Conversion Factor	25.00%	25.00%	25.00%	25.00%
MCC Issuance Authority	14,976,000	30,024,000	45,000,000	45,000,000
# of Homebuyers Assisted	384	660	1,044	1,154
Dollar Amount of Mortgage Loans Subsidized	49,920,000	85,782,857	135,702,857	150,000,000
Average Mortgage Loan Amount	130,000	130,000	130,000	130,000
Assumed Market Mortgage Interest Rate	4.40%	4.40%	4.40%	4.40%
First Year Mortgage Interest	5,720	5,720	5,720	5,720
MCC Certificate Credit Rate	30%	35%	30%/35%	30%
Tax Credit Amount - 1st Year	1,716	2,000	1,906	1,716
Maximum Annual MCC Credit Amount Allowed	2,000	2,000	2,000	2,000
Summary of the Impact of t		ogram Changes	Program 75	Eviatina Dua anam
Proposed	Issued	D ©	D1 1 1	Existing Program
V.1. C		Remaining @	Blended	T 1
Volume Cap	prior to 10/1	35%	Total	Total
Volume Cap Used	75,287,158	44,712,842	120,000,000	120,000,000
IRS MCC Conversion Factor	25.00%	25.00%	25.00%	25.00%
MCC Issuance Authority	18,821,789	11,178,211	30,000,000	30,000,000
# of Homebuyers Assisted	483	246	728	769
Dollar Amount of Mortgage Loans Subsidized	62,739,298	31,937,745	94,677,043	100,000,000
Average Mortgage Loan Amount	130,000	130,000	130,000	130,000
Assumed Market Mortgage Interest Rate	4.40%	4.40%	4.40%	4.40%
First Year Mortgage Interest	5,720	5,720	5,720	5,720
MCC Certificate Credit Rate	30%	35%	30%/35%	30%
Tax Credit Amount - 1st Year	1,716	2,000	1,810	1,716
Maximum Annual MCC Credit Amount Allowed	2,000	2,000	2,000	2,000

The end result is that more subsidies are provided to fewer homebuyers (estimate of 150) than if the prior subsidy had been maintained. The impact of this is mitigated by the fact that the Department has over \$500 million is PAB bonding authority remaining to implement new MCC programs. In addition, the Department has a limited amount of time to fully expend the remaining subsidy (15 months), so providing more subsidies per recipient increases the likelihood that the program will be fully committed during the required time period.

Resolution No. 12-004

RESOLUTION APPROVING MODIFICATIONS TO 2010 MORTGAGE CREDIT CERTIFICATE PROGRAMS; 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 "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, on January 29, 2010, the Department filed an election with the Internal Revenue Service electing to convert \$120,000,000 of private activity bond authority to mortgage credit certificates and implemented its 2010 MCC Program (hereinafter referred to as the "2010A MCC Program") and on December 13, 2010, the Department filed an election with the Internal Revenue Service electing to convert \$180,000,000 of private activity bond authority to mortgage credit certificates and implemented its 2010B MCC Program (the "2010B MCC Program" and together with the 2010A MCC Program, collectively, the "2010 Programs"); and

WHEREAS, the Board now desires to increase the Mortgage Credit Certificate Rate under the 2010 Programs from 30 percent to 35 percent for any mortgage credit certificate issued on or after October 1, 2011, thereby making the 2010 Programs more attractive to homebuyers and more competitive with other mortgage credit certificate programs operating within the State; and

WHEREAS, the Board also desires to authorize the Executive Director or Acting Director of the Department, at his discretion, to waive certain fees associated with the 2010 Programs during National Homebuyer Month;

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

<u>Section 1.1--Modification of Mortgage Credit Certificate Rate</u>. The Board hereby approves an increase in the Mortgage Credit Certificate Rate for the 2010 Programs from 30 percent to 35 percent, effective for any mortgage credit certificate issued on or after October 1, 2011.

<u>Section 1.2--Waiver of Fees</u>. The Board hereby authorizes the Executive Director or Acting Director of the Department, at his discretion, to waive certain fees associated with the 2010 Programs during national Homebuyer Month.

<u>Section 1.3--Execution and Delivery of Documents</u>. The authorized representatives of the Department named in this Resolution are each hereby authorized to execute, attest, affix the Department's seal to and

deliver such agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests, public notices and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

<u>Section 1.4--Authorized Representatives</u>. The following persons are each hereby named as authorized representatives of the Department for purposes of executing and delivering the documents and instruments referred to in this Resolution: the Chair of the Governing Board; the Vice Chair of the Governing Board; the Secretary to the Governing Board; the Executive Director or Acting Director of the Department, the Chief of Agency Administration of the Department, the Director of Bond Finance of the Department and the Director of Texas Homeownership of the Department.

Section 1.5--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Governing 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 Governing 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 made available to the Governing Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Governing Board at which this Resolution was considered, and any documents made available to the Governing Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

Section 1.6--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 15th day of September, 2011.

	Chair, Governing Board
ATTEST:	
G , t , t , t , C ,	
Secretary to the Governing Board	
(SEAL)	

US 1025498v.3 -2-

BOND FINANCE DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action on Resolution 12-005 authorizing a new range of mortgage interest rates for the Single Family Mortgage Revenue Bond (MRB) Program 77.

RECOMMENDED ACTION

Approve Resolution 12-005 authorizing a new range of mortgage interest rates for the Single Family Mortgage Revenue Bond (MRB) Program 77.

WHEREAS, the Board approved Resolution 10-019 on March 11, 2010 authorizing the Department to set interest rates on mortgage loans originated under the Single Family MRB Program to be no less than 4.99% and no greater than 6.25%;

WHEREAS, the Board approved Resolution 10-026 on June 28, 2010 authorizing the reduction of the lower band of the interest rate range from 4.99% to 4.50%;

WHEREAS, the Board approved Resolution 11-005 on September 9, 2010 authorizing the further reduction of the lower band of the interest rate range from 4.50% to 4.00%;

RESOLVED, in order to more effectively compete with market rate mortgage products, the Board now desires to set a new interest rate range of no less than 3.00% and no greater than 6.25% to be effective from the date of adoption of this Resolution;

BACKGROUND

Mortgage interest rates have continued to decline thereby making the Department's authorized interest rate range less attractive. As a result, Resolution 12-005 is seeking authorization to reduce the lower band of the interest rate range from 4.00% to 3.00% for our unassisted program enabling us to adjust our rate incrementally to be more competitive and allowing the Department to effectively serve low income borrowers. Each month, staff has been adjusting mortgage interest rates based on market conditions.

To date, sixteen Commitment Lots have been released under Program 77 with unassisted first-lien mortgage rates between 4.00% and 4.99% and assisted first-lien mortgage rates between 4.60% and 5.74%.

Resolution No. 12-005

RESOLUTION APPROVING NEW INTEREST RATE RANGE FOR MORTGAGE LOANS ORIGINATED AND DELIVERED THROUGH WAREHOUSING AGREEMENT; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, on March 11, 2010, the Governing Board (the "Board") of the Texas Department of Housing and Community Affairs (the "Department") adopted Resolution No. 10-019 ("Resolution 10-019") authorizing the execution and delivery of a Warehousing Agreement (the "Warehousing Agreement") with First Southwest Company and PlainsCapital Bank, as warehouse providers, and The Bank of New York Mellon Trust Company, N.A., as custodian (the "Custodian"); and

WHEREAS, pursuant to Resolution 10-019, the Board approved an interest rate range of no less than 4.99% and no greater than 6.25% for mortgage loans that are pooled into mortgage-backed securities and that are purchased by the Custodian under the Warehousing Agreement; and

WHEREAS, pursuant to Resolution No. 10-026 adopted on June 28, 2010, the Board approved an interest rate range of no less than 4.50% and no greater than 6.25% for mortgage loans that are pooled into mortgage-backed securities and that are purchased by the Custodian under the Warehousing Agreement; and

WHEREAS, pursuant to Resolution No. 11-005 adopted on September 9, 2010, the Board approved an interest rate range of no less than 4.00% and no greater than 6.25% for mortgage loans that are pooled into mortgage-backed securities and that are purchased by the Custodian under the Warehousing Agreement; and

WHEREAS, the Board now desires to set a new interest rate range of no less than 3.00% and no greater than 6.25% to be effective from the date of adoption of this Resolution for loans purchased under the Warehousing Agreement and any other warehousing agreement or arrangement entered into by the Department;

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

Section 1 - Approval of Revised Minimum Interest Rate. Effective upon adoption of this Resolution, the interest rate range for mortgage loans originated and delivered through the Warehousing Agreement or any other warehousing agreement or arrangement entered into by the Department shall be no less than 3.00% and no greater than 6.25%.

Section 2 - Notice of Meeting. 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered,

and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

<u>Section 3 - Effective Date</u>. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 15th day of September, 2011.

	Chair, Governing Board	
ATTEST:		
Secretary to the Governing Board	_	
(SEAL)		

US 1024476v.1 -2-

BOND FINANCE DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action on Resolution No. 12-006 authorizing application to the Texas Bond Review Board for reservation of the 2011 single family private activity bond authority carryforward from the Unencumbered State Ceiling.

RECOMMENDED ACTION

Approve Resolution 12-006 authorizing application to the Texas Bond Review Board for reservation of the 2011 single family private activity bond authority carryforward from the Unencumbered State Ceiling.

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State 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 on the last business day of the year the Texas Bond Review Board (the "Bond Review Board") may assign as carryforward to state agencies at their request any State ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending (referred to herein as "Unencumbered State Ceiling"); and

RESOLVED, that as approved and presented at the TDHCA Board meeting, the Department is hereby authorized to submit application to the Texas Bond Review Board for reservation of the 2011 single family private activity bond authority carryforward from the Unencumbered State Ceiling.

BACKGROUND

At the beginning of each new TDHCA single family bond issuance, our Board petitions the Texas Bond Review Board to start the process in the form of a resolution followed by an application to draw down our private activity bond authority, also known as "volume cap". Staff at this time is not seeking nor is the Board giving final approval of a bond program for 2012 with respect to the finance structure, target mortgage rates, timing and size of the issue. Staff will come back to the Board at a later date with a final structure for your review and approval.

Bond Finance is requesting authorization to draw down an amount not-to-exceed \$300 million of additional unreserved 2011 volume cap from the unencumbered state ceiling for our single family mortgage revenue bond program.

All volume cap will be used for future single family mortgage revenue bond and MCC programs.

The chart below outlines the Department's available single family cap for the remaining calendar year 2011 and intended uses for future transactions.

Sources as of September 1, 2011	
2009 Carryforward	\$ 25,258,616
2010 Carryforward	208,212,971
2010 Add'l Cap Carryforward	112,000,000
2010 Unencumbered Cap	300,000,000
2011 Unencumbered Cap – Proposed	300,000,000
Available Cap as of Sept 1, 2011	\$ 945,471,587
Projected Uses	
2011B RMRB (2 nd Rollout of NIBP)	150,000,000
2011C RMRB (3 rd Rollout of NIBP)	100,000,000
2013 MCC	180,000,000
2010 Carryforward for Future Transactions*	215,471,587
2011 Carryforward for Future Transactions**	300,000,000
Total Uses	\$ 945,471,587

^{*} Derived from 2010 unencumbered state ceiling, must be used by 12/31/13.

^{**} Derived from 2011 unencumbered state ceiling, must be used by 12/31/14.

Resolution No. 12-006

RESOLUTION AUTHORIZING REQUEST FOR UNENCUMBERED STATE CEILING; 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, Section 146(a) of the Internal Revenue Code of 1986, as amended (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 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 on the last business day of the year the Texas Bond Review Board (the "Bond Review Board") may assign as carryforward to state agencies at their request any State ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending (referred to herein as "Unencumbered State Ceiling"); and

WHEREAS, the Governing Body desires to request that Unencumbered State Ceiling for the year 2011 be assigned to the Department as carryforward;

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

<u>Section 1 - Assignment of Unencumbered State Ceiling</u>. The Department is authorized to submit a request to the Bond Review Board for assignment as carryforward to the Department of Unencumbered State Ceiling for the year 2011 in an aggregate amount not to exceed \$300,000,000.

<u>Section 2 - Authorization of Certain Actions</u>. The Board authorizes the Executive Director or Acting Director, the staff of the Department, as designated by the Executive Director or Acting Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the purposes of this Resolution.

<u>Section 3 - Purposes of Resolution</u>. The Board has expressly determined and hereby confirms that the Department's receipt of Unencumbered State Ceiling 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 4 - Notice of Meeting. 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 <u>Texas Register</u> 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

<u>Section 5 - Effective Date</u>. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 15th day of September, 2011.

	Chair, Governing Board	
ATTEST:		
Secretary to the Governing Board	_	
Secretary to the Governing Board		
(SEAL)		

US 1024479v.1 -2-

BOND FINANCE DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action of Resolution 12-007 authorizing the Procurement of a Replacement Master Servicer, if necessary.

RECOMMENDED ACTION

Approve Resolution 12-007 authorizing the Procurement of a Replacement Master Servicer, if necessary.

WHEREAS, Bank of America, N.A. ("BANA") currently serves as master servicer of mortgage loans originated under Program 77 pursuant to a Program Administration and Servicing Agreement dated as of May 1, 2010, among the Department, BANA and The Bank of New York Mellon Trust Company, N.A. as trustee; and

WHEREAS, on August 31, 2011, BANA announced its intent to sell its correspondent lending business; and

WHEREAS, the Governing Board has determined that BANA's unforeseen and uncertain timeline for withdrawal from the correspondent lending business indicates a need for the staff to be granted flexibility to ensure the smooth and successful administration of Program 77; and

RESOLVED, to authorize the Executive Director or Acting Director of the Department to take the necessary measures to procure a new master servicer should the need arise.

BACKGROUND

Bank of America, N.A. ("BANA") has been serving as master servicer of mortgage loans serviced under the Single Family Mortgage Revenue Bond Program. On August 31, 2011, BANA announced its intent to sell its correspondent lending business. As a result of this announcement, it has been determined that BANA's unforeseen and uncertain timeline for withdrawal from the correspondent lending business may create a financial risk to the Department's Program 77. Therefore, staff is requesting authorization to procure a replacement master servicer, if needed, because of BANA being is unable to continue their role as master servicer.

Resolution No. 12-007

RESOLUTION AUTHORIZING SUBSTITUTE SERVICING AGREEMENT FOR PROGRAM 77; 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 (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHERAS, the Department has implemented its single family mortgage purchase program designated as "Program 77" through the issuance of its Residential Mortgage Revenue Bonds, Series 2009C (the "Series 2009C Bonds") and additional series of its Residential Mortgage Revenue Bonds issued or to be issued simultaneously with the conversion of the Series 2009C Bonds from taxable bonds to tax-exempt bonds and the release of Series 2009C Bond proceeds from escrow; and

WHEREAS, Bank of America, N.A. ("BANA") currently serves as master servicer of mortgage loans originated under Program 77 pursuant to a Program Administration and Servicing Agreement dated as of May 1, 2010, among the Department, BANA and The Bank of New York Mellon Trust Company, N.A. as trustee, as amended from time to time (the "Servicing Agreement"); and

WHEREAS, on August 31, 2011, BANA announced its intent to sell its correspondent lending business; and

WHEREAS, the Governing Board has determined that BANA's unforeseen and uncertain timeline for withdrawal from the correspondent lending business creates a financial risk to the Department's Program 77; and

WHEREAS, if BANA is either unwilling or unable to perform its obligations under the Servicing Agreement or a determination is made by the Executive Director or Acting Director that the services being provided are unsatisfactory, then the Governing Board desires to authorize the Executive Director or Acting Director of the Department to enter into a servicing agreement with a master servicer on terms substantially similar to those in the Servicing Agreement;

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

<u>Section 1.--Authorization to Enter into Servicing Agreement</u>. If BANA is either unwilling or unable to perform its obligations under the Servicing Agreement or a determination is made by the Executive Director

or Acting Director that the services being provided are unsatisfactory, then the Governing Board of the Department hereby authorizes the Executive Director or Acting Director of the Department to enter into a servicing agreement with a master servicer on terms substantially similar to those in the Servicing Agreement and take all other actions necessary to fulfill the purposes of this resolution including terminating, if necessary, the existing Servicing Agreement.

<u>Section 2.--Authorized Representatives</u>. The following persons are each hereby named as authorized representatives of the Department for purposes of executing and delivering any documents and instruments necessary to implement this Resolution: the Chair or Vice Chair of the Governing Board, the Executive Director or Acting Director of the Department, the Chief of Agency Administration of the Department, the Director of Bond Finance of the Department and the Secretary or Assistant Secretary to the Governing Board.

<u>Section 3.--Emergency Procurement</u>. The Governing Board finds that the unforeseen and uncertain timeline for BANA's withdrawal from the correspondent lending business creates a financial risk to the Department's Program 77, resulting in an emergency procurement situation.

Section 4.--Notice of Meeting. 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

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

PASSED AND APPROVED this 15th day of September, 2011.

	Chair, Governing Board	
ATTEST:		
Secretary to the Governing Board		
(SEAL)		

US 1043118v.4 -2-

COMMUNITY AFFAIRS DIVISION

BOARD ACTION REQUEST

SEPTEMBER 15, 2011

Authorize the necessary action to fund the Homeless Housing and Services Program ("HHSP") in the amount of \$5,000,000 during fiscal year 2012 and direct staff to look for additional opportunities to fund HHSP.

REPORT ITEM

WHEREAS, the continuing funding of the HHSP has been identified by the Texas Legislature as a high priority, and

WHEREAS, the Texas Legislature has, through the enactment of Senate Bill 1 and Senate Bill 2 (82nd Legislature, 1st called session), provided that other sources of appropriated funds may be identified and re-programmed, subject to constraints imposed by state and federal law, and

WHEREAS, this Board acknowledges, as evidenced by other actions taken by the 82nd Legislature, the need to be mindful of the unique and special needs of veterans and underserved populations,

NOW, therefore, be it

RESOLVED, that the executive director, his designees, and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the funding of the HHSP in fiscal year 2012 in an amount of not less than \$5,000,000, such actions to include, but not be limited to:

- 1) The reprogramming of \$3,453,622 in Housing Trust Fund balances from deobligated funds to HHSP;
- 2) The use of \$891,627 general stabilization funds under the American Recovery and Reinvestment Act that may be made available to the Department; and
- 3) The use of \$654,751 in Below Market Interest Rate (BMIR) Loan Program funds for HHSP;

FURTHER RESOLVED, that all actions previously taken by staff in furtherance of the preceding resolution and the policies that it embodies be and thereby are

ratified, confirmed, approved, and adopted as the acts and deeds of the Department; and

FURTHER RESOLVED, that HHSP funds for use in fiscal year 2012 shall be distributed in the following manner. The allocation formula shall be as set forth on Attachment A, using as significant weighting factors population, poverty, and the significance of the local veterans population. The timetable for distribution shall be as quickly as funding sources become available, in no event later than twenty-five percent (25%) to be made available during each quarter, and

FURTHER RESOLVED, that the funding distribution formula set forth as Attachment A is hereby approved, taking into account as weighted factors 20% for population, 20% for poverty, 25% for veterans, 5% for persons with disabilities, and 15% for two homeless counts and further providing that each city's amount of distribution under this formula shall be reduced by any unexpended balance of HHSP funds received from the Department in the 2010-2011 biennium and unspent as of close of business, August 31, 2011.

BACKGROUND

In the 81st Legislative Session, the Texas Legislature created the Homeless Housing and Services Program ("HHSP") and funded it at \$20,000,000 for the biennium. Unfortunately, the budgetary picture for the 82nd Legislature was far more constrained, but it was clear that the continuation of HHSP was very important. In the first called session of the 82nd Legislature, action was taken to continue HHSP and to provide the Texas Department of Housing and Community Affairs (the "Department") with the maximum flexibility to identify funding sources. See Tex. Gov't. Code, §2306.2585, as amended by SB 1, 82nd Legislature, first called session.

Another clearly supported priority in the 82^{nd} Legislature was addressing the unique and compelling needs of veterans.

The Department is, consistent with §9 of SB 2, 82nd Legislature, first called session, seeking to identify up to \$10,000,000 in funds for HHSP to be made available in the 2012-2013 biennium. To date \$5,000,000 has been identified including:

- Housing trust funds balances in the amount of \$3,453,622
- General stabilization funds under the American Recovery and Reinvestment Act ("ARRA") in the currently estimated amount of \$891,627
- BMIR loan program balances in the amount of \$654,751

Each of these potential funding sources comes with unique requirements and limitations.

Housing Trust Fund: In administering the CDBG disaster recovery program for Hurricane Rita, the Department identified situations in which some storm victims could not use CDBG funds in sufficient amounts to repair or replace their homes because they had already received other federal assistance and federal "duplication of benefit" requirements under the Stafford Act prevented them from moving forward. The Department saw a need to identify a non-federal source of funds to fill that "gap," and housing trust funds were identified as a possible source of gap financing. This program has been completed and HTF funds originally programmed for gap funding are no longer needed for that purpose. These funds can be used for HHSP provided that the uses are housing-related and are not for the provision of services.

ARRA funds: These funds must be utilized by September 30, 2011, may not be used to supplant state funding, and are subject to ARRA "1512" reporting requirements and other requirements applicable to ARRA funds.

BMIR Loan Program: The Arkansas Development Finance Authority/Below Market Interest Rate Loan Program (BMIR) was set up as a sub-account of the Housing Assistance Fund (HAF) in April 1989. The Department signed a Participation Agreement dated June 16, 1988, with the Arkansas Finance Authority and (11) other State Housing Agencies regarding this BMIR Loan Program. The purpose of the BMIR Program was to preserve affordable multifamily housing throughout several states. Arkansas HFA became aware of properties owned by GNMA and funded by HUD which had expiring prepayment lockout provisions. Because prepayments would eliminate affordable housing restrictions, Arkansas issued bonds to acquire the properties instead of allowing GNMA to sell them in the open market. The bond transaction was structured so that funds would be released to each of the participating HFA's around the nation over time including excess prepayments. Such funds were intended to be used by each State to make grants or loans to the property owners of the BMIR properties in the portfolio to convince them not to prepay the loan. Over the last few years, the Board has taken action on some of these funds to be used for single family and multifamily asset resolution and workout.

When developing the funding allocation formula, the Department took into consideration the following factors to various degrees (all came from the U.S. Census American Community Survey unless otherwise indicated): Population, poverty, veterans, persons with disabilities, and homelessness data. Because the U.S. Census does not track "Homeless" as a category, the Department used two sources to draw the Homelessness figures. The first is the 2010 homeless Point in Time count mandated by the US Department of Housing and Urban Development, and the second is from 2010 U.S. Census data on individuals living in group quarters but not institutionalized. This excluded individuals who were in hospitals or other institutional settings, allowing us to consider shelters and dormitories set up for the homeless.

Attachment A

Name	Total Population (1)	Income in the past 12 months below poverty level (1):	Veterans (2)	Persons w/disabilities (3)	Homelessness (Group quarters, Other noninstitutional facilities) (4)	2010 Homeless Point in Time Count (5)	Year Award	Biennium Award
Arlington	380,072	59,715	24,448	37,673	370	2,181	\$ 255,009.49	\$ 510,018.98
Austin	790,593	142,930	39,853	71,830	3,072	2,087	\$ 496,833.41	\$ 993,666.83
Corpus Christi	287,231	52,984	26,354	52,868	1,057	576	\$ 214,627.49	\$ 429,254.99
Dallas	1,299,590	295,464	57,308	114,495	3,594	3,710	\$ 795,905.80	\$ 1,591,811.61
El Paso	620,440	138,368	41,389	68,707	1,357	1,260	\$ 392,980.94	\$ 785,961.89
Fort Worth	731,588	136,577	42,985	66,437	1,933	2,181	\$ 459,845.26	\$ 919,690.53
Houston	2,260,918	459,355	99,447	209,692	8,724	6,368	\$ 1,426,138.28	\$ 2,852,276.55
San Antonio	1,373,677	261,066	114,519	180,854	3,883	3,291	\$ 958,659.32	\$ 1,917,318.63
Total	7,744,109	1,546,459	446,303	802,556	23,990	21,654	\$ 5,000,000	\$ 10,000,000
Weight	20%	20%	25%	5%	15%	15%		

- 1. Source: U.S. Census Bureau, 2009 American Community Survey 1-Year Estimates
- 2. Source: 2005-2009 American Community Survey 5-Year Estimates
- 3. Source: U.S. Census Bureau, 2009 American Community Survey 1-Year Estimates
- 4. Source: U.S. Census Bureau, 2010 Census
- 5. Source: HUD's 2010 Continuum of Care Homeless Assistance Programs

TEXAS HOMEOWNERSHIP DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action to publish a Request For Proposal (RFP) for Master Servicer for the Single Family Mortgage Revenue Bond (MRB) Program

RECOMMENDED ACTION

Approve issuance of a RFP for Master Servicer for the Single Family MRB Program

WHEREAS, the publication of the RFP will allow the Department to identify qualified servicers for future MRB transactions or other innovative homebuyer programs presented to the Department.

RESOLVED, that the Acting Director or Executive Director be authorized, empowered, and directed, for and on behalf of the Department to publish a RFP for Single Family MRB Master Servicer and to bring the recommended selection or selections to this Board for approval.

BACKGROUND

The Department currently utilizes Bank of America Home Loans to serve as its Master Servicer on its current MRB Program 77. Their contract is slated to expire in May, 2012.

Therefore, staff will develop and publish a RFP to identify qualified servicers for any upcoming programs and make a recommendation to the Board. The RFP used will include language regarding the use of Historically Underutilized Businesses (HUBs). Based on responses, staff anticipates recommending a list of qualified servicers to the Board that the Department can select from for use depending on the type of transaction undertaken.

TDHCA's Single Family MRB Program currently channels low interest rate mortgage funds through participating lenders across the State to eligible borrowers who are purchasing a home for the first time or who have not owned a home in the past three years. In order to provide funds for the program, TDHCA generally issues Mortgage Revenue Bonds or other alternative funding sources to accomplish this task. As the loans are originated and closed by the program's participating lenders, they are typically delivered to the trustee via the Master Servicer and purchased on the Department's behalf. The Master Servicer must service the mortgage loans in accordance with sound loan servicing practices and as required by the terms and conditions of a Program Administration and Servicing Agreement.

Additionally, the Master Servicer is responsible for securing commitments from Fannie Mae/Freddie Mac/GNMA, pooling and warehousing loans, servicing the loans, issuing Fannie Mae, Freddie Mac/GNMA certificates and selling the certificates to the Program's Bond Trustee or other identified investors. The Master Servicer is also required to assist TDHCA in establishing the necessary procedures and guidelines to facilitate efficient operation of the Programs.

The Master Servicer also reviews all documents relating to the Program and examines all loans to assure compliance with program guidelines and applicable Federal and State law. They also approve all mortgage lenders for participation in the program and manage reservation allocations on a first come, first served basis. Additionally, they track and report portfolio delinquencies and foreclosures and conduct lender trainings as well as provide detailed quarterly status reports regarding program performance.

HOUSING RESOURCE CENTER BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the 2012 Regional Allocation Formula Methodology (Draft for Public Comment)

RECOMMENDED ACTION

Approve the publication for public comment on the draft of the 2012 Regional Allocation Formula (RAF) Methodology.

WHEREAS, §2306.111(d) of the Texas Government Code requires that the Department use a Regional Allocation Formula to allocate its HOME, Housing Tax Credit and Housing Trust Fund funding and

WHEREAS, this Regional Allocation Formula objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes.

RESOLVED, that the Draft 2012 Regional Allocation Formula Methodology for the HOME, Housing Tax Credit and Housing Trust Fund programs, in the form presented to this meeting, is hereby approved and

FURTHER RESOLVED, that the Executive Director and his designees are authorized and empowered to publish the Draft 2012 Regional Allocation Formula Methodology for the HOME, Housing Tax Credit and Housing Trust Fund programs for public comment and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Regional Allocation Formula (RAF) objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes. The RAF also allocates funding to rural and urban areas within each region. As a dynamic measure of need, the RAF is revised annually to reflect updated data; respond to public comment; and better assess regional housing needs and available resources.

The HOME, Housing Tax Credit (HTC) and Housing Trust Fund (HTF) RAFs use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. §2306.111(c) of the Texas Government Code requires that 95 percent of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the HOME RAF only uses need and available resource data for non-PJs.

The Draft 2012 RAF methodology will be made available for public comment from September 26th through October 19th, 2011. The final methodology will be published on the Department website. It should be noted that the Board is approving the formula methodology, not specific allocation amounts. The 2011 HISTA data, or Households by Income, Size, Tenure and Age, from Ribbon Demographics

is utilized in the RAF. HISTA data is based upon special tabulations of 2000 US Census data with demographic projections provided by Claritas.

Staff recommends updating the formula with recent award data following any Board action impacting 2011 awards during the November 10th Board meeting. Board action impacting 2011 awards could result in shifting allocation amounts. Staff recommends updating the formula with available data until November 25th, permitting the Department to submit the RAF with the HTC Application Submission Procedures Manual submitted to the Governor for signature with the Qualified Action Plan by December 1st. Note also that the tax credit amounts do not yet reflect forward commitments that may be made out of the 2012 ceiling.

ATTACHMENT A 2012 REGIONAL ALLOCATION FORMULA METHODOLOGY (draft)

BACKGROUND

Sections 2306.111(d) and 2306.1115 of the Texas Government Code require that TDHCA use a Regional Allocation Formula (RAF) to allocate its HOME, Housing Trust Fund (HTF), and Housing Tax Credit (HTC) funding. This RAF objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes. These regions are shown in "Figure 1. State Service Regions". The RAF also allocates funding to rural and urban areas within each region.

As a dynamic measure of need, the RAF is revised annually to reflect updated demographic and resource data; respond to public comment; and better assess regional housing needs and available resources. The RAF is submitted annually for public comment.

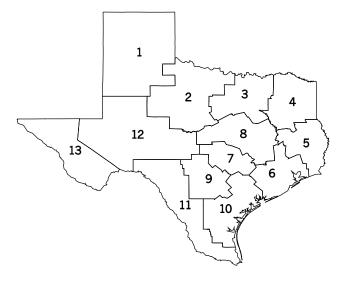


Figure 1. State Service Regions

The HOME, HTF and HTC RAFs use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. §2306.111(c) of the Texas Government Code requires that 95 percent of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the HOME RAF only uses need and available resource data for non-PJs.

METHODOLOGY

Consideration of Affordable Housing Need

The first part of the RAF determines the funding allocation based solely on objective measures of each region's share of the State's affordable housing need. The RAF uses the following 2000 US Census data to calculate this regional need distribution.

- Poverty: Number of persons in the region who live in poverty.
- Cost Burden: Number of households with a monthly gross rent or mortgage payment to monthly household income ratio that exceeds 30 percent.
- Overcrowded Units: Number of occupied units with more than one person per room.
- Units with Incomplete Kitchen or Plumbing: Number of occupied units that do not have all of the following: sink with piped water; range or cook top and oven; refrigerator, hot and cold piped water, flush toilet, and bathtub or shower.

Non-poverty data is for households at or below 80% of the Area Median Family Income (AMFI).

• Because the HTC program supports rental development activities, renter household data is used for the HTC RAF.

• Because the HOME and HTF programs support renter and owner activities, both renter and owner data is used in the HOME and HTF RAFs.

The following steps are used to measure regional need.

- 1. Need data is adjusted to current year levels by applying a growth factor based on the growth experienced since 2000. 1
- 2. Each need measure is weighted to reflect its perceived relevance in assessing affordable housing need. Half the measure weight is associated with poverty because of the significant number of persons in poverty and the use of this factor in the HUD Community Planning and Development Program Formula Allocations. The remaining measure weight is proportionately allocated based on the relative size of the other three measure populations. The resulting need measure weights are: poverty = 50 percent, cost burden = 36 percent, overcrowding = 12 percent, and substandard housing = 2 percent.
- 3. The following steps calculate the funding distribution based on the need measures.
 - a. The total RAF funding amount is multiplied by each need measure weight to determine the amount of funding distributed by that measure.
 - b. Each measure's amount of funding is regionally distributed based on the distribution of persons or households in need.
- 4. The resulting regional measure distributions are then combined to calculate each region's need-based funding amount.
- 5. Each region's need based funding amount is divided by the total RAF funding amount. This quotient is the region's need percentage.

Consideration of Available Housing Resources

In addition to TDHCA, there are many other sources of funding that address affordable housing needs. To mitigate any inherent inequities in the way these resources are regionally allocated, the RAF compares each region's level of need to its level of resources.

Because the resources used in the RAF reflect the three programs' eligible households and activities, the following data is used.

- The HTC RAF uses rental funding sources.
- The HTF RAF uses sources of rental and owner funding.
- The HOME RAF uses sources of rental and owner funding in non-PJs.

The following resources are used in the HOME, HTF and HTC RAFs.

- Housing Tax Credits (4% and 9%)²
- Housing Trust Fund Rental Development Funding
- HUD HOME Funds (TDHCA and Participating Jurisdiction)
- HUD Housing for Persons with AIDS Funding
- HUD Public Housing Authority (PHA) Capital Funding

¹ The 2011 HISTA data, or Households by Income, Size, Tenure and Age, from Ribbon Demographics is utilized in the RAF. HISTA data is based upon special tabulations of 2000 US Census data with demographic projections provided by Claritas.

² Estimated capital raised through the syndication of the HTCs. This figure is \$0.70 based upon a survey of HTC applications.

- HUD §8 Tenant-Based Rental Assistance (TDHCA & PHA)
- Multifamily Texas Housing Trust Fund
- Multifamily Tax-Exempt Bond Financing³
- United States Department of Agriculture (USDA) Multifamily Development Funding
- USDA Rental Assistance

The HOME and HTF RAFs also include the following sources of owner funding.

- USDA 502 and 504 Loans and Grants
- Single Family Bond Financing (TDHCA and Housing Finance Corporations)

These steps calculate the regional distribution of available housing resources.

- 1. The available resources are summed by region and for the state. The resulting sums are the regional and state resource totals.
- 2. The regional resource total is divided by the state resource total. This quotient is the region's resource percentage.

Comparison of Regional Need and Available Resource Distributions

In theory, if the measurement of regional need is accurate, then the region's need percentage should reflect its resource percentage. A region with a negative resource and need difference is considered to be "under allocated." This region should have received a larger portion of the available resources to address their need. Similarly, a region with a positive difference is considered "over allocated." Conversely, it should have received a smaller portion of the available resources.

To address differences between the regional need and resource distributions, the RAF uses a resource funding adjustment to shift a portion of the need based funding distribution from over allocated to under allocated regions.

A resource funding adjustment limit is used to ensure that a particular region or geographical area is not overly penalized or benefited by the resource funding adjustments. A region's need based funding amount cannot be reduced or increased by more than the percentage of the state's available resources that are not already regionally distributed. This percentage is calculated by finding the average difference between each funding source's regional distribution and the regional need percentages. Sources whose average of the regional differences exceeds five percent or that are not distributed to all regions are included in the resource funding adjustment limit.

The following steps calculate the resource funding adjustments.

- 1. The regional resource percentage and regional need percentage differences are calculated.
- 2. The resulting over allocated (positive) resource differences are summed to calculate the state resource difference.
- 3. The state resource difference is multiplied by the total RAF funding. This product is the state over allocated resource amount.
- 4. Each over allocated resource difference is divided by the state resource difference. This quotient is the over allocation percentage.

³ The value of the bonds is 62 percent of the total bond amount. This is an estimate of the capital required to fill an affordability gap that remains after the capital raised through the syndication of the 4% HTCs is deducted from the total development cost. The Final RAF will utilize the most current award data available.

- 5. Each over allocation percentage is multiplied by the state over allocated resource amount to determine the base resource funding adjustment.
- 6. The region's need based funding amount is multiplied by the resource funding adjustment limit. This product is the maximum resource funding adjustment.
- 7. The lesser of the base resource funding adjustment and the maximum resource funding adjustment is the over allocated region's resource funding adjustment.
- 8. The over allocated regions' resource funding adjustments are summed. This total is the state under allocated resource amount.
- 9. Each under allocated (negative) resource difference is divided by the state resource difference to determine the under allocation percentage.
- 10. Each under allocation percentage is multiplied by the state under allocated resource amount. This product is the under allocated region's resource funding adjustment.

Consideration of Rural and Urban Need⁴

There are a number of factors that affect the distribution of resources to rural and urban areas. These include rural area feasible development sizes, allowable rent and income levels, and proximity to developers, contractors, and materials. Access to resources is also an issue because some funding, such as multifamily tax-exempt bond financing, does not work very well in rural areas. As required by \$2306.111(d) of the Texas Government Code, to ensure an equitable distribution of funding to both rural and urban areas, the RAF analyzes the distribution of rural and urban need and resources at the regional level.

The RAF uses the following definitions to categorize rural and urban areas.

- 1. Area The geographic area contained within the boundaries of:
 - a. an incorporated place, or
 - b. a Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.

2. Rural – An Area that is:

a. outside the boundaries of a metropolitan statistical area (MSA); or

- b. within the boundaries of a MSA, if the Area has a population of 25,000⁵ or less and does not share a boundary with an Urban Area.⁶
- c. in an Area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an Area that is located in a municipality with a population of more than 50,000.

⁵ The definition of "population" in state law (Sec. 311.005(3), Government Code) is "the population shown by the most recent federal decennial census." Because of this requirement, the decennial census place population must be used to make the area type determination.

⁴ §2306.111(d) requires the RAF to consider "rural and urban areas" in its distribution of program funding.

⁶ Applicants may petition TDHCA to update the "Rural" designation of an incorporated area within a metropolitan statistical area by providing a letter from a local official. Such letter must clearly indicate that the area's incorporated boundary touches the boundary of another incorporated area with a population of over 25,000. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications, or application submission period for HOME applications.

⁷ TDHCA utilizes the most recent list of designated places produced by the Texas USDA Rural Development State Office. Applicants may petition TDHCA to update the "Rural" designation of an area by providing a letter from a USDA Rural Development official clearly stating that the area is eligible for funding by USDA Rural Development. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications, or application submission period for HOME applications.

3. Urban – An Area that:

- a. is located within the boundaries of a metropolitan statistical area (MSA); or
- b. does not meet the Rural Area definition.

Measuring Rural and Urban Affordable Housing Need

The following steps calculate the level of need in rural and urban areas.

- 1. Need data are adjusted to current year levels by applying a growth factor based on the growth experienced since 2000.
- 2. The same need measure weights used to determine the regional need distribution are multiplied by the region's funding amount. This product is the measure funding amount.
- 3. Area level measure data is identified as being rural or urban based on the RAF area definitions.
- 4. Using the coded area data, each measure's affected number of rural and urban persons or households in the region is calculated.
- 5. The corresponding measure rural and urban percentages are calculated.
- 6. For each measure, the regional funding amount is multiplied by the measure rural and urban percentages to calculate the rural and urban measure funding amounts.
- 7. The rural and urban measure funding amounts are summed for the measures. These totals are the region's rural and urban need based funding amounts.
- 8. The region's rural and urban need based funding amounts are divided by the region's total funding amount. These quotients provide the region's rural and urban need percentages.

Measuring Rural and Urban Available Resources

The following steps calculate the Rural and Urban distribution of available housing resources.

- 1. The geographically coded area data is summed to calculate regional rural and urban resource totals. Funding allocated at the county level is proportionately distributed based on the percentage split between rural and urban areas within the county. The resulting totals are the rural and urban resource totals
- 2. The corresponding regional rural and urban resource percentages are calculated.

Rural and Urban Available Resources Funding Adjustment

The following steps calculate the rural and urban area resource funding adjustments.

- 1. The differences between the rural and urban resource percentages and rural and urban need percentages are calculated. The resulting differences shows which of the two areas (rural or urban) were over or under allocated.
- 2. Each over allocated (positive) area resource difference is multiplied by the region's funding amount. For example, if the urban area is over allocated, then the difference is multiplied by the Regional Funding Amount. The resulting product is the area's base resource funding adjustment.
- 3. The over allocated area's need based funding amount is multiplied by the resource funding adjustment limit. This product is the area's maximum resource funding adjustment.
- 4. The lesser of the area's base resource funding adjustment or the maximum resource funding adjustment is the area's resource funding adjustment.

Rural and Urban Regional Funding Amounts

The area's over allocated resource funding adjustment is subtracted from the over allocated area's need based funding amount and is added to the under allocated area's need based funding amount.

For the HTC RAF, the regional amount of rural funding is adjusted to a minimum of \$500,000, if needed, and the overall state rural percentage of the total tax credit ceiling amount is adjusted to a minimum of 20 percent, if needed.

QUESTIONS AND COMMENTS

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ATTACHMENT B 2012 DRAFT RAF DISTRIBUTION FOR THE HTC, HOME AND HTF PROGRAMS

Note that shifts in the regional and allocation amounts should be expected in the final version of the Regional Allocation Formula (RAF) after updated population data and data from other available resources is incorporated into the formula. Also note that Board action, including forward commitments, may alter the total amount available for distribution in each region and subregion during the 2012 housing tax credit cycle.

2012 DRAFT HOUSING TAX CREDIT RAF

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$1,659,207	3.6%	\$775,783	46.8%	\$883,424	53.2%
2	Abilene	\$861,433	1.9%	\$526,191	61.1%	\$335,241	38.9%
3	Dallas/Fort Worth	\$10,371,200	22.6%	\$1,236,249	11.9%	\$9,134,951	88.1%
4	Tyler	\$1,631,662	3.6%	\$1,075,006	65.9%	\$556,656	34.1%
5	Beaumont	\$1,249,178	2.7%	\$668,839	53.5%	\$580,339	46.5%
6	Houston	\$10,902,463	23.7%	\$1,086,387	10.0%	\$9,816,076	90.0%
7	Austin/Round Rock	\$3,575,102	7.8%	\$608,698	17.0%	\$2,966,404	83.0%
8	Waco	\$2,296,870	5.0%	\$569,835	24.8%	\$1,727,036	75.2%
9	San Antonio	\$3,656,564	8.0%	\$621,813	17.0%	\$3,034,750	83.0%
10	Corpus Christi	\$1,519,665	3.3%	\$549,000	36.1%	\$970,665	63.9%
11	Brownsville/Harlingen	\$5,357,201	11.7%	\$2,007,439	37.5%	\$3,349,762	62.5%
12	San Angelo	\$952,376	2.1%	\$528,956	55.5%	\$423,420	44.5%
13	El Paso	\$1,920,591	4.2%	\$558,394	29.1%	\$1,362,197	70.9%
	Total	\$45,953,513	100.0%	\$10,812,591	23.5%	\$35,140,921	76.5%

Rural Percent of Tax Credit Ceiling Amount: 20%

The amount of rural funding for the Housing Tax Credit (HTC) RAF was adjusted using the following steps. Step One: Regions with less than \$500,000 rural funding were adjusted up to \$500,000. Step Two: The rural percentage of the total tax credit ceiling amount was calculated and if the rural percentage was less than 20 percent, the rural amount for each region was increased at a rate equal to their regional funding percentage until the overall state rural percentage reached 20 percent.

2012 DRAFT HOME RAF

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$2,469,065	7.3%	\$2,468,868	100.0%	\$197	0.0%
2	Abilene	\$1,933,823	5.7%	\$1,891,243	97.8%	\$42,580	2.2%
3	Dallas/Fort Worth	\$4,369,395	12.8%	\$1,661,149	38.0%	\$2,708,247	62.0%
4	Tyler	\$4,059,284	11.9%	\$3,559,075	87.7%	\$500,209	12.3%
5	Beaumont	\$1,741,051	5.1%	\$1,454,590	83.5%	\$286,461	16.5%
6	Houston	\$3,856,593	11.3%	\$1,030,854	26.7%	\$2,825,739	73.3%
7	Austin/Round Rock	\$1,264,579	3.7%	\$427,451	33.8%	\$837,128	66.2%
8	Waco	\$1,755,987	5.2%	\$967,029	55.1%	\$788,958	44.9%
9	San Antonio	\$1,703,903	5.0%	\$1,123,026	65.9%	\$580,877	34.1%
10	Corpus Christi	\$2,873,540	8.4%	\$1,986,752	69.1%	\$886,788	30.9%
11	Brownsville/Harlingen	\$4,979,183	14.6%	\$2,408,979	48.4%	\$2,570,204	51.6%
12	San Angelo	\$2,206,208	6.5%	\$1,665,349	75.5%	\$540,859	24.5%
13	El Paso	\$797,204	2.3%	\$578,426	72.6%	\$218,778	27.4%
	Total	\$34,009,814	100.0%	\$21,222,789	62.4%	\$12,787,025	37.6%

2012 DRAFT HOUSING TRUST FUND RAF

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$160,377	4.0%	\$73,503	45.8%	\$86,875	54.2%
2	Abilene	\$83,508	2.1%	\$37,087	44.4%	\$46,420	55.6%
3	Dallas/Fort Worth	\$841,204	21.0%	\$67,468	8.0%	\$773,737	92.0%
4	Tyler	\$166,850	4.2%	\$114,890	68.9%	\$51,960	31.1%
5	Beaumont	\$111,788	2.8%	\$55,978	50.1%	\$55,810	49.9%
6	Houston	\$859,618	21.5%	\$62,277	7.2%	\$797,341	92.8%
7	Austin/Round Rock	\$241,021	6.0%	\$22,288	9.2%	\$218,733	90.8%
8	Waco	\$206,830	5.2%	\$37,278	18.0%	\$169,552	82.0%
9	San Antonio	\$300,690	7.5%	\$43,880	14.6%	\$256,810	85.4%
10	Corpus Christi	\$143,266	3.6%	\$52,626	36.7%	\$90,640	63.3%
11	Brownsville/Harlingen	\$603,129	15.1%	\$206,666	34.3%	\$396,464	65.7%
12	San Angelo	\$101,159	2.5%	\$42,224	41.7%	\$58,935	58.3%
13	El Paso	\$180,561	4.5%	\$27,215	15.1%	\$153,345	84.9%
	Total	\$4,000,000	100.0%	\$843,379	21.1%	\$3,156,621	78.9%

HOUSING RESOURCE CENTER BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the 2012 Affordable Housing Needs Score Methodology (Draft for Public Comment)

RECOMMENDED ACTION

Approve the publication for public comment on the draft of the 2012 Affordable Housing Need Score Methodology.

WHEREAS, the Affordable Housing Needs Score scoring criterion is used to evaluate HOME, Housing Tax Credit, and Housing Trust Fund applications.

RESOLVED, that the Draft 2012 Affordable Housing Needs Score Methodology for the HOME, Housing Tax Credit and Housing Trust Fund programs, in the form presented to this meeting, is hereby approved and

FURTHER RESOLVED, that the Executive Director and his designees are authorized and empowered to publish the Draft 2012 Affordable Housing Needs Score Methodology for the HOME, Housing Tax Credit and Housing Trust Fund programs for public comment and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Affordable Housing Needs Score methodology is used to evaluate HOME, Housing Tax Credit (HTC) and Housing Trust Fund (HTF) applications and is submitted annually for public comment. The final methodology and resulting scores are published on the TDHCA website.

While not specifically legislated by the state, the AHNS helps address other need based funding allocation requirements by responding to:

- an IRS Section 42 requirement that the selection criteria used to award the HTC funding must include "housing needs characteristics."
- State Auditor's Office (SAO) and Sunset Advisory Commission findings that called for the use of objective, need based criteria to award TDHCA's funding.

Through the AHNS, applicants are encouraged to request funding to serve communities that have a high level of need. The HOME, HTC, and HTF programs use slightly modified versions of the AHNS because the programs have different eligible activities, households, and geographical areas. Under §2306.111(c) of the Texas Government Code, 95 percent of HOME funding is set aside for non-participating jurisdictions (non PJs). Therefore, the HOME AHNS only uses need data for non-PJs.

The Draft 2012 AHNS Methodology will be made available for public comment from September 26th through October 19th, 2011. Staff recommends updating the scores with recent award data until November 19th to allow for any changes in 2011 awards during the November 10th Board meeting. The 2010 HISTA data, or Households by Income, Size, Tenure and Age, from Ribbon Demographics is utilized in the AHNS. HISTA data is based upon special tabulations of 2000 US Census data with demographic projections provided by Claritas.

Attachment A 2012 Affordable Housing Needs Score Methodology (draft)

Background

The AHNS scoring criterion is used to evaluate HOME, Housing Tax Credit (HTC), and Housing Trust Fund (HTF) applications. The formula is submitted annually for public comment. The final version is published in the SLIHP.

While not specifically legislated by the state, the AHNS helps address other need based funding allocation requirements by responding to:

- an IRS Section 42 requirement that the selection criteria used to award the HTC funding must include "housing needs characteristics."
- State Auditor's Office (SAO) and Sunset findings that called for the use of objective, need based criteria to award TDHCA's funding.

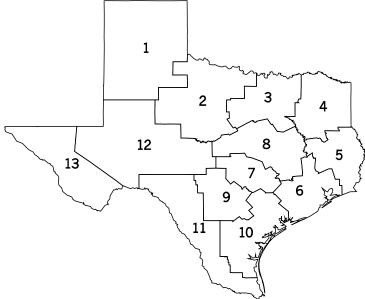


Figure 1. State Service Regions

The AHNS is an extension of the TDHCA

Regional Allocation Formula (RAF) in that it provides a comparative assessment of each area's level of need relative to the other areas within its State Service Region. Through the AHNS, applicants are encouraged to request funding to serve communities that have a high level of need.

The HOME, HTF, and HTC programs use slightly modified versions of the AHNS because the programs have different eligible activities, households, and geographical areas. Under §2306.111(c) of the Texas Government Code, at least 95 percent of HOME funding is set aside for non-participating jurisdictions. Therefore, the HOME AHNS only uses need data for non-participating jurisdictions.

Methodology

The following steps measure each area's level of affordable housing need.

- 1) The Census number of households at or below 80% AMFI with cost burden establishes baseline for each area's number of households in need of housing assistance. The type of household considered for this baseline varies by activity.
 - a) Renter data is used for the rental development (RD), tenant based rental assistance (TBRA), and down payment assistance (DPA) scores.
 - b) Owner data is used for the owner occupied rehabilitation (OCC) score.
- 2) For each activity, an adjusted number of households with cost burden is calculated based on the difference between the area's population in the 2000 Census and the most accurate and recent population estimate data available.
- 3) The number of households assisted using TDHCA funding since the Census was taken (April 1, 2000) is subtracted from the adjusted number of households with cost burden. The resulting number shows the area's estimated remaining need.
 - a) For HTC scores, RD activity is used;

- b) For HOME and HTF TBRA and RD scores, TBRA¹ and RD activity is used;
- c) For HOME and HTF DPA scores, First Time Homebuyer and HOME DPA activity is used; and
- d) For HOME and HTF OCC scores, HOME OCC activity is used.
- 4) The estimated remaining need measure is used to quantify the area's level of need for each scoring activity as measured by the ratio of the area's households in need to the area's total households. This ratio shows the concentration of need within an area.
- 5) A sliding scale that compares each area's level of need to the region's other areas is used to assign points to each area based on its relative concentration of need (maximum of 6 points).

Rural and Urban Need

Section 2306.111(d) of the Government Code requires the RAF to consider rural and urban areas in its distribution of funds. To assist with this distribution, each area is classified using the RAF's geographic area definitions.

The RAF and AHNS use the following definitions to categorize rural and urban areas.

- 1. Area The geographic area contained within the boundaries of:
 - a. an incorporated place, or
 - b. a Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.
- 2. Rural An Area that is:
 - a. outside the boundaries of a metropolitan statistical area (MSA); or
 - b. within the boundaries of a MSA, if the Area has a population of 25,000 or less² and does not share a boundary with an Urban Area.³
 - c. in an Area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an Area that is located in a municipality with a population of more than 50,000.4
- 3. Urban An Area that:
 - a. is located within the boundaries of a metropolitan statistical area (MSA); or
 - b. does not meet the Rural Area definition.

For the HOME program, a county score is used for activities that will serve more than one Area within a county. If multiple counties or Areas in multiple counties will be served by an application, then the county scores will be averaged. Participating Jurisdictions (PJ) receive a score of zero.

¹ Because of the limited duration of TBRA, a conversion factor was used to equate the value of a voucher to an affordable housing unit. This factor equaled the voucher duration divided by the number of years since the Census. For 2011, this is 2 years/10 years or an approximate reduction in the number of households in need by 25 percent for each TBRA voucher.

² The definition of "population" in state law (Sec. 311.005(3), Government Code) is "the population shown by the most recent federal decennial census." Because of this requirement, the decennial census place population must be used to make the area type determination.

³ Applicants may petition TDHCA to update the "Rural" designation of an incorporated area within a metropolitan statistical area by providing a letter from a local official. Such letter must clearly indicate that the area's incorporated boundary touches the boundary of another incorporated area with a population of over 25,000. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications, or application submission period for HOME applications.

⁴ TDHCA utilizes the most recent list of designated places produced by the Texas USDA Rural Development State Office. Applicants may petition TDHCA to update the "Rural" designation of an area by providing a letter from a USDA Rural Development official clearly stating that the area is eligible for funding by USDA Rural Development. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications, or application submission period for HOME applications.

Draft 2012 HOME Affordable Housing Need Scores (AHNS) County Level

(Sorted by Region then County.)

Instructions

Use this table to determine an AHNS for an application that will serve an entire county, multiple counties, or multiple places within a county or counties.

Special Circumstances

- (1) If multiple counties or places in multiple counties will be served by the application, then the county scores should be averaged.
- (2) Participating Jurisdictions (PJ) recieve a score of zero and are not included in the table. All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Sandy Garcia via facsimile at (512) 475-4798 or by email at sandy.garcia@tdhca.state.tx.us.

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Armstrong	6	6	4
1	Bailey	3	3	4
1	Briscoe	6	6	4
1	Carson	4	4	4
1	Castro	4	4	4
1	Childress	4	5	3
1	Cochran	3	3	4
1	Collingsworth	4	4	4
1	Crosby	5	5	4
1	Dallam	5	5	4
1	Deaf Smith	3	4	4
1	Dickens	5	5	5
1	Donley	6	6	4
1	Floyd	4	4	3
1	Garza	6	6	6
1	Gray	4	4	5
1	Hale	4	4	4
1	Hall	5	5	4
1	Hansford	4	4	5
1	Hartley	6	6	4
1	Hemphill	5	5	4
1	Hockley	4	4	5
1	Hutchinson	5	5	4
1	Lamb	5	5	3
1	Lipscomb	4	4	5
1	Lubbock	4	4	4
1	Lynn	4	3	4
1	Moore	4	4	3
1	Motley	4	4	3
1	Ochiltree	3	4	3
1	Oldham	6	6	6
1	Parmer	5	5	3
1	Potter	3	3	6
1	Randall	5	5	3
1	Roberts	6	6	4

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Sherman	4	4	4
1	Swisher	4	4	4
1	Terry	4	4	4
1	Wheeler	4	4	4
1	Yoakum	4	4	4
2	Archer	3	3	4
2	Baylor	4	4	3
2	Brown	5	5	5
2	Callahan	4	5	4
2	Clay	6	5	5
2	Coleman	4	4	5
2	Comanche	6	6	5
2	Cottle	4	4	3
2	Eastland	4	4	4
2	Fisher	5	4	3
2	Foard	5	5	5
2	Hardeman	6	6	3
2	Haskell	4	4	5
2	Jack	5	5	6
2	Jones	4	4	5
2	Kent	3	3	4
2	Knox	3	3	5
2	Mitchell	5	5	4
2	Montague	4	4	5
2	Nolan	4	4	4
2	Runnels	5	4	4
2	Scurry	4	4	5
2	Shackelford	4	4	4
2	Stephens	5	4	3
2	Stonewall	4	4	5
2	Taylor	4	4	3
2	Throckmorton	4	4	4
2	Wichita	5	5	4
2	Wilbarger	3	4	4
2	Young	5	4	4
3	Collin	4	4	4
3	Cooke	4	4	4
3	Dallas	4	4	4
3	Denton	4	4	4
3	Ellis	4	5	5
3	Erath	5	5	5
3	Fannin	4	5	4
3	Grayson	4	4	5
3	Hood	4	4	4
3	Hunt	5	4	5
3	Johnson	4	4	5
3	Kaufman	5	5	4
3	Navarro	4	4	5

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Palo Pinto	5	5	4
3	Parker	5	5	4
3	Rockwall	4	4	4
3	Somervell	4	4	5
3	Tarrant	4	4	4
3	Wise	5	5	5
4	Anderson	4	5	5
4	Bowie	5	5	4
4	Camp	3	4	5
4	Cass	4	4	4
4	Cherokee	4	4	5
4	Delta	6	5	5
4	Franklin	3	5	4
4	Gregg	4	4	4
4	Harrison	4	4	5
4	Henderson	4	5	4
4	Hopkins	4	4	5
4	Lamar	4	4	4
4	Marion	6	6	5
4	Morris	6	6	4
4	Panola	4	4	4
4	Rains	6	6	4
4	Red River	5	4	3
4	Rusk	5	4	4
4	Smith	4	4	4
4	Titus	5	5	5
4	Upshur	5	5	5
4	Van Zandt	5	4	4
4	Wood	5	5	5
5	Angelina	4	5	4
5	Hardin	4	4	3
5	Houston	5	5	5
5	Jasper	3	4	5
5	Jefferson	4	4	4
5	Nacogdoches	5	5	4
5	Newton	5	4	3
5	Orange	5	5	5
5	Polk	5	4	5
5	Sabine	4	4	4
5	San Augustine	6	5	4
5	San Jacinto	4	4	5
5	Shelby	4	4	5
5	Trinity	5	5	6
5	Tyler	5	5	5
6	Austin	4	4	5
6	Brazoria	4	5	5
6	Chambers	4	4	4
6	Colorado	3	4	5

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Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
6	Fort Bend	4	4	4
6	Galveston	4	5	5
6	Harris	4	4	4
6	Liberty	4	4	5
6	Matagorda	3	4	4
6	Montgomery	4	4	4
6	Walker	6	6	5
6	Waller	3	5	5
6	Wharton	4	4	4
7	Bastrop	4	4	5
7	Blanco	4	4	4
7	Burnet	5	5	5
7	Caldwell	4	4	5
7	Fayette	5	4	5
7	Hays	4	4	5
7	Lee	4	4	3
7	Llano	4	5	4
7	Travis	4	4	4
7	Williamson	5	4	4
8	Bell	4	4	3
8		3	4	5
8	Bosque Brazos	4	4	4
8		4	5	4
8	Coryell Falls	5	4	4
8		4	4	5
8	Freestone Grimes	3	3	5
8	Hamilton	4	4	5
8	Hill	5	5	5
8		4	4	4
	Lampasas	5	5	6
	Leon	4	5	4
8	Limestone	4	4	4
8	McLennan Milam	5	5	4
8	Milam	4	4	6
8	Mills	4	4	3
8	San Saba			
9	Atascosa	4	4	5
9	Bandera	4	6 4	6 3
9	Bexar		4	4
9	Comal	4		
9	Frio	4	4	5
9	Gillespie	4	5	5
9	Guadalupe 	4	4	5
9	Karnes	4	4	4
9	Kendall	4	5	6
9	Kerr	5	6	6
9	Medina	5	5	5
9	Wilson	5	5	4
10	Aransas	4	4	6

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation		
10	Bee	4	4	4		
10	Brooks	4	3	5		
10	Calhoun	5	5	3		
10	DeWitt	5	5	5		
10	Duval	4	4	4		
10	Goliad	3	4	6		
10	Gonzales	4	4	5		
10	Jackson	4	4	4		
10	Jim Wells	4	4	4		
10	Kleberg	4	6	5		
10	Lavaca	5	5	4		
10	Live Oak	5	5	4		
10	Nueces	4	4	4		
10	Refugio	5	5	5		
10	San Patricio	4	5	4		
10	Victoria	5	5	4		
11	Cameron	4	4	4		
11	Dimmit	5	5	4		
11	Edwards	5	4	5		
11	Hidalgo	4	5	5		
11	Jim Hogg	4	4	4		
11	Kinney	4	4	4		
11	La Salle	4	4	3		
11	Maverick	4	4	4		
11	Real	6	6	6		
11	Starr	4	4	4		
11	Uvalde	5	5	5		
11	Val Verde	4	4	5		
11	Webb	4	4	4		
11	Willacy	4	4	5		
11	Zapata	3	4	4		
11	Zavala	5	5	4		
12	Andrews	5	4	4		
12	Coke	6	6	6		
12	Concho	6	6	5		
12	Crane	6	6	4		
12	Crockett	3	4	4		
12	Dawson	4	4	4		
12	Ector	4	4	4		
12	Gaines	5	4	4		
12	Howard	4	5	4		
	Irion	3	3	5		
12	Kimble	5	5	5		
	Martin	5	5	3		
	Mason	6	5	5		
	McCulloch	5	6	6		
12	Menard	5	5	6		
12	Midland	5	5	4		

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation	
12	Pecos	3	3	4	
12	Reagan	5	5	4	
12	Reeves	3	3	4	
12	Schleicher	3	3	6	
12	Sterling	4	4	5	
12	Sutton	3	4	4	
12	Terrell	6	5	5	
12	Tom Green	6	6	5	
12	Upton	4	4	4	
12	Ward	5	5	4	
12	Winkler	4	4	3	
13	Brewster	5	4	4	
13	Culberson	6	6	3	
13	El Paso	4	4	4	
13	Hudspeth	5	4	5	
13	Jeff Davis	4	4	4	
13	Presidio	4	4	5	

Draft 2012 HOME Affordable Housing Need Scores (AHNS) Place Level

Instructions:

Use this table to determine the AHNS of an application that will serve a **single** place.

Special Circumstances

- (1) Rental Development activities that are not located within a place's jurisdiction will utilize the score of closest place.
- (2) Participating Jurisdictions (PJ) recieve a score of zero and are not included in the table.

All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Sandy Garcia via facsimile at (512) 475-4798 or by email at sandy.garcia@tdhca.state.tx.us.

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Abernathy	Hale	2,839	Rural	5	5	3
1	Adrian	Oldham	159	Rural	6	6	6
1	Amherst	Lamb	791	Rural	5	5	3
1	Anton	Hockley	1,200	Rural	3	3	6
1	Bishop Hills	Potter	210	Rural	3	3	6
1	Booker	Lipscomb	1,315	Rural	5	5	3
1	Borger	Hutchinson	14,302	Rural	4	5	3
1	Bovina	Parmer	1,874	Rural	4	3	3
1	Brownfield	Terry	9,488	Rural	5	6	4
1	Buffalo Springs	Lubbock	493	Rural	4	4	4
1	Cactus	Moore	2,538	Rural	3	3	4
1	Canadian	Hemphill	2,233	Rural	5	5	4
1	Canyon	Randall	12,875	Rural	6	6	3
1	Channing	Hartley	356	Rural	6	6	4
1	Childress	Childress	6,778	Rural	4	5	3
1	Clarendon	Donley	1,974	Rural	5	5	3
1	Claude	Armstrong	1,313	Rural	6	6	4
1	Crosbyton	Crosby	1,874	Rural	5	5	3
1	Dalhart	Dallam	7,237	Rural	6	6	4
1	Darrouzett	Lipscomb	303	Rural	6	6	6
1	Denver City	Yoakum	3,985	Rural	4	4	6
1	Dickens	Dickens	332	Rural	6	6	6
1	Dimmitt	Castro	4,375	Rural	5	4	5
1	Dodson	Collingsworth	115	Rural	6	6	6
1	Dumas	Moore	13,747	Rural	4	4	3
1	Earth	Lamb	1,109	Rural	4	4	5
1	Edmonson	Hale	123	Rural	3	3	5
1	Estelline	Hall	168	Rural	6	6	6
1	Farwell	Parmer	1,364	Rural	6	6	4
1	Floydada	Floyd	3,676	Rural	5	5	3
1	Follett	Lipscomb	412	Rural	3	3	6
1	Friona	Parmer	3,854	Rural	5	5	3
1	Fritch	Hutchinson	2,235	Rural	5	4	4
1	Groom	Carson	587	Rural	6	6	6
1	Gruver	Hansford	1,162	Rural	5	5	4
1	Hale Center	Hale	2,263	Rural	5	5	3
1	Нарру	Swisher	647	Rural	4	4	5
1	Hart	Castro	1,198	Rural	4	4	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Hartley	Hartley	441	Rural	5	5	5
1	Hedley	Donley	379	Rural	6	6	6
1	Hereford	Deaf Smith	14,597	Rural	3	4	4
1	Higgins	Lipscomb	425	Rural	3	3	6
1	Howardwick	Donley	437	Rural	6	6	4
1	Idalou	Lubbock	2,157	Rural	3	3	3
1	Kress	Swisher	826	Rural	5	5	3
1	Lake Tanglewood	Randall	825	Rural	6	6	3
1	Lakeview	Hall	152	Rural	6	6	3
1	Lefors	Gray	559	Rural	3	3	5
1	Levelland	Hockley	12,866	Rural	5	6	5
1	Lipscomb	Lipscomb	44	Rural	3	3	3
1	Littlefield	Lamb	6,507	Rural	6	6	4
1	Lockney	Floyd	2,056	Rural	4	3	3
1	Lorenzo	Crosby	1,372	Rural	4	4	4
1	Matador	Motley	740	Rural	4	4	3
1	McLean	Gray	830	Rural	5	5	6
1	Meadow	Terry	658	Rural	3	3	3
1	Memphis	Hall	2,479	Rural	5	5	3
1	Miami	Roberts	588	Rural	6	6	4
1	Mobeetie	Wheeler	107	Rural	3	3	4
1	Morse	Hansford	172	Rural	5	5	6
1	Morton	Cochran	2,249	Rural	3	3	3
1	Muleshoe	Bailey	4,530	Rural	3	3	4
1	Nazareth	Castro	356	Rural	3	3	4
1	New Deal	Lubbock	708	Rural	5	5	3
1	New Home	Lynn	320	Rural	4	4	3
1	O'Donnell	Lynn	1,011	Rural	3	3	3
1	Olton	Lamb	2,288	Rural	3	3	3
1	Opdyke West	Hockley	188	Rural	5	5	6
1	Palisades	Randall	352	Rural	5	5	4
	Pampa	Gray	17,887	Rural	4	5	4
1	Panhandle	Carson	2,589	Rural	4	4	3
1	Perryton	Ochiltree	7,774	Rural	3	4	3
1	Petersburg	Hale	1,262	Rural	3	3	3
1	Plains	Yoakum	1,450	Rural	5	5	3
1	Plainview	Hale	22,336	Rural	5	5	4
1	Post	Garza	3,708	Rural	6	6	6
1	Quail	Collingsworth	33	Rural	3	3	3
1	Quitaque	Briscoe	432	Rural	6	6	5
1	Ralls	Crosby	2,252	Rural	5	5	6
1	Ransom Canyon	Lubbock	1,011	Rural	4	4	3
1	Reese Center	Lubbock	42	Urban	3	3	6
1	Roaring Springs	Motley	265 517	Rural	4	3	3
1	Ropesville	Hockley Collingsworth	517 39	Rural	3		3
1	Samnorwood			Rural	3 5	3 5	3
1	Sanford	Hutchinson Hale	203 1,926	Rural Rural	5	5	6
1	Seth Ward		2,086				5
1	Shallowater	Lubbock		Rural	6	6	
1	Shamrock Silverton	Wheeler Briscoe	2,029 771	Rural Rural	5 5	5 5	6

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Skellytown	Carson	610	Rural	3	3	6
1	Slaton	Lubbock	6,109	Rural	5	5	5
1	Smyer	Hockley	480	Rural	4	4	5
1	Spade	Lamb	100	Rural	5	5	3
1	Spearman	Hansford	3,021	Rural	3	3	4
1	Springlake	Lamb	135	Rural	6	6	3
1	Spur	Dickens	1,088	Rural	4	4	4
1	Stinnett	Hutchinson	1,936	Rural	5	5	4
1	Stratford	Sherman	1,991	Rural	3	3	3
1	Sudan	Lamb	1,039	Rural	5	5	3
1	Sundown	Hockley	1,505	Rural	4	4	3
1	Sunray	Moore	1,950	Rural	4	4	3
1	Tahoka	Lynn	2,910	Rural	4	3	6
1	Texhoma	Sherman	371	Rural	6	6	6
1	Texline	Dallam	511	Rural	4	4	5
1	Timbercreek Canyon	Randall	406	Rural	3	3	3
1	Tulia	Swisher	5,117	Rural	4	4	4
1	Turkey	Hall	494	Rural	3	3	3
1	Vega	Oldham	936	Rural	5	5	5
1	Wellington	Collingsworth	2,275	Rural	4	4	5
1	Wellman	Terry	203	Rural	4	3	6
1	Wheeler	Wheeler	1,378	Rural	4	4	3
1	White Deer	Carson	1,060	Rural	5	5	3
1	Whiteface	Cochran	465	Rural	3	3	6
1	Wilson	Lynn	532	Rural	3	3	4
1	Wolfforth	Lubbock	2,554	Rural	5	5	6
2	Albany	Shackelford	1,921	Rural	5	4	3
2	Anson	Jones	2,556	Rural	3	3	5
2	Archer City	Archer	1,848	Rural	4	4	3
2	Aspermont	Stonewall	1,021	Rural	4	4	5
2	Baird	Callahan	1,623	Rural	3	5	4
2	Ballinger	Runnels	4,243	Rural	6	6	6
2	Bangs	Brown	1,620	Rural	5	4	6
2	Bellevue	Clay	386	Rural	4	4	5
2	Benjamin	Knox	264	Rural	3	3	6
2	Blackwell	Nolan	360	Rural	4	4	3
2	Blanket	Brown	402	Rural	6	6	5
2	Bowie	Montague	5,219	Rural	5	6	6
2	Breckenridge	Stephens	5,868	Rural	5	4	3
2	Brownwood	Brown	18,813	Rural	3	6	4
2	Bryson	Jack	528	Rural	5	5	6
2	Buffalo Gap	Taylor	463	Rural	4	4	3
2	Burkburnett	Wichita	10,927	Rural	5	5	3
2	Byers	Clay	517	Rural	6	6	5
2	Carbon	Eastland	224	Rural	3	3	3
2	Chillicothe	Hardeman	798	Rural	6	6	3
2	Cisco	Eastland	3,851	Rural	6	6	4
2	Clyde	Callahan	3,345	Rural	5	4	4
2	Coleman	Coleman	5,127	Rural	5	5	6
2	Colorado City	Mitchell	4,281	Rural	6	5	6
2	Comanche	Comanche	4,482	Rural	6	6	4

		County	2000 Census Population	Area Type	Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
2	Cross Plains	Callahan	1,068	Rural	3	6	5
2	Crowell	Foard	1,141	Rural	5	5	5
2	De Leon	Comanche	2,433	Rural	5	5	5
2	Dean	Clay	341	Rural	6	6	5
2	Early	Brown	2,588	Rural	5	4	4
2	Eastland	Eastland	3,769	Rural	3	6	6
2	Elbert	Throckmorton	56	Rural	6	6	3
2	Electra	Wichita	3,168	Rural	5	5	5
2	Girard	Kent	62	Rural	3	3	6
2	Goree	Knox	321	Rural	3	3	6
2	Gorman	Eastland	1,236	Rural	3	3	3
2	Graham	Young	8,716	Rural	4	4	4
2	Gustine	Comanche	457	Rural	6	6	6
_	Hamlin	Jones	2,248	Rural	4	4	6
_	Haskell	Haskell	3,106	Rural	5	5	6
_	Hawley	Jones	646	Rural	6	6	3
_	Henrietta	Clay	3,264	Rural	5	5	4
	Hermleigh	Scurry	393	Rural	5	5	6
	Holliday	Archer	1,632	Rural	3	3	5
	Impact	Taylor	39	Urban	3	3	3
2	Iowa Park	Wichita	6,431	Rural	5	5	3
	Jacksboro	Jack	4,533	Rural	5	5	5
	Jayton	Kent	513	Rural	3	3	3
	Jolly	Clay	188	Rural	6	6	6
	Knox City	Knox	1,219	Rural	4	4	6
2	Lake Brownwood	Brown	1,694	Rural	6	6	6
2	Lakeside City	Archer	984	Urban	4	4	3
2	<u>, </u>	Taylor	353	Rural	3	3	4
2	Lawn Loraine	Mitchell	656	Rural	5	4	3
2		Jones	300	Rural	4	4	6
_	Lueders	Archer	248	Rural	3	3	3
	Megargel Merkel	Taylor	2,637	Rural	5	5	3
		Runnels	850	Rural	5	4	3
	Miles	Shackelford	233	Rural	4	4	5
_	Moran	Knox	1,527	Rural	3	3	3
	Munday	Young	575	Rural	6	5	4
	Newcastle	Montague	3,198	Rural	4	3	3
	Nocona	Coleman	142	Rural	3	3	3
	Novice	Haskell	132	Rural		3	6
_	O'Brien		3,396	Rural	3		5
_	Olney	Young			4	4	
_	Paducah	Cottle	1,498	Rural Rural	4	4	3
_	Petrolia	Clay Wichita	782 408	Urban	6	5	3
	Pleasant Valley				6	6	5
2	Potosi	Taylor	1,664	Urban	6	6	3
	Putnam	Callahan	3 022	Rural	6	6	4
_	Quanah	Hardeman	3,022	Rural	6	6	3
_	Ranger	Eastland	2,584	Rural	3	3	6
2	Rising Star	Eastland	835	Rural	4	4	5
			470	Rural	5	5	3
2	Roby Rochester	Fisher Haskell	673 378	Rural	4	4	5

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
2	Rotan	Fisher	1,611	Rural	5	4	3
2	Rule	Haskell	698	Rural	4	4	5
2	Santa Anna	Coleman	1,081	Rural	3	4	5
2	Scotland	Archer	438	Rural	3	3	5
2	Seymour	Baylor	2,908	Rural	4	4	3
2	Snyder	Scurry	10,783	Rural	3	4	4
2	St. Jo	Montague	977	Rural	3	3	5
2	Stamford	Jones	3,636	Rural	4	4	4
2	Sunset	Montague	339	Rural	4	3	6
2	Sweetwater	Nolan	11,415	Rural	4	5	4
2	Throckmorton	Throckmorton	905	Rural	3	3	3
2	Trent	Taylor	318	Rural	6	6	3
2	Tuscola	Taylor	714	Rural	3	3	3
2	Tye	Taylor	1,158	Urban	6	6	4
2	Vernon	Wilbarger	11,660	Rural	3	4	4
2	Weinert	Haskell	177	Rural	6	6	4
2	Westbrook	Mitchell	203	Rural	5	5	4
2	Windthorst	Archer	440	Rural	3	3	6
2	Winters	Runnels	2,880	Rural	3	3	4
2	Woodson	Throckmorton	296	Rural	4	4	5
3	Addison	Dallas	14,166	Urban	4	4	3
3	Aledo	Parker	1,726	Rural	5	5	5
3	Allen	Collin	43,554	Urban	5	5	3
3	Alma	Ellis	302	Rural	6	6	6
3	Alvarado	Johnson	3,288	Rural	4	3	5
3	Alvord	Wise	1,007	Rural	5	5	3
3	Angus	Navarro	334	Rural	4	4	5
3	Anna	Collin	1,225	Rural	6	3	3
3	Annetta	Parker	1,108	Rural	6	6	3
3	Annetta North	Parker	467	Rural	6	6	3
3	Annetta South	Parker	555	Rural	6	6	3
3	Argyle	Denton	2,365	Urban	4	4	3
3	Aubrey	Denton	1,500	Rural	6	4	5
3	Aurora	Wise	853	Rural	6	6	6
3	Bailey	Fannin	213	Rural	6	6	3
3	Bardwell	Ellis	583	Rural	3	3	6
3	Barry	Navarro	209	Rural	6	6	4
3	Bartonville	Denton	1,093	Rural	3	3	3
3	Bells	Grayson	1,190	Rural	5	5	5
3	Blooming Grove	Navarro	833	Rural	4	4	5
3	Blue Ridge	Collin	672	Rural	5	5	6
3	Bonham	Fannin	9,990	Rural	6	5	5
3	Boyd	Wise	1,099	Rural	4	4	5
3	Briar	Tarrant	5,350	Rural	3	3	5
3	Briaroaks	Johnson	493	Rural	3	3	4
3	Bridgeport	Wise	4,309	Rural	4	5	5
3	Caddo Mills	Hunt	1,149	Rural	6	5	5
3	Callisburg	Cooke	365	Rural	4	4	6
3	Campbell	Hunt	734	Rural	5	4	6
3	Carrollton	Denton	109,576	Urban	4	4	3
3	Celeste	Hunt	817	Rural	4	3	5

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Celina	Collin	1,861	Urban	4	3	4
3	Chico	Wise	947	Rural	5	5	5
3	Cleburne	Johnson	26,005	Urban	3	5	5
3	Colleyville	Tarrant	19,636	Urban	4	4	3
3	Collinsville	Grayson	1,235	Rural	3	3	4
3	Commerce	Hunt	7,669	Rural	6	6	3
3	Cool	Parker	162	Rural	6	6	6
3	Copper Canyon	Denton	1,216	Urban	6	6	3
3	Corinth	Denton	11,325	Urban	3	4	3
3	Corral City	Denton	89	Rural	3	3	6
3	Corsicana	Navarro	24,485	Rural	5	5	5
3	Cottonwood	Kaufman	181	Rural	3	3	4
3	Crandall	Kaufman	2,774	Rural	4	4	4
3	Cross Roads	Denton	603	Rural	3	3	6
3	Cross Timber	Johnson	277	Rural	6	6	4
3	Dawson	Navarro	852	Rural	3	3	4
3	Decatur	Wise	5,201	Rural	3	4	5
3	Denison	Grayson	22,773	Urban	4	5	5
3	DeSoto	Dallas	37,646	Urban	4	5	4
3	Dodd City	Fannin	419	Rural	6	6	5
3	Dorchester	Grayson	109	Urban	3	3	6
3	Double Oak	Denton	2,179	Urban	5	6	3
3	Dublin Dublin	Erath	3,754	Rural	4	4	5
3	Eagle Mountain	Tarrant	6,599	Urban	4	4	4
3	Ector	Fannin	600	Rural	5	5	3
3	Edgecliff Village	Tarrant	2,550	Urban	6	5	4
3	Emhouse	Navarro	159	Rural	3	3	3
3	Ennis	Ellis	16,045	Rural	3	4	5
3	Euless	Tarrant	46,005	Urban	4	4	3
3		Navarro	340	Rural	3	3	5
3	Eureka	Collin	2,644	Urban	6	6	3
3	Fairview	Collin	3,118	Rural	4	4	3
3	Farmersville	Rockwall	497	Rural	6	6	4
3	Fate	Ellis	2,175	Rural	4	4	3
3	Ferris Flower Mound	Denton	50,702	Urban	4	4	3
3		Kaufman	5,588	Rural	5	5	5
3	Forney	Collin	33,714	Urban	5	5	3
3	Frisco	Navarro	648	Rural	5	5	
3	Frost	Cooke	15,538	Rural		5 5	6 4
	Gainesville	Ellis	15,538	Rural	4		
3	Garrett	Somervell		Rural	6	6	6
3	Glen Rose	Johnson	2,122 879	Rural	4	4	5 3
3	Godley	Navarro	264		6	6	6
	Goodlow	Palo Pinto	451	Rural			
3	Gordon			Rural	6	6	3
3	Graford	Palo Pinto	578 5.710	Rural	4	4	4
3	Granbury	Hood	5,718	Rural	5	6	4
3	Grandview	Johnson	1,358	Rural	5	5	5
3	Grays Prairie	Kaufman	296	Rural	6	6	3
				Rural	4	5	5
3	Greenville Gunter	Hunt Grayson	23,960 1,230	Rural	5	4	3

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Hawk Cove	Hunt	457	Rural	3	3	5
3	Heath	Rockwall	4,149	Urban	3	3	3
3	Hebron	Denton	874	Urban	3	3	3
3	Hickory Creek	Denton	2,078	Urban	4	4	3
3	Highland Village	Denton	12,173	Urban	5	5	3
	Honey Grove	Fannin	1,746	Rural	3	5	4
	Howe	Grayson	2,478	Urban	5	5	6
_	Hudson Oaks	Parker	1,637	Rural	6	6	3
3	Italy	Ellis	1,993	Rural	4	4	4
3	Josephine	Collin	594	Rural	6	6	3
3	Joshua	Johnson	4,528	Urban	4	4	4
3	Justin	Denton	1,891	Rural	5	4	4
3	Kaufman	Kaufman	6,490	Rural	3	4	6
3	Keene	Johnson	5,003	Rural	5	5	6
	Kemp	Kaufman	1,133	Rural	6	6	5
3	Kerens	Navarro	1,681	Rural	5	5	5
3	Knollwood	Grayson	375	Urban	6	6	6
	Krugerville	Denton	903	Rural	6	6	5
3	Krum	Denton	1,979	Rural	3	3	4
3	Ladonia	Fannin	667	Rural	3	3	6
3	Lake Bridgeport	Wise	372	Rural	3	3	4
3	Lake Dallas	Denton	6,166	Rural	5	4	4
3	Lake Kiowa	Cooke	1,883	Rural	3	3	3
3	Lakewood Village	Denton	342	Rural	6	6	5
3	_	Collin	387	Rural	3	3	4
3	Lavon	Fannin	1,846	Rural	5	5	4
3	Leonard	Denton	77,737	Urban	5	5	3
3	Lewisville	Denton	517	Rural	3	3	6
	Lincoln Park	Cooke	788	Rural	4	4	3
3	Lindsay (Cooke)	Hood	425	Rural	3	3	5
3	Lipan	Denton	3,646	Urban	3	4	5
	Little Elm		521	Rural	3	3	4
	Lone Oak	Hunt					
	Lowry Crossing	Collin	1,229	Urban Urban	6	6	3
3	Lucas	Collin	2,890		6	6	5
	Mabank Marshall Crook	Kaufman Denton	2,151 431	Rural Rural	3 6	6	6
	Marshall Creek						
	Maypearl	Ellis Collin	746 54,369	Rural Urban	5	4 5	5 3
	McKinney	Rockwall	914		4		
	McLendon-Chisholm	Collin		Rural	6	6	3
	Melissa	Dallas	1,350	Urban	5	5	4
	Mesquite		124,523	Urban	4	5	4
	Midlothian	Ellis	7,480 405	Urban	4	4	
	Mildred	Navarro Ellis	685	Rural	6	6	5
_	Milford			Rural	3	3	6
	Millsap	Parker Pale Pinto	353	Rural	4	4	4
	Mineral Wells	Palo Pinto	16,946	Rural	4	5	5
	Mingus	Palo Pinto	246	Rural	6	6	3
	Mobile City	Rockwall	196	Rural	4	4	6
3	Muenster	Cooke Collin	1,556 3,099	Rural Urban	5 6	5 5	5 3
3	Murphy	It : office		Lirban		L .	,

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Navarro	Navarro	191	Rural	3	3	3
3	Nevada	Collin	563	Rural	4	3	3
3	New Fairview	Wise	877	Rural	4	4	6
3	New Hope	Collin	662	Rural	3	3	3
3	Newark	Wise	887	Rural	5	5	5
3	Neylandville	Hunt	56	Rural	3	3	6
3	Northlake	Denton	921	Urban	4	4	6
3	Oak Grove	Kaufman	710	Rural	6	6	3
3	Oak Leaf	Ellis	1,209	Rural	6	6	3
3	Oak Point	Denton	1,747	Rural	5	4	4
3	Oak Ridge (Cooke)	Cooke	224	Rural	5	5	6
3	Oak Ridge (Kaufman)	Kaufman	400	Rural	6	6	6
3	Oak Trail Shores	Hood	2,475	Rural	3	3	6
3	Oak Valley	Navarro	401	Rural	6	6	5
3	Ovilla	Ellis	3,405	Urban	6	6	4
3	Palmer	Ellis	1,774	Rural	3	3	6
3	Paradise	Wise	459	Rural	6	6	6
3	Parker	Collin	1,379	Urban	3	3	3
3	Pecan Acres	Wise	2,289	Rural	6	6	4
3	Pecan Hill	Ellis	672	Rural	5	5	3
3	Pecan Plantation	Hood	3,544	Rural	5	4	3
3	Pelican Bay	Tarrant	1,505	Rural	5	5	6
3	Pilot Point	Denton	3,538	Rural	4	4	5
3	Ponder	Denton	507	Rural	4	3	3
3	Post Oak Bend City	Kaufman	404	Rural	3	3	5
3	Pottsboro	Grayson	1,579	Rural	4	4	3
3	Powell	Navarro	105	Rural	3	3	6
3	Princeton	Collin	3,477	Urban	5	4	5
3	Prosper	Collin	2,097	Urban	4	4	4
3	Quinlan	Hunt	1,370	Rural	6	6	4
3	Ravenna	Fannin	215	Rural	3	3	6
3	Red Oak	Ellis	4,301	Urban	3	5	5
3	Rendon	Tarrant	9,022	Urban	3	3	5
3	Reno (Parker)	Parker	2,441	Rural	5	5	5
3	Retreat	Navarro	339	Rural	5	4	6
3	Rhome	Wise	551	Rural	5	3	6
3	Rice	Navarro	798	Rural	5	5	4
3	Richardson	Dallas	91,802	Urban	4	4	3
3	Richland	Navarro	291	Rural	6	6	6
3	Rio Vista	Johnson	656	Rural	3	3	6
3	Roanoke	Denton	2,810	Urban	5	4	5
3	Rockwall	Rockwall	17,976	Urban	3	4	4
3	Rosser	Kaufman	379	Rural	6	6	3
3	Rowlett	Dallas	44,503	Urban	5	4	3
3	Royse City	Rockwall	2,957	Rural	4	4	6
3	Runaway Bay	Wise	1,104	Rural	5	5	5
3	Sadler	Grayson	404	Rural	6	6	5
3	Sanctuary	Parker	256	Rural	6	6	5
3	Sanger	Denton	4,534	Rural	3	4	5
3	Savoy	Fannin	850	Rural	5	5	3
3	Shady Shores	Denton	1,461	Urban	3	3	5

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Sherman	Grayson	35,082	Urban	4	5	5
3	Southmayd	Grayson	992	Rural	4	4	4
3	Springtown	Parker	2,062	Rural	3	5	5
3	St. Paul (Collin)	Collin	630	Rural	3	3	3
3	Stephenville	Erath	14,921	Rural	6	6	5
3	Strawn	Palo Pinto	739	Rural	4	4	6
3	Sunnyvale	Dallas	2,693	Urban	3	3	5
3	Talty	Kaufman	1,028	Rural	3	3	3
3	Terrell	Kaufman	13,606	Rural	5	6	5
3	The Colony	Denton	26,531	Urban	3	4	3
3	Tioga	Grayson	754	Rural	3	3	4
3	Tolar	Hood	504	Rural	4	3	3
3	Tom Bean	Grayson	941	Rural	3	3	5
3	Trenton	Fannin	662	Rural	4	4	3
3	Trophy Club	Denton	6,350	Rural	4	4	3
3	Valley View	Cooke	737	Rural	4	4	3
3	Van Alstyne	Grayson	2,502	Rural	3	3	3
3	Venus	Johnson	910	Rural	3	3	4
3	Waxahachie	Ellis	21,426	Rural	3	5	5
3	Weatherford	Parker	19,000	Rural	3	5	4
3	West Tawakoni	Hunt	1,462	Rural	6	5	5
3	Westminster	Collin	390	Rural	3	3	5
3	Weston	Collin	635	Urban	4	4	3
3	Westover Hills	Tarrant	658	Urban	3	3	3
3	Whitesboro	Grayson	3,760	Rural	5	5	4
3	Whitewright	Grayson	1,740	Rural	6	6	5
3	Willow Park	Parker	2,849	Rural	3	3	3
3	Windom	Fannin	245	Rural	3	3	5
3	Wolfe City	Hunt	1,566	Rural	5	5	4
3	Wylie	Collin	15,132	Rural	3	4	5
4	Alba	Wood	430	Rural	6	6	6
	Alto	Cherokee	1,190	Rural	4	4	4
4	Annona	Red River	282	Rural	6	6	4
4	Arp	Smith	901	Rural	3	3	4
4	Athens	Henderson	11,297	Rural	4	5	4
4	Atlanta	Cass	5,745	Rural	4	4	5
4	Avery	Red River	462	Rural	5	5	3
4	Avinger	Cass	464	Rural	6	6	4
4	Beckville	Panola	752	Rural	5	5	4
4	Berryville	Henderson	891	Rural	5	4	6
	Big Sandy	Upshur	1,288	Rural	3	3	6
4	Bloomburg	Cass	375	Rural	3	3	5
4	Blossom	Lamar	1,439	Rural	4	4	3
4	Bogata	Red River	1,396	Rural	3	3	4
4	Brownsboro	Henderson	796	Rural	6	6	5
4	Bullard	Smith	1,150	Rural	5	5	4
4	Caney City	Henderson	236	Rural	6	6	6
4		Van Zandt	3,292	Rural	4	4	4
4	Carthago	Panola	6,664	Rural	5	5	4
4	Carthage Chandler	Henderson	2,099	Rural	3	4	3
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
4	Clarksville City	Gregg	806	Rural	4	4	5
4	Coffee City	Henderson	193	Rural	3	3	6
4	Como	Hopkins	621	Rural	4	4	5
4	Cooper	Delta	2,150	Rural	6	5	5
4	Cumby	Hopkins	616	Rural	5	5	4
4	Cuney	Cherokee	145	Rural	5	5	6
4	Daingerfield	Morris	2,517	Rural	6	6	3
4	De Kalb	Bowie	1,769	Rural	6	5	4
4	Deport	Lamar	718	Rural	4	4	3
4	Detroit	Red River	776	Rural	4	4	3
4	Domino	Cass	52	Rural	3	3	3
4	Douglassville	Cass	175	Rural	3	3	3
4	East Mountain	Upshur	580	Rural	5	5	4
4	East Tawakoni	Rains	775	Rural	6	6	3
4	Easton	Gregg	524	Rural	3	3	5
4	Edgewood	Van Zandt	1,348	Rural	5	5	4
4		Van Zandt	322	Rural	6	6	6
4	Edom	Anderson	1,215	Rural	5	5	5
4	Elkhart	Rains	1,021	Rural	6		3
	Emory		·			6	
4	Enchanted Oaks	Henderson	357	Rural	6	6	4
4	Eustace	Henderson	798	Rural	3	3	3
4	Frankston	Anderson	1,209	Rural	4	4	4
4	Fruitvale	Van Zandt	418	Rural	4	4	3
4	Gallatin	Cherokee	378	Rural	4	4	5
4	Gary City	Panola	303	Rural	3	3	3
4	Gilmer	Upshur	4,799	Rural	6	6	4
4	Gladewater	Gregg	6,078	Rural	5	6	4
4	Grand Saline	Van Zandt	3,028	Rural	3	3	4
4	Gun Barrel City	Henderson	5,145	Rural	5	4	5
4	Hallsville	Harrison	2,772	Rural	3	3	3
4	Hawkins	Wood	1,331	Rural	6	5	5
4	Henderson	Rusk	11,273	Rural	3	3	3
4	Hooks	Bowie	2,973	Rural	3	4	4
4	Hughes Springs	Cass	1,856	Rural	4	3	3
4	Jacksonville	Cherokee	13,868	Rural	4	5	4
4	Jefferson	Marion	2,024	Rural	6	6	5
4	Kilgore	Gregg	11,301	Rural	3	4	4
4	Lakeport	Gregg	861	Rural	4	4	5
4	Leary	Bowie	555	Rural	4	4	5
4	Liberty City	Gregg	1,935	Rural	4	3	3
4	Lindale	Smith	2,954	Rural	5	4	4
4	Linden	Cass	2,256	Rural	4	4	3
4	Log Cabin	Henderson	733	Rural	6	6	3
4	Lone Star	Morris	1,631	Rural	4	5	3
4	Malakoff	Henderson	2,257	Rural	5	5	5
4	Marietta	Cass	112	Rural	3	3	6
4	Marshall	Harrison	23,935	Rural	3	4	4
4	Maud	Bowie	1,028	Rural	6	6	3
4	Miller's Cove	Titus	120	Rural	6	6	6
4	Mineola	Wood	4,550	Rural	5	5	3
	Moore Station	Henderson	184	Rural	6	6	6

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
4	Mount Enterprise	Rusk	525	Rural	4	4	5
4	Mount Pleasant	Titus	13,935	Rural	4	4	4
4	Mount Vernon	Franklin	2,286	Rural	3	5	4
4	Murchison	Henderson	592	Rural	3	3	4
4	Naples	Morris	1,410	Rural	6	6	5
4	Nash	Bowie	2,169	Urban	5	3	4
4	Nesbitt	Harrison	302	Rural	3	3	6
4	New Boston	Bowie	4,808	Rural	6	6	4
4	New Chapel Hill	Smith	553	Rural	3	3	6
4	New London	Rusk	987	Rural	5	5	5
4	New Summerfield	Cherokee	998	Rural	4	3	3
4	Noonday	Smith	515	Rural	4	4	3
4	Omaha	Morris	999	Rural	6	6	3
4	Ore City	Upshur	1,106	Rural	6	6	5
4	Overton	Rusk	2,350	Rural	6	6	5
4	Palestine	Anderson	17,598	Rural	4	5	5
4	Paris	Lamar	25,898	Rural	5	5	4
4	Payne Springs	Henderson	683	Rural	3	3	4
4	Pecan Gap	Delta	214	Rural	5	5	5
4	Pittsburg	Camp	4,347	Rural	3	4	4
4	Point	Rains	792	Rural	6	6	6
4	Poynor	Henderson	314	Rural	6	6	4
4	Queen City	Cass	1,613	Rural	6	5	4
4	Quitman	Wood	2,030	Rural	4	4	5
4	Red Lick	Bowie	853	Rural	6	6	3
4	Redwater	Bowie	872	Rural	4	4	6
4	Reklaw	Cherokee	327	Rural	3	3	6
4	Reno (Lamar)	Lamar	2,767	Rural	3	3	3
	Rocky Mound	Camp	93	Rural	3	3	6
	Roxton	Lamar	694	Rural	5	4	4
4	Rusk	Cherokee	5,085	Rural	5	5	3
	Scottsville	Harrison	263	Rural	4	4	6
	Seven Points	Henderson	1,145	Rural	3	6	6
4	Star Harbor	Henderson	416	Rural	3	3	3
	Sulphur Springs	Hopkins	14,551	Rural	5	5	4
4	Sun Valley	Lamar	51	Rural	3	3	6
4	Talco	Titus	570	Rural	5	5	6
4	Tatum	Rusk	1,175	Rural	5	4	4
4	Texarkana	Bowie	34,782	Urban	3	5	3
4	Tira	Hopkins	248	Rural	3	3	6
4	Тосо	Lamar	89	Rural	6	6	6
4	Tool	Henderson	2,275	Rural	3	3	4
	Trinidad	Henderson	1,091	Rural	5	5	3
_	Troup	Smith	1,949	Rural	5	4	5
	Uncertain	Harrison	150	Rural	5	5	6
	Union Grove	Upshur	346	Rural	3	3	6
	Van	Van Zandt	2,362	Rural	6	5	4
	Wake Village	Bowie	5,129	Urban	4	3	3
	Warren City	Gregg	343	Rural	6	6	5
	Waskom	Harrison	2,068	Rural	4	4	4
	Wells	Cherokee	769	Rural	5	5	6

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
4	White Oak	Gregg	5,624	Urban	5	5	4
4	Whitehouse	Smith	5,346	Rural	3	4	3
4	Wills Point	Van Zandt	3,496	Rural	4	4	5
4	Winfield	Titus	499	Rural	4	4	5
4	Winnsboro	Wood	3,584	Rural	5	5	4
4	Winona	Smith	582	Rural	3	3	3
4	Yantis	Wood	321	Rural	3	3	6
5	Appleby	Nacogdoches	444	Rural	5	5	5
5	Bevil Oaks	Jefferson	1,346	Rural	3	3	4
5	Broaddus	San Augustine	189	Rural	6	6	6
5	Browndell	Jasper	219	Rural	3	3	6
5	Buna	Jasper	2,269	Rural	3	3	5
5	Burke	Angelina	315	Rural	6	6	5
5	Center	Shelby	5,678	Rural	4	5	4
5	Central Gardens	Jefferson	4,106	Rural	3	3	3
5	Chester	Tyler	265	Rural	4	4	6
5	Chireno	Nacogdoches	405	Rural	4	4	4
5	Coldspring	San Jacinto	691	Rural	4	4	5
5	Colmesneil	Tyler	638	Rural	5	4	5
5	Corrigan	Polk	1,721	Rural	6	6	4
5	Crockett	Houston	7,141	Rural	4	4	6
5	Cushing	Nacogdoches	637	Rural	5	5	3
5	Deweyville	Newton	1,190	Rural	5	4	3
5	Diboll	Angelina	5,470	Rural	3	3	4
5	Evadale	Jasper	1,430	Rural	3	3	5
5	Garrison	Nacogdoches	844	Rural	4	4	3
5	Goodrich	Polk	243	Rural	3	3	6
5	Grapeland	Houston	1,451	Rural	6	6	6
5	Groves	Jefferson	15,733	Urban	4	4	3
5	Groveton	Trinity	1,107	Rural	5	5	6
5	Hemphill	Sabine	1,106	Rural	3	4	5
5	Hudson	Angelina	3,792	Rural	3	4	4
5	Huntington	Angelina	2,068	Rural	3	5	4
5	Huxley	Shelby	298	Rural	3	3	3
5	Jasper	Jasper	8,247	Rural	3	5	6
5	Joaquin	Shelby	925	Rural	3	4	6
5	Kennard	Houston	317	Rural	6	6	6
5	Kirbyville	Jasper	2,085	Rural	5	5	4
5	Latexo	Houston	272	Rural	3	3	6
5	Livingston	Polk	5,433	Rural	5	5	5
5	Lovelady	Houston	608	Rural	6	6	3
5	Lufkin	Angelina	32,709	Rural	4	6	4
5	Lumberton	Hardin	8,731	Rural	3	3	4
5	Mauriceville	Orange	2,743	Rural	4	4	4
5	Milam	Sabine	1,329	Rural	3	3	3
5	Nacogdoches	Nacogdoches	29,914	Rural	6	6	4
5	Nederland	Jefferson	17,422	Urban	4	4	3
5	Newton	Newton	2,459	Rural	6	6	3
5	Nome	Jefferson	515	Rural	5	4	5
5	Oakhurst	San Jacinto	230	Rural	4	4	5
5	Onalaska	Polk	1,174	Rural	6	6	5

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
5	Pine Forest	Orange	632	Rural	6	6	4
5	Pineland	Sabine	980	Rural	6	6	4
5	Pinewood Estates	Hardin	1,633	Rural	3	3	3
5	Point Blank	San Jacinto	559	Rural	4	4	6
5	Port Neches	Jefferson	13,601	Urban	4	3	3
5	Rose City	Orange	519	Rural	5	5	6
5	Rose Hill Acres	Hardin	480	Urban	6	6	3
5	San Augustine	San Augustine	2,475	Rural	5	4	3
5	Seven Oaks	Polk	131	Rural	3	3	4
5	Shepherd	San Jacinto	2,029	Rural	4	3	5
5	South Toledo Bend	Newton	576	Rural	3	3	4
5	Tenaha	Shelby	1,046	Rural	5	4	5
5	Timpson	Shelby	1,094	Rural	6	6	6
5	Trinity	Trinity	2,721	Rural	5	5	5
5	West Livingston	Polk	6,612	Rural	5	4	6
5	Woodville	Tyler	2,415	Rural	5	6	4
5	Zavalla	Angelina	647	Rural	6	6	3
6	Aldine	Harris	13,979	Urban	3	3	6
6	Ames	Liberty	1,079	Rural	4	4	6
6	Anahuac	Chambers	2,210	Rural	5	5	5
6	Angleton	Brazoria	18,130	Rural	3	5	4
6	Atascocita	Harris	35,757	Urban	4	4	4
	Bacliff	Galveston	6,962	Urban	6	5	6
6	Barrett	Harris	2,872	Rural	6	6	6
	Bay City	Matagorda	18,667	Rural	4	4	3
	Bayou Vista	Galveston	1,644	Rural	4	4	5
6	Baytown	Harris	66,430	Urban	3	4	5
	Beach City	Chambers	1,645	Urban	4	4	4
6	Bellville	Austin	3,794	Rural	3	3	4
6	Blessing	Matagorda	861	Rural	3	3	6
	Boling-lago	Wharton	1,271	Rural	3	3	4
	Bolivar Peninsula	Galveston	3,853	Rural	6	6	5
	Brookshire	Waller	3,450	Rural	3	5	6
6	Bunker Hill Village	Harris	3,654	Urban	6	6	4
6	Channelview	Harris	29,685	Urban	5	5	5
6	Cinco Ranch	Fort Bend	11,196	Urban	5	5	3
6	Clear Lake Shores	Galveston	1,205	Urban	4	4	4
6	Cleveland	Liberty	7,605	Rural	6	6	6
6	Cloverleaf	Harris	23,508	Urban	5	5	4
6		Colorado	3,916	Rural	4	3	4
6	Columbus	Montgomery	36,811	Urban	4	5	5
6	Corroe	Chambers	30,811	Rural	6	6	3
6	Crocky	Harris	1,714	Rural	4	3	6
6	Crosby	Fort Bend	683	Rural	3	3	3
6	Cumings	Montgomery	1,158	Urban	6	6	5
	Cut and Shoot	Liberty	1,138	Rural	5	5	5
6	Daisetta	Brazoria	535	Rural	6	5 5	6
6	Damon Davidan Laksa		101	Rural	3	3	3
	Dayton Lakes	Liberty					
	Devers	Liberty	416 17.002	Rural	6	6	6
6	Dickinson	Galveston	17,093	Urban	5	5	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
6	East Bernard	Wharton	1,729	Rural	4	4	5
6	El Campo	Wharton	10,945	Rural	4	5	4
6	El Lago	Harris	3,075	Urban	4	4	3
6	Fifth Street	Fort Bend	2,059	Urban	4	4	6
6	Four Corners	Fort Bend	2,954	Urban	5	5	5
6	Fresno	Fort Bend	6,603	Urban	5	3	4
6	Friendswood	Galveston	29,037	Urban	4	5	4
6	Greatwood	Fort Bend	6,640	Urban	5	5	3
6	Hardin	Liberty	755	Rural	3	3	5
6	Hedwig Village	Harris	2,334	Urban	5	4	3
6	Hempstead	Waller	4,691	Rural	3	5	6
6	Highlands	Harris	7,089	Urban	4	3	5
6	Hillcrest	Brazoria	722	Rural	6	6	4
6	Hilshire Village	Harris	720	Urban	6	6	3
6	Hitchcock	Galveston	6,386	Rural	3	5	6
6	Hungerford	Wharton	645	Rural	3	3	5
6	Hunters Creek Village	Harris	4,374	Urban	3	3	3
6	Huntsville	Walker	35,078	Rural	6	6	4
6	Industry	Austin	304	Rural	3	3	6
6	Jamaica Beach	Galveston	1,075	Urban	6	6	5
6	Jersey Village	Harris	6,880	Urban	3	4	3
6	Kemah	Galveston	2,330	Urban	6	6	5
6	Kenefick	Liberty	667	Rural	5	5	6
6	La Marque	Galveston	13,682	Urban	3	5	6
6	League City	Galveston	45,444	Urban	3	4	4
6	Liverpool	Brazoria	404	Rural	6	6	4
6	Louise	Wharton	977	Rural	4	3	3
6	Magnolia	Montgomery	1,111	Rural	3	4	6
6	Markham	Matagorda	1,138	Rural	3	3	3
6	Mission Bend	Fort Bend	30,831	Urban	5	4	5
6	Missouri City	Fort Bend	52,913	Urban	4	4	4
	Mont Belvieu	Chambers	2,324	Rural	4	4	3
6	Montgomery	Montgomery	489	Rural	6	5	5
6	Nassau Bay	Harris	4,170	Urban	6	6	3
6	New Territory	Fort Bend	13,861	Urban	4	3	3
6	New Waverly	Walker	950	Rural	6	5	5
6	North Cleveland	Liberty	263	Rural	3	3	6
6	Oak Ridge North	Montgomery	2,991	Urban	5	5	3
6	Old River-Winfree	Chambers	1,364	Rural	5	5	5
6	Palacios	Matagorda	5,153	Rural	4	5	4
6	Panorama Village	Montgomery	1,965	Urban	5	4	4
6	Pattison	Waller	447	Rural	4	4	5
6	Patton Village	Montgomery	1,391	Rural	5	5	5
6	Pecan Grove	Fort Bend	13,551	Rural	4	4	3
6	Pine Island	Waller	849	Rural	4	4	3
6		Montgomery	4,266	Rural	4	3	4
6	Pinehurst (Montgomery)	Harris	3,380	Urban	4	3	4
6	Piney Point Village	Liberty	930	Rural	3	3	6
6	Plum Grove	Montgomery	1,490	Rural	3	3	6
6	Porter Heights Prairie View	Waller	4,410	Rural	3	6	5
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
6	Riverside	Walker	425	Rural	6	6	6
6	Roman Forest	Montgomery	1,279	Rural	4	3	3
6	San Felipe	Austin	868	Rural	6	6	3
6	San Leon	Galveston	4,365	Urban	5	5	5
6	Santa Fe	Galveston	9,548	Urban	3	3	4
6	Sealy	Austin	5,248	Rural	3	4	5
6	Sheldon	Harris	1,831	Rural	3	3	4
6	Shenandoah	Montgomery	1,503	Urban	5	5	4
6	Sienna Plantation	Fort Bend	1,896	Urban	5	4	3
6	Southside Place	Harris	1,546	Urban	6	6	3
6	Splendora	Montgomery	1,275	Rural	6	6	5
6	Spring	Harris	36,385	Urban	4	3	4
6	Spring Valley	Harris	3,611	Urban	4	3	3
6	Stagecoach	Montgomery	455	Rural	3	3	3
6	Stowell	Chambers	1,572	Rural	3	3	6
6	Sugar Land	Fort Bend	63,328	Urban	5	4	4
6	Taylor Lake Village	Harris	3,694	Urban	3	3	3
6	Texas City	Galveston	41,521	Urban	4	6	5
6	The Woodlands	Montgomery	55,649	Urban	4	5	3
6	Tiki Island	Galveston	1,016	Urban	3	3	4
6	Van Vleck	Matagorda	1,411	Rural	3	3	5
6	Wallis	Austin	1,172	Rural	3	3	5
6	Weimar	Colorado	1,981	Rural	3	4	5
6	Wharton	Wharton	9,237	Rural	5	5	5
6	Wild Peach Village	Brazoria	2,498	Rural	3	3	4
6	Willis	Montgomery	3,985	Rural	3	4	6
6	Winnie	Chambers	2,914	Rural	4	3	5
6	Woodbranch	Montgomery	1,305	Rural	4	3	4
6	Woodloch	Montgomery	247	Rural	6	6	3
7	Anderson Mill	Williamson	8.953	Urban	5	5	4
7	Bartlett	Williamson	1,675	Rural	6	6	5
7	Barton Creek	Travis	1,589	Urban	6	6	3
7	Bastrop	Bastrop	5,340	Rural	4	4	5
7	Bear Creek	Hays	360	Rural	3	3	3
7	Bee Cave	Travis	656	Rural	4	4	3
7	Bertram	Burnet	1,122	Rural	5	4	5
7	Blanco	Blanco	1,505	Rural	5	5	6
7	Briarcliff	Travis	895	Rural	4	4	4
7	Brushy Creek	Williamson	15,371	Urban	4	4	3
7	Buchanan Dam	Llano	1,688	Rural	5	4	5
7	Buda	Hays	2,404	Urban	3	3	5
7	Burnet	Burnet	4,735	Rural	3	5	6
7	Camp Swift	Bastrop	4,731	Rural	3	3	6
7	Camp Swiit Carmine	Fayette	228	Rural	6	6	6
7	Cedar Park	Williamson	26,049	Urban	3	5	4
7		Bastrop	2,010	Rural	3	3	5
7	Circle D-KC Estates	Burnet	877	Rural	6	5	5
7	Croedmoor	Travis	211	Rural	3	3	5
7	Creedmoor	Hays	1,548	Rural	3	4	5
7	Dripping Springs	Bastrop	5,700	Rural	4	4	5
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
7	Flatonia	Fayette	1,377	Rural	5	5	4
7	Florence	Williamson	1,054	Rural	6	6	6
7	Garfield	Travis	1,660	Rural	4	3	6
7	Georgetown	Williamson	28,339	Urban	3	5	5
7	Giddings	Lee	5,105	Rural	3	4	3
7	Granger	Williamson	1,299	Rural	5	5	6
7	Granite Shoals	Burnet	2,040	Rural	5	5	6
7	Hays	Hays	233	Rural	3	3	4
7	Highland Haven	Burnet	450	Rural	6	6	3
7	Horseshoe Bay	Llano	3,337	Rural	4	4	4
7	Hudson Bend	Travis	2,369	Urban	5	5	4
7	Hutto	Williamson	1,250	Rural	5	3	5
7	Johnson City	Blanco	1,191	Rural	3	4	4
7	Jollyville	Williamson	15,813	Urban	5	5	3
7	Jonestown	Travis	1,681	Rural	6	5	5
7	Kingsland	Llano	4,584	Rural	3	6	5
7	Kyle	Hays	5,314	Rural	3	3	5
7	La Grange	Fayette	4,478	Rural	5	4	3
7	Lago Vista	Travis	4,507	Rural	6	6	5
7	Lakeway	Travis	8,002	Rural	4	4	4
7	Leander	Williamson	7,596	Urban	3	3	5
7	Lexington	Lee	1,178	Rural	5	4	3
7	Liberty Hill	Williamson	1,409	Rural	3	3	6
7	Llano	Llano	3,325	Rural	3	5	3
7	Lockhart	Caldwell	11,615	Rural	4	5	6
7	Lost Creek	Travis	4,729	Urban	3	3	3
7	Luling	Caldwell	5,080	Rural	4	4	4
7	Manor	Travis	1,204	Urban	3	3	3
7	Marble Falls	Burnet	4,959	Rural	3	6	5
7	Martindale	Caldwell	953	Rural	5	5	4
7	Meadowlakes	Burnet	1,293	Rural	6	6	3
	Mountain City	Hays	671	Rural	6	6	4
	Mustang Ridge	Caldwell	785	Rural	3	3	6
7	Niederwald	Hays	584	Rural	4	4	4
7	Onion Creek	Travis	2,116	Urban	3	3	3
7	Pflugerville	Travis	16,335	Urban	3	3	4
7	Rollingwood	Travis	1,403	Urban	6	6	3
7	Round Mountain	Blanco	111	Rural	3	3	3
7	Round Rock	Williamson	61,136	Urban	5	4	3
7	Round Top	Fayette	77	Rural	3	3	6
7	San Leanna	Travis	384	Urban	6	6	3
7	San Marcos	Hays	34,733	Urban	6	6	6
7	Schulenburg	Fayette	2,699	Rural	5	5	5
7	-	Williamson	1,847	Urban	6	6	3
7	Serenada Shadu Hallaur	Travis	5,140	Urban	4	4	3
7	Shady Hollow	Bastrop	3,901	Rural	5	5	6
7	Smithville	Llano	704	Rural	6	6	4
7	Sunrise Beach Village	Travis	365	Urban	5	5	5
	Sunset Valley	Williamson	13,575	Rural	5	4	4
7	Taylor						3
7	The Hills Thrall	Travis Williamson	1,492 710	Rural Rural	3 5	3	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
7	Uhland	Hays	386	Rural	6	6	5
7	Weir	Williamson	591	Rural	4	4	6
7	Wells Branch	Travis	11,271	Urban	5	5	4
7	West Lake Hills	Travis	3,116	Urban	3	3	3
7	Wimberley	Hays	3,797	Rural	5	4	6
7	Windemere	Travis	6,868	Urban	5	5	4
7	Woodcreek	Hays	1,274	Rural	5	5	5
7	Wyldwood	Bastrop	2,310	Rural	3	3	4
8	Abbott	Hill	300	Rural	5	5	5
8	Aquilla	Hill	136	Rural	6	6	3
8	Bellmead	McLennan	9,214	Urban	4	4	4
8	Belton	Bell	14,623	Urban	4	5	3
8	Beverly Hills	McLennan	2,113	Urban	5	5	5
8	Blum	Hill	399	Rural	6	6	3
8	Bruceville-Eddy	McLennan	1,490	Rural	5	5	4
8	Buckholts	Milam	387	Rural	6	6	3
8	Bynum	Hill	225	Rural	6	6	6
8	Cameron	Milam	5,634	Rural	3	4	5
8	Carl's Corner	Hill	134	Rural	6	6	6
8	Clifton	Bosque	3,542	Rural	3	4	5
8	Coolidge	Limestone	848	Rural	5	4	3
8	Copperas Cove	Coryell	29,592	Urban	4	4	4
8	Covington	Hill	282	Rural	4	3	4
8	Cranfills Gap	Bosque	335	Rural	4	4	5
8	Crawford	McLennan	705	Rural	3	3	4
8	Evant	Coryell	393	Rural	6	6	6
8	Fairfield	Freestone	3,094	Rural	4	4	6
8	Fort Hood	Bell	33,711	Urban	3	3	3
8	Gatesville	Coryell	15,591	Rural	3	5	3
8	Gholson	McLennan	922	Rural	3	3	4
8	Goldthwaite	Mills	1,802	Rural	3	5	5
8	Golinda	Falls	423	Rural	5	5	4
8	Groesbeck	Limestone	4,291	Rural	3	6	4
8	Hallsburg	McLennan	518	Rural	6	6	3
8	Hamilton	Hamilton	2,977	Rural	3	4	4
8	Harker Heights	Bell	17,308	Urban	4	4	3
8	Hewitt	McLennan	11,085	Urban	4	3	3
8	Hico	Hamilton	1,341	Rural	4	4	6
8	Hillsboro	Hill	8,232	Rural	5	6	4
8	Holland	Bell	1,102	Rural	3	4	4
8	Hubbard	Hill	1,586	Rural	3	4	5
8	Iredell	Bosque	360	Rural	4	4	5
8	Itasca	Hill	1,503	Rural	3	3	3
8	Jewett	Leon	861	Rural	6	6	6
8	Kempner	Lampasas	1,004	Rural	5	4	5
8	Kirvin	Freestone	122	Rural	3	3	4
8	Kosse	Limestone	497	Rural	6	6	6
8	Lacy-Lakeview	McLennan	5,764	Urban	5	5	5
8	Lampasas	Lampasas	6,786	Rural	4	4	5
8	Leroy	McLennan	335	Rural	3	3	5
8	Little River-Academy	Bell	1,645	Rural	6	6	3

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
8	Lometa	Lampasas	782	Rural	4	4	3
8	Lorena	McLennan	1,433	Rural	3	3	3
8	Lott	Falls	724	Rural	5	4	3
8	Malone	Hill	278	Rural	3	3	6
8	Marlin	Falls	6,628	Rural	5	5	6
8	Marquez	Leon	220	Rural	6	6	6
8	Mart	McLennan	2,273	Rural	6	6	3
8	McGregor	McLennan	4,727	Urban	5	5	4
8	Meridian	Bosque	1,491	Rural	3	5	5
8	Mertens	Hill	146	Rural	6	6	6
8	Mexia	Limestone	6,563	Rural	4	6	5
8	Milano	Milam	400	Rural	4	3	6
8	Millican	Brazos	108	Rural	3	3	6
8	Moody	McLennan	1,400	Rural	6	6	4
8	Morgan	Bosque	485	Rural	3	3	6
8	Morgan's Point Resort	Bell	2,989	Rural	4	4	3
8	Mount Calm	Hill	310	Rural	5	5	3
8	Mullin	Mills	175	Rural	4	3	6
8	Nolanville	Bell	2,150	Rural	5	5	4
8	Normangee	Leon	719	Rural	3	3	6
8	Oglesby	Coryell	458	Rural	6	6	4
8	Penelope	Hill	211	Rural	6	6	6
8	Richland Springs	San Saba	350	Rural	3	3	3
8	Riesel	McLennan	973	Rural	6	6	3
8	Robinson	McLennan	7,845	Urban	4	3	3
8	Rockdale	Milam	5,439	Rural	5	5	3
8	Rogers	Bell	1,117	Rural	3	4	4
8	Rosebud	Falls	1,493	Rural	4	4	4
8	Ross	McLennan	228	Rural	3	3	6
8	Salado	Bell	3.475	Rural	3	3	3
8	San Saba	San Saba	2,637	Rural	4	4	3
8	South Mountain	Coryell	412	Rural	3	3	3
8	Streetman	Freestone	203	Rural	3	3	6
8	Teague	Freestone	4,557	Rural	4	4	4
8	Tehuacana	Limestone	307	Rural	3	3	3
8	Temple	Bell	54,514	Urban	4	5	3
8	Thorndale	Milam	1,278	Rural	5	5	4
8	Thornton	Limestone	525	Rural	5	5	5
8	Todd Mission	Grimes	146	Rural	3	3	5
8	Troy	Bell	1,378	Rural	6	4	3
8	Valley Mills	Bosque	1,123	Rural	3	3	5
8	Walnut Springs	Bosque	755	Rural	3	3	4
8	West	McLennan	2,692	Rural	3	4	3
8	Whitney	Hill	1,833	Rural	6	6	5
8	Wixon Valley	Brazos	235	Rural	6	6	3
8	Woodway	McLennan	8,733	Urban	3	3	3
8	Wortham	Freestone	1,082	Rural	6	6	5
9	Alamo Heights	Bexar	7,319	Urban	4	4	4
9	Bandera	Bandera	957	Rural	3	5	6
9	Bigfoot	Frio	304	Rural	3	3	4
	Boerne	Kendall	6,178	Rural	4	6	6

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
9	Bulverde	Comal	3,761	Rural	3	3	3
9	Canyon Lake	Comal	16,870	Rural	4	4	5
9	Castle Hills	Bexar	4,202	Urban	6	6	4
9	Castroville	Medina	2,664	Rural	5	4	4
9	Charlotte	Atascosa	1,637	Rural	4	3	5
9	Christine	Atascosa	436	Rural	3	3	6
9	Cibolo	Guadalupe	3,035	Rural	6	5	4
9	Comfort	Kendall	2,358	Rural	3	4	6
9	Cross Mountain	Bexar	1,524	Urban	3	3	3
9	Devine	Medina	4,140	Rural	5	5	5
9	Dilley	Frio	3,674	Rural	6	6	6
9	Fair Oaks Ranch	Bexar	4,695	Urban	5	4	3
9	Falls City	Karnes	591	Rural	4	3	3
9	Floresville	Wilson	5,868	Rural	3	5	5
9	Fredericksburg	Gillespie	8,911	Rural	3	5	5
9	Garden Ridge	Comal	1,882	Rural	6	6	3
9	Geronimo	Guadalupe	619	Rural	3	3	5
9	Harper	Gillespie	1,006	Rural	5	4	6
9	Hill Country Village	Bexar	1,028	Urban	3	3	3
9	Hilltop	Frio	300	Rural	3	3	5
9	Hollywood Park	Bexar	2,983	Urban	6	6	3
9	Hondo	Medina	7,897	Rural	3	5	4
9	Ingram	Kerr	1,740	Rural	5	5	6
9	Jourdanton	Atascosa	3,732	Rural	4	6	5
9	Karnes City	Karnes	3,457	Rural	3	4	5
9	Kenedy	Karnes	3,487	Rural	4	4	5
9	Kerrville	Kerr	20,425	Rural	5	6	5
9	Kingsbury	Guadalupe	652	Rural	3	3	4
9	La Vernia	Wilson	931	Rural	6	6	5
9	Lackland AFB	Bexar	7,123	Urban	3	3	6
9	LaCoste	Medina	1,255	Rural	5	4	4
9	Lakehills	Bandera	4,668	Rural	6	6	5
9	Lytle	Atascosa	2,383	Rural	3	4	6
9	Marion	Guadalupe	1,099	Rural	5	4	4
9	McQueeney	Guadalupe	2,527	Rural	4	4	5
9	Moore	Frio	644	Rural	4	3	3
9	Natalia	Medina	1,663	Rural	6	6	6
9	New Berlin	Guadalupe	467	Rural	3	3	4
9	New Braunfels	Comal	36,494	Urban	5	5	4
9	North Pearsall	Frio	561	Rural	4	4	5
9	Northcliff	Guadalupe	1,819	Rural	4	4	4
9	Olmos Park	Bexar	2,343	Urban	4	3	3
9	Pearsall	Frio	7,157	Rural	4	4	6
9	Pleasanton	Atascosa	8,266	Rural	6	6	5
9	Poteet	Atascosa	3,305	Rural	4	5	5
9	Poth	Wilson	1,850	Rural	5	4	4
9	Redwood	Guadalupe	3,586	Rural	5	5	6
9	Runge	Karnes	1,080	Rural	6	5	3
	Santa Clara	Guadalupe	889	Rural	6	6	5
	Scenic Oaks	Bexar	3,279	Urban	3	3	3
,	OCCINC OAKS	DONG	5,217	Urban	5	J	,

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
9	Seguin	Guadalupe	22,011	Rural	4	5	5
9	Stockdale	Wilson	1,398	Rural	5	5	4
9	Stonewall	Gillespie	469	Rural	5	5	5
9	Terrell Hills	Bexar	5,019	Urban	4	4	3
9	Timberwood Park	Bexar	5,889	Urban	4	3	3
9	West Pearsall	Frio	349	Rural	6	6	3
9	Windcrest	Bexar	5,105	Urban	6	6	3
9	Zuehl	Guadalupe	346	Rural	3	3	5
10	Agua Dulce (Nueces)	Nueces	737	Rural	5	4	4
	Airport Road Addition	Brooks	132	Rural	3	3	5
	Alfred-South La Paloma	Jim Wells	451	Rural	3	3	4
	Alice	Jim Wells	19,010	Rural	4	4	4
	Alice Acres	Jim Wells	491	Rural	3	3	3
_	Aransas Pass	San Patricio	8,138	Rural	4	5	6
10		Refugio	192	Rural	6	6	6
	Austwell	, ,	360	Rural	6	6	<u> </u>
	Bayside	Refugio Bee	13,129	Rural	4	<u> </u>	4
10	Beeville	Duval	1,686	Rural	5	5	3
	Benavides		,	Rural	5	5	4
	Bishop	Nueces	3,305 2,562	Rural			4
_	Bloomington	Victoria	,		6	6	
10	Blue Berry Hill	Bee	982	Rural	3	3	6
	Cantu Addition	Brooks	217	Rural	3	3	6
10	Concepcion	Duval Jim Wells	61 389	Rural	3	3	3
10	Coyote Acres	DeWitt		Rural	3	3	6
10	Cuero	San Patricio	6,571	Rural	6	6	4
10	Del Sol-Loma Linda		726	Rural	3	3	5
10	Doyle	San Patricio	285 825	Urban Rural	3 5	3	3
	Driscoll	Nueces San Patricio	182			5	3
10	Edgewater-Paisano			Rural	6	6	3
10	Edna	Jackson San Patricio	5,899	Rural	5	6	5
	Edroy		420	Rural	3	3	6
	Encino	Brooks	177	Rural	3	3	3
_	Falfurrias	Brooks	5,297	Rural	6	5	6
	Falman-County Acres	San Patricio	289	Rural	6	6	3
	Flowella	Brooks	134	Rural	3	3	6
	Freer	Duval Aransas	3,241	Rural	4	4	4
	Fulton		1,553	Rural	5	4	6
	Ganado Ganado Wast	Jackson Livo Oak	1,915	Rural	4	4	4
_	George West	Live Oak	2,524	Rural	4		4
_	Goliad	Goliad	1,975	Rural	3	4	6
	Gonzales	Gonzales San Patricio	7,202 2,318	Rural Rural	4	4	5 3
	Gregory		2,318		4 5	4	3
	Hallettsville	Lavaca Victoria	2,345 1,787	Rural	5 4	4	3
	Inez	San Patricio	9,388	Rural	4	6	4
_	Ingleside	San Patricio	9,388 659	Urban Urban	6	6	5
	Ingleside on the Bay	Jim Wells	350	Rural	6	6	3
-	K-Bar Ranch	Kleberg	25,575	Rural	4	6	<u> </u>
	Kingsville	Nueces	323	Rural	6	6	4
10	La Paloma-Lost Creek La Ward	Jackson	200	Rural	5	5	6
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
10	Lakeshore Gardens-Hidden	San Patricio	720	Rural	3	3	3
10	Lakeside (San Patricio)	San Patricio	333	Rural	3	3	4
10	Lolita	Jackson	548	Rural	3	3	3
10	Loma Linda East	Jim Wells	214	Rural	3	3	3
10	Mathis	San Patricio	5,034	Rural	4	6	4
10	Morgan Farm Area	San Patricio	484	Rural	6	6	3
10	Moulton	Lavaca	944	Rural	4	4	4
10	Nixon	Gonzales	2,186	Rural	4	5	6
10	Nordheim	DeWitt	323	Rural	5	4	6
10	Normanna	Bee	121	Rural	3	3	6
10	North San Pedro	Nueces	920	Rural	4	4	3
10	Odem	San Patricio	2,499	Rural	5	4	3
10	Orange Grove	Jim Wells	1,288	Rural	6	6	3
10	Owl Ranch-Amargosa	Jim Wells	527	Rural	6	6	4
10	Pawnee	Bee	201	Rural	3	3	4
10	Pernitas Point	Live Oak	269	Rural	6	6	4
10	Petronila	Nueces	83	Rural	3	3	3
10	Pettus	Bee	608	Rural	4	4	4
10	Point Comfort	Calhoun	781	Rural	5	4	3
10	Port Aransas	Nueces	3,370	Urban	6	6	5
10	Port Lavaca	Calhoun	12,035	Rural	5	5	4
10	Portland	San Patricio	14,827	Urban	5	5	3
10	Premont	Jim Wells	2,772	Rural	5	5	6
	Rancho Alegre	Jim Wells	1,775	Rural	6	5	5
10	Rancho Banquete	Nueces	469	Rural	3	3	6
10	Rancho Chico	San Patricio	309	Rural	6	6	3
10	Realitos	Duval	209	Rural	3	3	3
10	Refugio	Refugio	2,941	Rural	4	4	5
10	Robstown	Nueces	12,727	Rural	3	4	5
	Rockport	Aransas	7,385	Rural	4	5	5
10	San Diego	Duval	4,753	Rural	5	4	5
	San Patricio	San Patricio	318	Rural	6	6	5
	Sandia	Jim Wells	431	Rural	3	3	4
	Sandy Hollow-Escondidas	Nueces	433	Rural	4	4	4
_	Seadrift	Calhoun	1,352	Rural	5	5	3
	Shiner	Lavaca	2,070	Rural	5	5	6
	Sinton	San Patricio	5,676	Rural	5	5	4
	Skidmore	Bee	1,013	Rural	5	5	4
	Smiley	Gonzales	453	Rural	5	5	6
10	Spring Garden-Terra Verde	Nueces	693	Rural	3	3	5
	Spring Garden-Terra verde St. Paul (San Patricio)	San Patricio	542	Rural	3	3	4
		San Patricio	3,396	Rural	5	5	5
10	Taft Southwest	San Patricio	1,721	Rural	4	4	6
10	Taft Southwest	Live Oak	1,721	Rural	5	4	4
	Three Rivers	Nueces	362	Rural	4	4	4
	Tierra Grande	San Patricio	163	Rural	3	3	6
10	Tradewinds	Bee	292	Rural	3	3	6
10	Tuleita	Bee	292	Rural	3	3	3
10	Tulsita	Bee	301	Rural	5	<u> </u>	3
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10	Vanderbilt	Jackson	411	Rural	3	3	3

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
10	Waelder	Gonzales	947	Rural	4	4	4
10	Westdale	Jim Wells	295	Rural	3	3	6
10	Woodsboro	Refugio	1,685	Rural	5	5	4
10	Yoakum	Lavaca	5,731	Rural	6	6	3
10	Yorktown	DeWitt	2,271	Rural	5	4	4
11	Abram-Perezville	Hidalgo	5,444	Rural	6	6	4
11	Alto Bonito	Starr	569	Rural	3	3	3
11	Alton North	Hidalgo	5,051	Rural	5	5	4
11	Arroyo Alto	Cameron	320	Rural	3	3	5
11	Arroyo Colorado Estates	Cameron	755	Rural	6	6	3
11	Arroyo Gardens-La Tina Ran	Cameron	732	Rural	3	3	3
11	Asherton	Dimmit	1,342	Rural	6	5	3
11	Batesville	Zavala	1,298	Rural	5	4	3
11	Bausell and Ellis	Willacy	112	Rural	3	3	3
11	Bayview	Cameron	323	Rural	6	6	6
11	Big Wells	Dimmit	704	Rural	5	5	3
11	Bixby	Cameron	356	Rural	3	3	6
11	Bluetown-Iglesia Antigua	Cameron	692	Rural	5	5	3
11	Botines	Webb	132	Rural	6	6	3
11	Box Canyon-Amistad	Val Verde	76	Rural	3	3	6
11	Brackettville	Kinney	1,876	Rural	4	6	5
11	Brundage	Dimmit	31	Rural	3	3	6
11	Bruni	Webb	412	Rural	3	3	6
11	Cameron Park	Cameron	5,961	Urban	5	4	4
11	Camp Wood	Real	822	Rural	6	6	6
11	Carrizo Hill	Dimmit	548	Rural	6	6	6
11		Dimmit	5,655	Rural	6	6	4
11	Carrizo Springs Catarina	Dimmit	135	Rural	3	3	4
11	Catalila Cesar Chavez	Hidalgo	1,469	Urban	5	5	6
11		Cameron	394	Rural	6	6	4
11	Chula Vista-Orason	Zavala	400	Rural	3	3	5
	Chula Vista-River Spur	Val Verde	2,878	Rural	6	6	5
11	Cienegas Terrace	Hidalgo	941	Rural	3	3	5
11	Citrus City	Cameron	2,553	Urban	5	4	5
11	Combes	La Salle	3,614	Rural	3	5	4
11	Cotulla	Zavala	7,190	Rural	5	5	5
11	Crystal City	Hidalgo	37	Rural	3	3	6
	Cuevitas	Cameron	259	Rural	3	3	3
11	Del Mar Heights	Val Verde	33,867	Rural	5	5	4
11	Del Rio	Hidalgo	4,256	Rural	5	5	
	Doffing	_					3
11	Doolittle	Hidalgo Mayorisk	2,358	Urban	4	4	
11	Eagle Pass	Maverick	22,413	Rural	6	6	5
11	Edinburg	Hidalgo Mayorisk	48,465	Urban	5	5	5
11	Eidson Road	Maverick	9,348	Rural	4	4	5
11	El Camino Angosto	Cameron	254	Rural	3	3	3
	El Cenizo	Webb	3,545	Rural	4	4	3
11	El Indio	Maverick	263	Rural	6	6	3
11	El Refugio	Starr	221	Rural	6	6	6
11	Elm Creek	Maverick	1,928	Rural	3	3	6
11	Encantada-Ranchito El Calal		2,100	Rural	3	3	4
11	Encinal	La Salle	629	Rural	6	5	3

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
11	Escobares	Starr	1,954	Rural	5	5	5
11	Falcon Heights	Starr	335	Rural	3	3	4
11	Falcon Lake Estates	Zapata	830	Rural	5	5	3
11	Falcon Mesa	Zapata	506	Rural	3	3	5
11	Falcon Village	Starr	78	Rural	6	6	6
11	Faysville	Hidalgo	348	Urban	6	6	3
11	Fowlerton	La Salle	62	Rural	3	3	3
11	Fronton	Starr	599	Rural	3	3	4
11	Garceno	Starr	1,438	Rural	6	6	6
11	Grand Acres	Cameron	203	Rural	3	3	4
11	Green Valley Farms	Cameron	720	Rural	3	3	4
11	Guerra	Jim Hogg	8	Rural	3	3	3
11	Havana	Hidalgo	452	Rural	5	5	5
11	Hebbronville	Jim Hogg	4,498	Rural	5	5	5
11	Heidelberg	Hidalgo	1,586	Rural	6	6	6
11	Indian Hills	Hidalgo	2,036	Rural	4	4	6
11	Indian Lake	Cameron	541	Rural	6	6	5
11	Knippa	Uvalde	739	Rural	5	4	4
11	La Blanca	Hidalgo	2,351	Rural	6	6	3
11	La Casita-Garciasville	Starr	2,177	Rural	4	6	4
11	La Feria	Cameron	6,115	Rural	5	4	4
11	La Feria North	Cameron	168	Rural	6	6	3
11	La Grulla	Starr	1,211	Rural	4	4	4
11	La Homa	Hidalgo	10,433	Urban	5	5	5
11	La Paloma	Cameron	354	Rural	6	6	3
11	La Presa	Webb	508	Rural	3	3	3
11	La Pryor	Zavala	1,491	Rural	5	5	4
11	La Puerta	Starr	1,636	Rural	3	3	5
11	La Rosita	Starr	1,729	Rural	5	5	6
11	La Victoria	Starr	1,683	Rural	3	3	3
11		Cameron	246	Rural	6	6	3
11	Lago Laguna Heights	Cameron	1,990	Rural	4	4	4
	Laguna Seca	Hidalgo	251	Rural	3	3	6
11	Laguna Vista	Cameron	1,658	Rural	3	5	4
11	Lake View	Val Verde	167	Rural	3	3	6
11	Laredo Ranchettes	Webb	1,845	Rural	3	3	3
11		Webb	742	Urban	6	6	6
11	Larga Vista Las Colonias	Zavala	283	Rural	6	6	5
11		Starr	2,684	Rural	6	6	4
11	Las Lomas	Jim Hogg	2,004	Rural	3	3	6
11	Las Lomitas	Cameron	1,666	Rural	4	4	5
11	Las Palmas-Juarez	Maverick	2,030	Rural	4	4	3
11	Las Quintas Fronterizas	Cameron	135	Urban	3	3	3
11	Lasana	Willacy	1,024	Rural	4	4	5
11	Lasara	Val Verde	2,225	Rural	4	4	3
11	Laughlin AFB	Cameron	3,285	Rural	5	5	5 5
	Laureles	Real	3,285			6	6
11	Leakey	Hidalgo	3,333	Rural Urban	6 5	5	3
11	Llano Grande		140	Rural	3	3	6
	Lopeno	Zapata					
11	Lopezville	Hidalgo	4,476	Urban	4	4	4
11	Los Alvarez	Starr	1,434	Rural	4	4	6

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
11	Los Angeles Subdivision	Willacy	86	Rural	6	6	3
11	Los Ebanos	Hidalgo	403	Rural	5	5	4
11	Los Fresnos	Cameron	4,512	Rural	5	3	6
11	Los Indios	Cameron	1,149	Rural	3	3	4
11	Los Villareales	Starr	930	Rural	3	3	4
11	Lozano	Cameron	324	Rural	3	3	3
11	Lyford	Willacy	1,973	Rural	5	5	5
11	Lyford South	Willacy	172	Rural	6	6	4
11	Medina	Zapata	2,960	Rural	4	4	4
11	Midway North	Hidalgo	3,946	Urban	3	3	5
11	Midway South	Hidalgo	1,711	Urban	5	5	6
11	Mila Doce	Hidalgo	4,907	Rural	4	4	5
11	Mirando City	Webb	493	Rural	6	6	6
11	Mission	Hidalgo	45,408	Urban	4	5	5
	Monte Alto	Hidalgo	1,611	Rural	5	5	4
11	Morales-Sanchez	Zapata	95	Rural	3	3	3
11	Muniz	Hidalgo	1,106	Rural	6	6	5
11	New Falcon	Zapata	184	Rural	3	3	3
11	North Alamo	Hidalgo	2,061	Urban	4	4	4
11	North Escobares	Starr	1,692	Rural	6	6	4
11	Nurillo	Hidalgo	5,056	Urban	5	5	6
11	Oilton	Webb	310	Rural	3	3	5
11	Olivarez	Hidalgo	2,445	Rural	5	5	3
11	Olmito	Cameron	1,198	Urban	5	5	4
11	Palm Valley	Cameron	1,298	Urban	4	4	3
11	Palmview South	Hidalgo	6,219	Urban	5	5	4
11	Pharr	Hidalgo	46,660	Urban	4	5	4
11	Port Isabel	Cameron	4,865	Rural	4	4	5
11	Port Mansfield	Willacy	4,003	Rural	5	5	5
11	Primera	Cameron	2,723	Urban	5	4	5
11	Quemado	Maverick	2,723	Rural	3	3	3
11	Radar Base	Maverick	162	Rural	3	3	6
11		Willacy	133	Rural	3	3	3
11	Ranchette Estates	Webb	334	Rural	3	3	4
11	Ranchitos Las Lomas	Cameron	1,754	Urban	5	5	3
11	Rancho Viejo	Webb	520	Urban	3	3	4
11	Ranchos Penitas West	Cameron	203	Rural	3	3	5
11	Rangerville	Cameron	203	Rural	3	3	3
	Ratamosa		9,733	Rural	4	4	6
11	Raymondville	Willacy Cameron	9,733	Urban			
	Reid Hope King	Hidalgo	104	Rural	6	6	3
11	Relampago	Webb	5,553	Urban	4		6
	Rio Bravo	Starr	11,923	Rural	5	3	4
11	Rio Grande City		1,923			3	
11	Rio Hondo	Cameron		Rural	5		5
11	Rocksprings	Edwards	1,285	Rural	5	4	5
11	Roma	Starr	9,617	Rural	6	6	4
11	Roma Creek	Starr	610	Rural	3	3	3
	Rosita North	Maverick	3,400	Rural	4	4	5
	Rosita South	Maverick	2,574	Rural	5	5	3
11	Sabinal	Uvalde	1,586	Rural	6	6	5
11	Salineno	Starr	304	Rural	3	3	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
11	San Benito	Cameron	23,444	Urban	5	4	4
11	San Carlos	Hidalgo	2,650	Rural	6	6	6
11	San Ignacio	Zapata	853	Rural	3	3	6
11	San Isidro	Starr	270	Rural	5	5	4
11	San Manuel-Linn	Hidalgo	958	Rural	3	3	3
11	San Pedro	Cameron	668	Rural	3	3	3
11	San Perlita	Willacy	680	Rural	6	6	6
11	Santa Cruz	Starr	630	Rural	6	6	5
11	Santa Maria	Cameron	846	Rural	4	4	3
11	Santa Monica	Willacy	78	Rural	3	3	6
11	Santa Rosa	Cameron	2,833	Rural	3	5	4
11	Scissors	Hidalgo	2,805	Rural	3	3	4
11	Sebastian	Willacy	1,864	Rural	3	3	6
11	Siesta Shores	Zapata	890	Rural	3	3	5
11	Solis	Cameron	545	Rural	6	6	3
11	South Alamo	Hidalgo	3,101	Rural	5	5	4
11	South Fork Estates	Jim Hogg	47	Rural	3	3	3
11	South Padre Island	Cameron	2,422	Rural	6	6	4
11	South Point	Cameron	1,118	Rural	6	6	4
11	Spofford	Kinney	75	Rural	3	3	3
11	Tierra Bonita	Cameron	160	Rural	3	3	4
11	Utopia	Uvalde	241	Rural	5	5	6
11	Uvalde	Uvalde	14,929	Rural	5	5	4
11	Uvalde Estates	Uvalde	1,972	Rural	5	5	5
11	Val Verde Park	Val Verde	1,945	Rural	5	4	4
11	Villa del Sol	Cameron	132	Rural	3	3	5
11		Cameron	386	Urban	6	6	6
11	Villa Pancho	Hidalgo	891	Urban	3	3	5
11	Villa Verde	Hidalgo	2,947	Rural	4	4	3
11	West Sharyland	Willacy	15	Rural	3	3	3
11	Willamar	Cameron	103	Rural	3	3	6
	Yznaga		4,856	Rural	4	6	4
	Zapata	Zapata Willacy	88	Rural	3	3	5
	Zapata Ranch	Dawson	245		4	4	6
12	Ackerly	Andrews	9,652	Rural Rural	5	4	
	Andrews		527				4
12 12	Balmorhea	Reeves Ward	406	Rural Rural	3	3	5
	Barstow		2,885	Rural	6 5	6 5	4
	Big Lake	Reagan		Rural			
	Big Spring	Howard	25,233	Rural	5	6	4
	Brady	McCulloch	5,523		4	6	5
	Bronte	Coke Tom Croon	1,076	Rural	6	6	5
12	Christoval	Tom Green	422	Rural	6	6	5
12	Coahoma	Howard	932	Rural	4	4	3
12	Coyanosa	Pecos	138	Rural	3	3	3
12	Crane	Crane	3,191	Rural	6	6	4
12	Eden	Concho	2,561	Rural	6	6	5
12	Eldorado	Schleicher	1,951	Rural	3	3	6
12	Forsan	Howard	226	Rural	4	4	6
12	Fort Stockton	Pecos	7,846	Rural	3	4	5
12	Gardendale	Ector	1,197	Rural	3	3	3
12	Goldsmith	Ector	253	Rural	4	4	3

12 Grape Ceek	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
	12 Grandfalls	Ward	391	Rural	4	4	5
Pecos	12 Grape Creek	Tom Green	3,138	Rural	5	5	5
12	12 Imperial	Pecos	428		3	3	3
12 Rormit Winkler 5,714 Rural 4 4 4 12 Lamesa Dawson 9,952 Rural 5 5 5 5 12 Lindsay (Reeves) Reeves 394 Rural 3 3 3 3 12 Lindsay (Reeves) Dawson 32 Rural 3 3 3 3 12 Mason Mason 2,134 Rural 6 5 5 12 MecCamery Uplon 1,805 Rural 4 4 4 4 12 Merland MecCamery Uplon 1,805 Rural 6 6 6 6 12 Menard Menard 1,653 Rural 5 5 5 12 Mentron Irion 839 Rural 3 3 3 3 12 Midland Midland 94,996 Urban 5 5 5 12 Mentron Irion 839 Rural 3 3 3 12 Midland Midland 94,996 Urban 5 5 5 12 Monahans Ward 6,821 Rural 6 6 6 12 Paint Rock Concho 320 Rural 3 4 4 12 Paint Rock Concho 320 Rural 3 4 12 Paint Rock Concho 320 Rural 3 3 4 12 Paint Rock Concho 320 Rural 3 3 3 12 Rosal Rural 3 3 3 3 3 12 Rosal Rural 3 3 3 3 12 Rosal Rural 3 3 3 3 3 3 3 3 3	12 Iraan	Pecos	1,238	Rural	3	3	3
12 Lamesa	12 Junction	Kimble	2,618	Rural	5	5	5
Lindsay (Reeves) Reeves 394 Rural 3 3 3 3 3 3 3 3 3	12 Kermit	Winkler	5,714	Rural	4	4	3
12 Los Ybanez Dawson 32 Rural 3 3 3 3 3 3 3 3 3	12 Lamesa	Dawson	9,952	Rural	5	5	4
12 Mason Mason 2,134 Rural 6 5 12 MeCamey Upton 1,805 Rural 4 4 4 13 Melvin McCulloch 155 Rural 5 5 14 Menard Menard 1,653 Rural 5 5 15 Mertzon Irion 839 Rural 3 3 3 16 Midland Midland 94,996 Urban 5 5 17 Midland Midland 94,996 Urban 5 5 18 Monahans Ward 6,821 Rural 6 6 6 19 Pocona Crockett 3,436 Rural 3 4 10 Paint Rock Concho 320 Rural 6 6 6 11 Paint Rock Concho 320 Rural 6 6 6 12 Paoco Reeves 9,501 Rural 3 4 12 Pyote Ward 131 Rural 3 3 3 13 Robert Lee Coke 1,171 Rural 6 6 6 12 Sanderson Terrell 861 Rural 6 5 12 Sangraves Gaines 2,334 Rural 6 5 12 Sangraves Gaines 2,334 Rural 6 5 12 Sonora Sutton 2,924 Rural 3 4 12 Stanton Martin 2,556 Rural 3 3 4 12 Stanton Martin 2,556 Rural 3 3 3 12 Robet Lee Ward 442 Rural 3 3 3 13 Agua Dulce (El Paso) El Paso 7,88 Rural 6 6 14 Wink Winkler 919 Rural 5 5 15 Wink Winkler 919 Rural 6 6 16 Wink Winkler 919 Rural 6 6 17 Winckett Ward 445 Rural 6 6 18 Wink Winkler 919 Rural 6 6 19 Wink Winkler 919 Rural 6 6 10 Wink El Paso 3,880 Urban 3 6 11 Gardinary Gard	12 Lindsay (Reeves)	Reeves	394	Rural	3	3	6
12 McCamey Upton 1,805 Rural 4 4 4 12 Melvin McCulotch 155 Rural 6 6 6 12 Menard Menard 1,653 Rural 5 5 5 12 Merzon Inion 839 Rural 3 3 3 12 Merzon Inion 839 Rural 3 3 3 3 12 Merzon Inion 839 Rural 5 5 5 12 Monahans Ward 6,821 Rural 6 6 6 6 12 Paint Rock Concho 3,436 Rural 3 4 4 12 Paint Rock Concho 3,20 Rural 6 6 6 6 12 Paint Rock Concho 3,20 Rural 6 6 6 6 12 Pocos Reeves 9,501 Rural 3 4 4 12 Pyote Ward 131 Rural 3 3 3 3 12 Rankin Upton 900 Rural 3 3 3 3 3 12 Rankin Upton 900 Rural 3 3 3 3 3 12 Rankin Upton 900 Rural 6 6 6 6 12 Sanderson Terrell 861 Rural 6 5 5 12 Seagraves Gaines 2,334 Rural 6 5 5 12 Seagraves Gaines 5,910 Rural 4 4 4 12 Tonorian Martin 2,556 Rural 3 3 4 4 12 Tonorian Martin 2,556 Rural 5 5 5 12 Sterling City Sterling 1,081 Rural 4 4 4 4 12 Tonorian Reeves 100 Rural 3 3 3 3 12 West Odessa Ector 17,799 Urban 5 5 5 12 Wickett Ward 442 Rural 3 3 3 3 12 West Odessa Ector 17,799 Urban 5 5 5 13 Marathon El Paso 5,129 Urban 4 4 4 4 13 13 Marathon El Paso 5,129 Urban 4 4 4 4 4 4 4 4 4	12 Los Ybanez	Dawson	32	Rural	3	3	3
12 Melvin	12 Mason	Mason	2,134	Rural	6	5	5
12 Menard Menard 1,653 Rural 5 5 5 12 Mertzon Irion 839 Rural 3 3 3 13 Midland Midland 94,996 Urban 5 5 14 Monhans Ward 6,821 Rural 6 6 6 15 Ozona Crockett 3,436 Rural 3 4 16 Pecos Reeves 9,501 Rural 3 4 17 Paint Rock Concho 320 Rural 3 4 18 Pecos Reeves 9,501 Rural 3 4 19 Pyote Ward 131 Rural 3 3 3 10 Rankin Upton 800 Rural 3 3 3 12 Robert Lee Coke 1,171 Rural 6 6 6 12 Sanderson Terrell 861 Rural 6 5 12 Sagraves Gaines 2,334 Rural 6 5 12 Segraves Gaines 2,334 Rural 6 5 12 Seminole Gaines 5,910 Rural 4 4 12 Sonora Sutton 2,924 Rural 3 4 12 Stanton Martin 2,556 Rural 5 5 12 Sterling City Sterling 1,081 Rural 4 4 12 Toryah Reeves 100 Rural 3 3 12 Toyah Reeves 100 Rural 3 3 13 Alpine Brewster 5,786 Rural 5 5 13 Alpine Brewster 5,786 Rural 5 6 13 Alpine Brewster 5,786 Rural 3 3 3 Clint El Paso 61 Rural 6 6 3 Fabers El Paso 8,264 Urban 4 4 4 Rural 3 3 6 3 Fort Davis Jeff Davis 1,050 Rural 5 4 3 Homestead Meadows North El Paso 6,807 Rural 5 5 3 Marathon Brewster 4,55 Rural 6 6 4 Homestead Meadows North El Paso 6,807 Rural 5 5 4 Homestead Meadows North El Paso 6,807 Rural 6 6 3 Marathon Brewster 4,55 Rural 6 6 4 Homestead Meadows North El Paso 6,807 Rural 6 6 4 Homestead Meadows South El Paso 6,807 Rural 6 6 5 Rural 6 6 6 6 Homestead Meadows South El Paso 6,807 Rural 6 6 6 Homestead Meadows South El Paso 6,807 Rural 6 6 7 Homestead Meadows South El Paso 6,807 Rural 6 6 8 Homestead Meadows South El Paso 6,807	12 McCamey	Upton	1,805	Rural	4	4	4
12 Metzon	12 Melvin	McCulloch	155	Rural	6	6	6
12 Midland Midland 94,996 Urban 5 5	12 Menard	Menard	1,653	Rural	5	5	6
12 Monahans Ward 6,821 Rural 6 6 6 12 Ozona Crockett 3,436 Rural 3 4 12 Paint Rock Concho 320 Rural 6 6 12 Pecos Reeves 9,501 Rural 3 4 12 Pyote Ward 131 Rural 3 3 3 12 Rankin Upton 800 Rural 3 3 3 12 Robert Lee Coke 1,171 Rural 6 6 6 13 Saagraves Gaines 2,334 Rural 6 5 14 Saagraves Gaines 2,334 Rural 6 5 15 Saegraves Gaines 2,334 Rural 6 5 15 Saegraves Gaines 2,334 Rural 6 5 15 Saegraves Gaines 5,910 Rural 4 4 16 Sonora Sutton 2,924 Rural 3 4 17 Stanton Martin 2,556 Rural 5 5 18 Sterling City Sterling 1,081 Rural 4 4 19 Torntonville Ward 442 Rural 3 3 10 West Odessa Ector 17,799 Urban 5 5 10 Wink Winkler 919 Rural 5 4 11 Marian Brewster 5,786 Rural 6 6 13 Alpine Brewster 5,786 Rural 3 3 3 Clint El Paso 5,129 Urban 4 4 4 Flaso 6 6 6 3 Fort Davis Jeff Davis 1,050 Rural 3 3 3 Fort Bliss El Paso 8,043 Rural 5 4 3 Fort Bliss El Paso 8,043 Rural 5 5 4 Homestead Meadows North El Paso 6,807 Rural 5 5 3 Horizon City El Paso 6,807 Rural 5 5 4 Horizon City El Paso 6,807 Rural 6 6 3 Marathon Brewster 455 Rural 6 6 3 Marathon Brewster 455 Rural 6 6 3 Marathon Brewster 455 Rural 6 6 4 Horizon City El Paso 6,807 Rural 6 6 5 Rural 6 6 6 6 Rural 6 6 6 7 Rural 6 6 6 8 Horizon City El Paso 6,807 Rural 6 6 9 Horizon City El Paso 6,807 Rural 6 6 9 Rural 6 6 9 Rural 6 6 9 Rural 6 6 9 Rural 6 6	12 Mertzon	Irion	839	Rural	3	3	5
12 Ozona	12 Midland	Midland	94,996	Urban	5	5	4
12 Paint Rock Concho 320 Rural 6 6 6 12 Pecos Reeves 9,501 Rural 3 4 12 Pyole Ward 131 Rural 3 3 3 3 12 Rankin Upton 800 Rural 3 3 3 3 12 Rankin Upton 800 Rural 3 3 3 3 12 Rankin Upton 800 Rural 3 3 3 3 12 Rankin Upton 800 Rural 3 3 3 12 Rankin Upton 801 Rural 6 6 6 6 12 Sanderson Terrell 861 Rural 6 6 5 12 Sanderson Terrell 861 Rural 6 5 5 12 Seagraves Gaines 2,334 Rural 6 5 5 12 Seminole Gaines 5,910 Rural 4 4 4 4 12 Seminole Gaines 5,910 Rural 3 4 4 12 Senting City Sterling 1,081 Rural 4 4 4 12 Sterling City Sterling 1,081 Rural 4 4 4 12 Sterling City Sterling 1,081 Rural 4 4 4 12 Thornoville Ward 442 Rural 3 3 3 12 West Odessa Ector 17,799 Urban 5 5 5 12 Wickett Ward 455 Rural 6 6 6 12 Wink Winkler 919 Rural 5 4 4 13 Agua Dulce (El Paso) El Paso 7,38 Rural 3 3 3 3 13 Agua Dulce (El Paso) El Paso 3,850 Urban 3 6 6 13 Anthony El Paso 6,11 Rural 3 3 3 13 Ganullilo El Paso 5,129 Urban 4 4 4 13 Fabens El Paso 8,043 Rural 6 6 6 13 Fabens El Paso 8,043 Rural 6 6 6 13 Fort Bliss El Paso 8,043 Rural 5 4 4 14 14 14 14 14	12 Monahans	Ward	6,821	Rural	6	6	3
12	12 Ozona	Crockett	3,436	Rural	3	4	4
12 Pyote Ward 131 Rural 3 3 3 12 Rankin Upton 800 Rural 3 3 3 3 12 Robert Lee Coke 1,171 Rural 6 6 6 6 12 Sanderson Terrell 861 Rural 6 5 5 12 Seagraves Gaines 2,334 Rural 6 5 5 12 Seminole Gaines 5,910 Rural 4 4 4 12 Sonora Sutton 2,924 Rural 3 4 4 12 Sonora Sutton 2,924 Rural 3 4 4 12 Starting City Sterling 1,081 Rural 4 4 4 12 Starting City Sterling 1,081 Rural 4 4 4 12 Thorntonville Ward 442 Rural 3 3 3 12 Toyah Reeves 100 Rural 3 3 3 12 West Odessa Ector 17,799 Urban 5 5 5 12 Wickett Ward 445 Rural 6 6 6 6 12 Wink Winkler 919 Rural 6 6 6 6 13 Apline Brewster 5,786 Rural 6 6 6 6 13 Anthony El Paso 3,850 Urban 3 6 6 13 Butterfield El Paso 5,129 Urban 4 4 4 13 Fabens El Paso 8,043 Rural 6 6 6 13 Fort Bilss El Paso 8,043 Rural 6 6 6 13 Fort Bilss El Paso 8,043 Rural 5 4 14 15 Fort Bilss El Paso 8,043 Rural 5 5 5 13 Homestead Meadows North El Paso 6,807 Rural 5 5 5 13 Homestead Meadows North El Paso 6,807 Rural 5 5 5 13 Horizon City El Paso 5,233 Rural 3 3 3 13 Horizon City El Paso 5,233 Rural 3 3 3 14 Horizon City El Paso 5,233 Rural 4 4 4 4 4 4 4 4 4		Concho	320	Rural	6	6	5
12 Pyote Ward 131 Rural 3 3 3 3 12 Rankin Upton 800 Rural 3 3 3 3 3 12 Rankin Upton 800 Rural 3 3 3 3 3 3 12 Robert Lee Coke 1,171 Rural 6 6 6 6 6 12 Sanderson Terrell 861 Rural 6 5 5 12 Seagraves Gaines 2,334 Rural 6 5 5 12 Seagraves Gaines 5,910 Rural 4 4 4 4 12 Sonora Sutton 2,924 Rural 3 4 4 4 12 Sonora Sutton 2,924 Rural 3 4 4 4 12 Stanton Martin 2,556 Rural 5 5 5 12 Sterling City Sterling 1,081 Rural 4 4 4 4 12 Thorntonville Ward 442 Rural 3 3 3 12 Toyah Reeves 100 Rural 3 3 3 12 West Odessa Ector 17,799 Urban 5 5 5 12 Wickett Ward 445 Rural 6 6 6 12 Wink Winkler 919 Rural 6 6 6 6 12 Wink Winkler 919 Rural 5 4 4 13 Agua Dulce (El Paso) El Paso 738 Rural 3 3 3 3 13 Alpine Brewster 5,786 Rural 6 6 6 13 Anthony El Paso 3,850 Urban 3 6 6 13 Clint El Paso 61 Rural 3 3 3 13 Clint El Paso 8,043 Rural 6 6 6 13 Fort Bilss El Paso 8,043 Rural 6 6 6 13 Fort Bilss El Paso 8,043 Rural 5 4 4 4 14 14 14 15 15	12 Pecos	Reeves	9,501	Rural	3	4	5
12 Rankin Upton 800 Rural 3 3 3 12 Robert Lee Coke 1,171 Rural 6 6 6 6 12 Sanderson Terrell 861 Rural 6 5 5 12 Seagraves Gaines 2,334 Rural 6 5 5 12 Seagraves Gaines 5,910 Rural 4 4 4 12 Sanora Sutton 2,924 Rural 3 4 4 12 Sanora Sutton 2,924 Rural 5 5 5 12 Sterling City Sterling 1,081 Rural 4 4 4 12 Startino Martin 2,556 Rural 5 5 5 12 Sterling City Sterling 1,081 Rural 4 4 4 4 12 Thorntonville Ward 442 Rural 3 3 3 3 12 Toyah Reeves 100 Rural 3 3 3 3 12 West Odessa Ector 17,799 Urban 5 5 5 12 Wickett Ward 455 Rural 6 6 6 12 Wink Winkler 919 Rural 5 4 4 4 13 Agua Dulce (El Paso) El Paso 738 Rural 3 3 3 3 3 3 3 3 3		Ward	131	Rural	3	3	6
12 Robert Lee Coke 1,1711 Rural 6 6 12 Sanderson Terrell 861 Rural 6 5 12 Seagraves Gaines 2,334 Rural 6 5 12 Seminole Gaines 5,910 Rural 4 4 12 Sonora Sutton 2,924 Rural 3 4 12 Stonora Sutton 2,924 Rural 5 5 12 Storting City Sterling 1,081 Rural 4 4 12 Storting City Sterling 1,081 Rural 4 4 12 Thorntonville Ward 442 Rural 3 3 12 Tropah Reeves 100 Rural 3 3 12 Toyah Reeves 100 Rural 3 3 12 Wickett Ward 455 Rural 6 <td></td> <td>Upton</td> <td>800</td> <td>Rural</td> <td>3</td> <td>3</td> <td>5</td>		Upton	800	Rural	3	3	5
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12 Wink Winkler 919 Rural 5 4 13 Agua Dulce (El Paso) El Paso 738 Rural 3 3 13 Alpine Brewster 5,786 Rural 6 6 13 Anthony El Paso 3,850 Urban 3 6 13 Butterfield El Paso 61 Rural 3 3 13 Canutillo El Paso 5,129 Urban 4 4 13 Clint El Paso 980 Rural 3 6 13 Dell City Hudspeth 413 Rural 6 6 13 Fabens El Paso 8,043 Rural 6 6 13 Fort Bliss El Paso 8,264 Urban 4 3 13 Fort Davis Jeff Davis 1,050 Rural 4 4 13 Fort Hancock Hudspeth 1,713 Rural </td <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>3</td>							3
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13 Anthony El Paso 3,850 Urban 3 6 13 Butterfield El Paso 61 Rural 3 3 13 Canutillo El Paso 5,129 Urban 4 4 13 Clint El Paso 980 Rural 3 6 13 Dell City Hudspeth 413 Rural 6 6 13 Fabens El Paso 8,043 Rural 6 6 13 Fort Bliss El Paso 8,264 Urban 4 3 13 Fort Davis Jeff Davis 1,050 Rural 4 4 13 Fort Hancock Hudspeth 1,713 Rural 5 4 13 Homestead Meadows North El Paso 4,232 Rural 5 5 13 Homestead Meadows South El Paso 6,807 Rural 6 6 13 Horizon City El Paso 5,233 Rural 3 3 13 Marathon Brewster	, ,						3
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
13	Presidio	Presidio	4,167	Rural	5	5	4
13	Redford	Presidio	132	Rural	3	3	6
13	San Elizario	El Paso	11,046	Urban	3	3	5
13	Sierra Blanca	Hudspeth	533	Rural	4	3	6
13	Socorro	El Paso	27,152	Urban	4	3	6
13	Sparks	El Paso	2,974	Rural	5	5	5
13	Study Butte-Terlingua	Brewster	267	Rural	4	3	3
13	Tornillo	El Paso	1,609	Rural	6	3	4
13	Valentine	Jeff Davis	187	Rural	5	4	3
13	Van Horn	Culberson	2,435	Rural	6	6	3
13	Vinton	El Paso	1,892	Rural	6	6	5
13	Westway	El Paso	3,829	Urban	6	6	5

Draft 2012 HTC Affordable Housing Need Scores (AHNS) Place Level

(Sorted by Region then Place)

Instructions:

Use this table to determine an application's AHNS:

- (1) Locate the row that corresponds to the place where the funds will be used.
- (2) Development sites located outside the boundaries of a place (as designated by the U.S. Census) will utilize the score of the place whose boundary is closest to the development site.
- All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Raquel Morales via facsimile at (512) 475-0764 or by email at raquel.morales@tdhca.state.tx.us.

Sorted by Region then Area Name

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
1	Abernathy	Hale	Rural	5	4	-1
1	Adrian	Oldham	Rural	6	6	0
1	Amarillo	Potter	Urban	5	5	0
1	Amherst	Lamb	Rural	4	4	0
1	Anton	Hockley	Rural	3	3	0
1	Bishop Hills	Potter	Rural	3	3	0
1	Booker	Lipscomb	Rural	5	5	0
1	Borger	Hutchinson	Rural	3	3	0
1	Bovina	Parmer	Rural	3	3	0
1	Brownfield	Terry	Rural	5	5	0
1	Buffalo Springs	Lubbock	Rural	3	4	1
1	Cactus	Moore	Rural	3	3	0
1	Canadian	Hemphill	Rural	5	5	0
1	Canyon	Randall	Rural	6	6	0
1	Channing	Hartley	Rural	6	6	0
1	Childress	Childress	Rural	4	4	0
1	Clarendon	Donley	Rural	5	5	0
1	Claude	Armstrong	Rural	6	6	0
1	Crosbyton	Crosby	Rural	5	5	0
1	Dalhart	Dallam	Rural	6	6	0
1	Darrouzett	Lipscomb	Rural	6	6	0
1	Denver City	Yoakum	Rural	4	4	0
1	Dickens	Dickens	Rural	6	6	0
1	Dimmitt	Castro	Rural	4	4	0
1	Dodson	Collingsworth	Rural	6	6	0
1	Dumas	Moore	Rural	4	4	0
1	Earth	Lamb	Rural	4	4	0
1	Edmonson	Hale	Rural	3	3	0
1	Estelline	Hall	Rural	6	6	0
1	Farwell	Parmer	Rural	6	6	0
1	Floydada	Floyd	Rural	5	5	0
1	Follett	Lipscomb	Rural	3	3	0
1	Friona	Parmer	Rural	5	5	0
1	Fritch	Hutchinson	Rural	5	5	0
1	Groom	Carson	Rural	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
1	Gruver	Hansford	Rural	5	5	0
1	Hale Center	Hale	Rural	5	5	0
1	Нарру	Swisher	Rural	4	4	0
1	Hart	Castro	Rural	4	3	-1
1	Hartley	Hartley	Rural	4	4	0
1	Hedley	Donley	Rural	6	6	0
1	Hereford	Deaf Smith	Rural	3	3	0
1	Higgins	Lipscomb	Rural	3	3	0
1	Howardwick	Donley	Rural	6	6	0
1	Idalou	Lubbock	Rural	3	3	0
1	Kress	Swisher	Rural	4	4	0
1	Lake Tanglewood	Randall	Rural	6	6	0
1	Lakeview	Hall	Rural	6	6	0
1	Lefors	Gray	Rural	3	3	0
1	Levelland	Hockley	Rural	4	5	1
1	Lipscomb	Lipscomb	Rural	3	3	0
1	Littlefield	Lamb	Rural	6	6	0
1	Lockney	Floyd	Rural	3	3	0
1	Lorenzo	Crosby	Rural	4	4	0
1	Lubbock	Lubbock	Urban	6	6	0
1	Matador	Motley	Rural	4	4	0
1	McLean	Gray	Rural	5	5	0
1	Meadow	Terry	Rural	3	3	0
1	Memphis	Hall	Rural	4	4	0
1	Miami	Roberts	Rural	6	6	0
1	Mobeetie	Wheeler	Rural	3	3	0
1	Morse	Hansford	Rural	4	5	1
1	Morton	Cochran	Rural	3	3	0
1	Muleshoe	Bailey	Rural	3	3	0
1	Nazareth	Castro	Rural	3	3	0
1	New Deal	Lubbock	Rural	5	5	0
1	New Home	Lynn	Rural	4	4	0
1	O'Donnell	Lynn	Rural	3	3	0
1	Olton	Lamb	Rural	3	3	0
1	Opdyke West	Hockley	Rural	5	5	0
1	Palisades	Randall	Rural	5	5	0
1	Pampa	Gray	Rural	3	4	1
1	Panhandle	Carson	Rural	4	4	0
1	Perryton	Ochiltree	Rural	3	3	0
1	Petersburg	Hale	Rural	3	3	0
1	Plains	Yoakum	Rural	4	4	0
1	Plainview	Hale	Rural	4	4	0
1	Post	Garza	Rural	6	6	0
1	Quail	Collingsworth	Rural	3	3	0
1	Quitaque	Briscoe	Rural	6	6	0
	Ralls	Crosby	Rural	4	4	0
1	Ransom Canyon	Lubbock	Rural	4	4	0
	Reese Center	Lubbock	Urban	3	3	0
	Roaring Springs	Motley	Rural	3	3	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	Ropesville	Hockley	Rural	3	3	0
1	Samnorwood	Collingsworth	Rural	3	3	0
1	Sanford	Hutchinson	Rural	6	5	-1
1	Seth Ward	Hale	Rural	5	5	0
1	Shallowater	Lubbock	Rural	6	6	0
1	Shamrock	Wheeler	Rural	5	5	0
1	Silverton	Briscoe	Rural	5	5	0
1	Skellytown	Carson	Rural	3	3	0
1	Slaton	Lubbock	Rural	5	5	0
1	Smyer	Hockley	Rural	4	4	0
1	Spade	Lamb	Rural	4	5	1
1	Spearman	Hansford	Rural	3	3	0
1	Springlake	Lamb	Rural	6	6	0
1	Spur	Dickens	Rural	3	3	0
1	Stinnett	Hutchinson	Rural	5	5	0
1	Stratford	Sherman	Rural	3	3	0
1	Sudan	Lamb	Rural	4	5	1
1	Sundown	Hockley	Rural	4	4	0
1	Sunray	Moore	Rural	4	4	0
	Tahoka	Lynn	Rural	3	3	0
1	Texhoma	Sherman	Rural	6	6	0
1	Texline	Dallam	Rural	4	4	0
1	Timbercreek Canyon	Randall	Rural	3	3	0
1	Tulia	Swisher	Rural	4	4	0
1	Turkey	Hall	Rural	3	3	0
1	Vega	Oldham	Rural	5	5	0
1	Wellington	Collingsworth	Rural	4	4	0
1	Wellman	Terry	Rural	3	4	1
1	Wheeler	Wheeler	Rural	4	4	0
1	White Deer	Carson	Rural	5	5	0
1	Whiteface	Cochran	Rural	3	3	0
1	Wilson	Lynn	Rural	3	3	0
1	Wolfforth	Lubbock	Rural	5	5	0
2	Abilene	Taylor	Urban	5	5	0
2	Albany	Shackelford	Rural	5	5	0
2	Anson	Jones	Rural	3	3	0
2	Archer City	Archer	Rural	4	4	0
2	Aspermont	Stonewall	Rural	4	4	0
2	Baird	Callahan	Rural	3	3	0
2	Ballinger	Runnels	Rural	6	6	0
2	Bangs	Brown	Rural	5	5	0
2	Bellevue	Clay	Rural	5	4	-1
2	Benjamin	Knox	Rural	3	3	0
2	Blackwell	Nolan	Rural	4	4	0
2	Blanket	Brown	Rural	6	6	0
2	Bowie	Montague	Rural	4	4	0
2	Breckenridge	Stephens	Rural	4	4	0
2	Brownwood	Brown	Rural	3	3	0
2	Bryson	Jack	Rural	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Buffalo Gap	Taylor	Rural	4	4	0
2	Burkburnett	Wichita	Rural	5	5	0
2	Byers	Clay	Rural	6	6	0
2	Carbon	Eastland	Rural	3	3	0
2	Chillicothe	Hardeman	Rural	6	6	0
2	Cisco	Eastland	Rural	6	6	0
2	Clyde	Callahan	Rural	5	5	0
2	Coleman	Coleman	Rural	5	5	0
2	Colorado City	Mitchell	Rural	6	6	0
2	Comanche	Comanche	Rural	6	6	0
2	Cross Plains	Callahan	Rural	3	3	0
2	Crowell	Foard	Rural	5	5	0
2	De Leon	Comanche	Rural	5	5	0
2	Dean	Clay	Rural	6	6	0
2	Early	Brown	Rural	4	4	0
2	Eastland	Eastland	Rural	3	3	0
2	Elbert	Throckmorton	Rural	6	6	0
2	Electra	Wichita	Rural	5	5	0
2	Girard	Kent	Rural	3	3	0
2	Goree	Knox	Rural	3	3	0
2	Gorman	Eastland	Rural	3	3	0
2	Graham	Young	Rural	4	4	0
2	Gustine	Comanche	Rural	6	6	0
2	Hamlin	Jones	Rural	4	4	0
2	Haskell	Haskell	Rural	5	5	0
2	Hawley	Jones	Rural	6	6	0
2	Henrietta	Clay	Rural	5	5	0
2	Hermleigh	Scurry	Rural	5	5	0
2	Holliday	Archer	Rural	3	3	0
2	Impact	Taylor	Urban	3	3	0
2	Iowa Park	Wichita	Rural	5	5	0
2	Jacksboro	Jack	Rural	5	5	0
2	Jayton	Kent	Rural	3	3	0
2	Jolly	Clay	Rural	6	6	0
2	Knox City	Knox	Rural	4	4	0
2	Lake Brownwood	Brown	Rural	6	6	0
2	Lakeside City	Archer	Urban	5	4	-1
2	Lawn	Taylor	Rural	3	3	0
2	Loraine	Mitchell	Rural	4	4	0
2	Lueders	Jones	Rural	4	4	0
2	Megargel	Archer	Rural	3	3	0
2	Merkel	Taylor	Rural	5	5	0
2	Miles	Runnels	Rural	5	4	-1
2	Moran	Shackelford	Rural	4	4	0
2	Munday	Knox	Rural	3	3	0
2	Newcastle	Young	Rural	5	6	1
2	Nocona	Montague	Rural	4	4	0
2	Novice	Coleman	Rural	3	3	0
2	O'Brien	Haskell	Rural	3	3	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Olney	Young	Rural	4	4	0
2	Paducah	Cottle	Rural	4	4	0
2	Petrolia	Clay	Rural	6	6	0
2	Pleasant Valley	Wichita	Urban	6	6	0
2	Potosi	Taylor	Urban	6	6	0
2	Putnam	Callahan	Rural	6	6	0
2	Quanah	Hardeman	Rural	6	6	0
2	Ranger	Eastland	Rural	3	3	0
2	Rising Star	Eastland	Rural	4	4	0
2	Roby	Fisher	Rural	5	5	0
2	Rochester	Haskell	Rural	4	4	0
2	Roscoe	Nolan	Rural	4	4	0
2	Rotan	Fisher	Rural	4	4	0
2	Rule	Haskell	Rural	4	4	0
2	Santa Anna	Coleman	Rural	3	3	0
2	Scotland	Archer	Rural	3	3	0
2	Seymour	Baylor	Rural	4	4	0
	Snyder	Scurry	Rural	3	3	0
	St. Jo	Montague	Rural	3	3	0
	Stamford	Jones	Rural	4	4	0
2	Sunset	Montague	Rural	3	4	1
2	Sweetwater	Nolan	Rural	4	4	0
2	Throckmorton	Throckmorton	Rural	3	3	0
2	Trent	Taylor	Rural	6	6	0
2	Tuscola	Taylor	Rural	3	3	0
	Туе	Taylor	Urban	6	6	0
	Vernon	Wilbarger	Rural	3	3	0
2	Weinert	Haskell	Rural	6	6	0
2	Westbrook	Mitchell	Rural	5	5	0
2	Wichita Falls	Wichita	Urban	4	4	0
2	Windthorst	Archer	Rural	3	3	0
2	Winters	Runnels	Rural	3	3	0
2	Woodson	Throckmorton	Rural	3	4	1
	Addison	Dallas	Urban	4	4	0
	Aledo	Parker	Rural	5	5	0
	Allen	Collin	Urban	5	5	0
	Alma	Ellis	Rural	6	6	0
	Alvarado	Johnson	Rural	4	4	0
	Alvord	Wise	Rural	6	5	-1
	Angus	Navarro	Rural	4	4	0
	Anna	Collin	Rural	6	6	0
	Annetta	Parker	Rural	6	6	0
	Annetta North	Parker	Rural	6	6	0
	Annetta South	Parker	Rural	6	6	0
	Argyle	Denton	Urban	4	4	0
	Arlington	Tarrant	Urban	5	5	0
	Aubrey	Denton	Rural	6	6	0
	Aurora	Wise	Rural	6	6	0
	Azle	Tarrant	Urban	3	4	1

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Bailey	Fannin	Rural	6	6	0
3	Balch Springs	Dallas	Urban	3	3	0
3	Bardwell	Ellis	Rural	3	3	0
3	Barry	Navarro	Rural	6	6	0
3	Bartonville	Denton	Rural	3	3	0
3	Bedford	Tarrant	Urban	5	5	0
3	Bells	Grayson	Rural	5	5	0
3	Benbrook	Tarrant	Urban	5	5	0
3	Blooming Grove	Navarro	Rural	4	4	0
3	Blue Mound	Tarrant	Urban	4	4	0
3	Blue Ridge	Collin	Rural	5	5	0
3	Bonham	Fannin	Rural	6	6	0
3	Boyd	Wise	Rural	4	4	0
3	Briar	Tarrant	Rural	3	3	0
3	Briaroaks	Johnson	Rural	3	3	0
3	Bridgeport	Wise	Rural	5	5	0
	Burleson	Johnson	Urban	3	3	0
3	Caddo Mills	Hunt	Rural	6	6	0
3	Callisburg	Cooke	Rural	4	4	0
3	Campbell	Hunt	Rural	5	5	0
3	Carrollton	Denton	Urban	4	4	0
3	Cedar Hill	Dallas	Urban	5	5	0
3	Celeste	Hunt	Rural	3	4	1
3	Celina	Collin	Urban	4	4	0
3	Chico	Wise	Rural	5	5	0
3	Cleburne	Johnson	Urban	3	3	0
3	Cockrell Hill	Dallas	Urban	3	3	0
3	Colleyville	Tarrant	Urban	4	4	0
	Collinsville	Grayson	Rural	3	3	0
3	Combine	Kaufman	Rural	4	4	0
3	Commerce	Hunt	Rural	6	6	0
3	Cool	Parker	Rural	6	6	0
3	Coppell	Dallas	Urban	4	4	0
	Copper Canyon	Denton	Urban	6	6	0
	Corinth	Denton	Urban	3	3	0
	Corral City	Denton	Rural	3	3	0
	Corsicana	Navarro	Rural	5	5	0
	Cottonwood	Kaufman	Rural	3	3	0
	Crandall	Kaufman	Rural	4	4	0
	Cross Roads	Denton	Rural	3	3	0
	Cross Timber	Johnson	Rural	6	6	0
	Crowley	Tarrant	Urban	4	4	0
	Dallas	Dallas	Urban	4	4	0
	Dalworthington Gardens	Tarrant	Urban	3	3	0
	Dawson	Navarro	Rural	3	3	0
	Decatur	Wise	Rural	3	3	0
	Denison	Grayson	Urban	4	4	0
	Denton	Denton	Urban	6	6	0
	DeSoto	Dallas	Urban	3	4	1

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	Dodd City	Fannin	Rural	6	6	0
3	Dorchester	Grayson	Urban	3	3	0
3	Double Oak	Denton	Urban	6	6	0
3	Dublin	Erath	Rural	4	4	0
3	Duncanville	Dallas	Urban	5	5	0
3	Eagle Mountain	Tarrant	Urban	4	4	0
3	Ector	Fannin	Rural	5	5	0
3	Edgecliff Village	Tarrant	Urban	6	6	0
3	Emhouse	Navarro	Rural	3	3	0
3	Ennis	Ellis	Rural	3	3	0
3	Euless	Tarrant	Urban	4	4	0
3	Eureka	Navarro	Rural	3	3	0
3	Everman	Tarrant	Urban	5	5	0
3	Fairview	Collin	Urban	6	6	0
3	Farmers Branch	Dallas	Urban	3	3	0
3	Farmersville	Collin	Rural	4	4	0
3	Fate	Rockwall	Rural	6	6	0
3	Ferris	Ellis	Rural	4	4	0
3	Flower Mound	Denton	Urban	4	4	0
3	Forest Hill	Tarrant	Urban	3	3	0
3	Forney	Kaufman	Rural	5	5	0
3	Fort Worth	Tarrant	Urban	4	4	0
3	Frisco	Collin	Urban	5	5	0
3	Frost	Navarro	Rural	5	5	0
3	Gainesville	Cooke	Rural	4	4	0
3	Garland	Dallas	Urban	4	4	0
3	Garrett	Ellis	Rural	6	6	0
3	Glen Rose	Somervell	Rural	4	4	0
3	Glenn Heights	Dallas	Urban	5	5	0
3	Godley	Johnson	Rural	6	6	0
3	Goodlow	Navarro	Rural	3	3	0
3	Gordon	Palo Pinto	Rural	6	6	0
3	Graford	Palo Pinto	Rural	4	4	0
3	Granbury	Hood	Rural	5	5	0
3	Grand Prairie	Dallas	Urban	4	4	0
3	Grandview	Johnson	Rural	5	5	0
3	Grapevine	Tarrant	Urban	4	4	0
3	Grays Prairie	Kaufman	Rural	6	6	0
3	Greenville	Hunt	Rural	4	4	0
3	Gunter	Grayson	Rural	4	5	1
3	Hackberry	Denton	Urban	6	6	0
3	Haltom City	Tarrant	Urban	5	5	0
3	Haslet	Tarrant	Urban	4	4	0
3	Hawk Cove	Hunt	Rural	3	3	0
3	Heath	Rockwall	Urban	3	3	0
3	Hebron	Denton	Urban	3	3	0
3	Hickory Creek	Denton	Urban	4	4	0
3	Highland Park	Dallas	Urban	3	3	0
3	Highland Village	Denton	Urban	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Honey Grove	Fannin	Rural	3	3	0
3	Howe	Grayson	Urban	5	5	0
3	Hudson Oaks	Parker	Rural	6	6	0
3	Hurst	Tarrant	Urban	5	5	0
3	Hutchins	Dallas	Urban	5	5	0
3	Irving	Dallas	Urban	4	4	0
3	Italy	Ellis	Rural	4	4	0
3	Josephine	Collin	Rural	6	6	0
3	Joshua	Johnson	Urban	4	4	0
3	Justin	Denton	Rural	5	5	0
3	Kaufman	Kaufman	Rural	3	3	0
3	Keene	Johnson	Rural	5	5	0
3	Keller	Tarrant	Urban	3	3	0
3	Kemp	Kaufman	Rural	6	6	0
3	Kennedale	Tarrant	Urban	4	4	0
3	Kerens	Navarro	Rural	5	5	0
3	Knollwood	Grayson	Urban	6	6	0
3	Krugerville	Denton	Rural	6	6	0
	Krum	Denton	Rural	3	3	0
3	Ladonia	Fannin	Rural	3	3	0
3	Lake Bridgeport	Wise	Rural	3	3	0
	Lake Dallas	Denton	Rural	5	5	0
3	Lake Kiowa	Cooke	Rural	3	3	0
3	Lake Worth	Tarrant	Urban	5	5	0
	Lakeside (Tarrant)	Tarrant	Urban	6	6	0
	Lakewood Village	Denton	Rural	6	6	0
	Lancaster	Dallas	Urban	3	3	0
3	Lavon	Collin	Rural	3	3	0
3	Leonard	Fannin	Rural	5	5	0
3	Lewisville	Denton	Urban	5	5	0
3	Lincoln Park	Denton	Rural	4	3	-1
3	Lindsay (Cooke)	Cooke	Rural	4	4	0
	Lipan	Hood	Rural	3	3	0
	Little Elm	Denton	Urban	3	3	0
	Lone Oak	Hunt	Rural	3	3	0
	Lowry Crossing	Collin	Urban	6	6	0
	Lucas	Collin	Urban	6	6	0
	Mabank	Kaufman	Rural	3	3	0
	Mansfield	Tarrant	Urban	3	3	0
	Marshall Creek	Denton	Rural	6	6	0
	Maypearl	Ellis	Rural	5	5	0
	McKinney	Collin	Urban	4	4	0
	McLendon-Chisholm	Rockwall	Rural	6	6	0
	Melissa	Collin	Urban	5	5	0
	Mesquite	Dallas	Urban	4	4	0
	Midlothian	Ellis	Urban	4	4	0
	Mildred	Navarro	Rural	6	6	0
	Milford	Ellis	Rural	3	3	0
	Millsap	Parker	Rural	4	4	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
3	Mineral Wells	Palo Pinto	Rural	4	4	0
3	Mingus	Palo Pinto	Rural	6	6	0
3	Mobile City	Rockwall	Rural	4	4	0
3	Muenster	Cooke	Rural	5	5	0
3	Murphy	Collin	Urban	6	6	0
3	Mustang	Navarro	Rural	3	3	0
3	Navarro	Navarro	Rural	3	3	0
3	Nevada	Collin	Rural	4	4	0
3	New Fairview	Wise	Rural	4	4	0
3	New Hope	Collin	Rural	3	3	0
3	Newark	Wise	Rural	5	6	1
3	Neylandville	Hunt	Rural	3	3	0
3	North Richland Hills	Tarrant	Urban	5	5	0
3	Northlake	Denton	Urban	4	4	0
3	Oak Grove	Kaufman	Rural	6	6	0
3	Oak Leaf	Ellis	Rural	6	6	0
	Oak Point	Denton	Rural	5	5	0
3	Oak Ridge (Cooke)	Cooke	Rural	6	5	-1
3	Oak Ridge (Kaufman)	Kaufman	Rural	6	6	0
3	Oak Trail Shores	Hood	Rural	3	3	0
3	Oak Valley	Navarro	Rural	5	6	1
3	Ovilla	Ellis	Urban	6	6	0
3	Palmer	Ellis	Rural	3	3	0
3	Pantego	Tarrant	Urban	3	3	0
3	Paradise	Wise	Rural	6	6	0
3	Parker	Collin	Urban	3	3	0
3	Pecan Acres	Wise	Rural	6	6	0
3	Pecan Hill	Ellis	Rural	5	5	0
3	Pecan Plantation	Hood	Rural	5	5	0
3	Pelican Bay	Tarrant	Rural	5	5	0
3	Pilot Point	Denton	Rural	4	4	0
3	Plano	Collin	Urban	4	4	0
3	Ponder	Denton	Rural	4	4	0
3	Post Oak Bend City	Kaufman	Rural	4	3	-1
3	Pottsboro	Grayson	Rural	4	4	0
3	Powell	Navarro	Rural	3	3	0
3	Princeton	Collin	Urban	5	5	0
3	Prosper	Collin	Urban	4	4	0
3	Quinlan	Hunt	Rural	6	6	0
3	Ravenna	Fannin	Rural	3	3	0
	Red Oak	Ellis	Urban	3	3	0
	Rendon	Tarrant	Urban	3	3	0
3	Reno (Parker)	Parker	Rural	5	6	1
3	Retreat	Navarro	Rural	4	5	1
3	Rhome	Wise	Rural	5	5	0
3	Rice	Navarro	Rural	5	5	0
3	Richardson	Dallas	Urban	4	4	0
3	Richland	Navarro	Rural	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Richland Hills	Tarrant	Urban	5	5	0
3	Rio Vista	Johnson	Rural	3	3	0
3	River Oaks	Tarrant	Urban	5	5	0
3	Roanoke	Denton	Urban	5	5	0
3	Rockwall	Rockwall	Urban	3	3	0
3	Rosser	Kaufman	Rural	6	6	0
3	Rowlett	Dallas	Urban	5	5	0
3	Royse City	Rockwall	Rural	4	4	0
3	Runaway Bay	Wise	Rural	5	5	0
3	Sachse	Dallas	Urban	3	3	0
3	Sadler	Grayson	Rural	6	6	0
3	Saginaw	Tarrant	Urban	5	5	0
3	Sanctuary	Parker	Rural	6	6	0
3	Sanger	Denton	Rural	3	3	0
3	Sansom Park	Tarrant	Urban	5	5	0
3	Savoy	Fannin	Rural	6	6	0
3	Seagoville	Dallas	Urban	3	3	0
3	Shady Shores	Denton	Urban	3	3	0
3	Sherman	Grayson	Urban	4	4	0
3	Southlake	Tarrant	Urban	4	4	0
3	Southmayd	Grayson	Rural	4	4	0
3	Springtown	Parker	Rural	3	3	0
3	St. Paul (Collin)	Collin	Rural	3	3	0
3	Stephenville	Erath	Rural	6	6	0
3	Strawn	Palo Pinto	Rural	4	4	0
3	Sunnyvale	Dallas	Urban	3	3	0
3	Talty	Kaufman	Rural	3	3	0
3	Terrell	Kaufman	Rural	5	5	0
3	The Colony	Denton	Urban	3	3	0
3	Tioga	Grayson	Rural	3	3	0
3	Tolar	Hood	Rural	4	4	0
3	Tom Bean	Grayson	Rural	3	3	0
3	Trenton	Fannin	Rural	4	4	0
3	Trophy Club	Denton	Rural	4	4	0
3	University Park	Dallas	Urban	4	4	0
3	Valley View	Cooke	Rural	4	4	0
3	Van Alstyne	Grayson	Rural	3	3	0
3	Venus	Johnson	Rural	3	3	0
3	Watauga	Tarrant	Urban	4	4	0
3	Waxahachie	Ellis	Rural	3	3	0
3	Weatherford	Parker	Rural	3	3	0
3	West Tawakoni	Hunt	Rural	6	6	0
3	Westlake	Tarrant	Urban	3	3	0
3	Westminster	Collin	Rural	3	3	0
3	Weston	Collin	Urban	5	4	-1
3	Westover Hills	Tarrant	Urban	3	3	0
3	Westworth Village	Tarrant	Urban	4	4	0
3	White Settlement	Tarrant	Urban	4	4	0
3	Whitesboro	Grayson	Rural	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
3	Whitewright	Grayson	Rural	6	6	0
3	Willow Park	Parker	Rural	3	3	0
3	Wilmer	Dallas	Rural	4	4	0
3	Windom	Fannin	Rural	3	3	0
3	Wolfe City	Hunt	Rural	5	5	0
3	Wylie	Collin	Rural	3	3	0
4	Alba	Wood	Rural	6	6	0
4	Alto	Cherokee	Rural	4	4	0
4	Annona	Red River	Rural	6	6	0
4	Arp	Smith	Rural	3	3	0
4	Athens	Henderson	Rural	4	4	0
4	Atlanta	Cass	Rural	4	4	0
4	Avery	Red River	Rural	5	5	0
4	Avinger	Cass	Rural	6	6	0
4	Beckville	Panola	Rural	6	6	0
	Berryville	Henderson	Rural	4	5	1
4	Big Sandy	Upshur	Rural	3	3	0
4	Bloomburg	Cass	Rural	3	3	0
4	Blossom	Lamar	Rural	4	4	0
4	Bogata	Red River	Rural	3	3	0
4	Brownsboro	Henderson	Rural	6	6	0
4	Bullard	Smith	Rural	5	5	0
4	Caney City	Henderson	Rural	6	6	0
4	Canton	Van Zandt	Rural	4	4	0
4	Carthage	Panola	Rural	5	5	0
4	Chandler	Henderson	Rural	3	3	0
4	Clarksville	Red River	Rural	5	5	0
4	Clarksville City	Gregg	Rural	4	4	0
4	Coffee City	Henderson	Rural	3	3	0
4	Como	Hopkins	Rural	4	4	0
	Cooper	Delta	Rural	6	6	0
4	Cumby	Hopkins	Rural	5	5	0
	Cuney	Cherokee	Rural	5	5	0
	Daingerfield	Morris	Rural	6	6	0
	De Kalb	Bowie	Rural	6	6	0
	Deport	Lamar	Rural	4	4	0
	Detroit	Red River	Rural	4	4	0
	Domino	Cass	Rural	3	3	0
	Douglassville	Cass	Rural	3	3	0
	East Mountain	Upshur	Rural	4	5	1
	East Tawakoni	Rains	Rural	6	6	0
	Easton	Gregg	Rural	3	3	0
	Edgewood	Van Zandt	Rural	5	5	0
	Edom	Van Zandt	Rural	6	6	0
	Elkhart	Anderson	Rural	6	5	-1
	Emory	Rains	Rural	6	6	0
	Enchanted Oaks	Henderson	Rural	6	6	0
	Eustace	Henderson	Rural	3	3	0
4	Frankston	Anderson	Rural	4	4	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Fruitvale	Van Zandt	Rural	4	4	0
4	Gallatin	Cherokee	Rural	4	4	0
4	Gary City	Panola	Rural	3	3	0
4	Gilmer	Upshur	Rural	6	6	0
4	Gladewater	Gregg	Rural	5	5	0
4	Grand Saline	Van Zandt	Rural	3	3	0
4	Gun Barrel City	Henderson	Rural	5	5	0
4	Hallsville	Harrison	Rural	3	3	0
4	Hawkins	Wood	Rural	6	6	0
4	Henderson	Rusk	Rural	3	3	0
4	Hooks	Bowie	Rural	3	3	0
4	Hughes Springs	Cass	Rural	4	4	0
4	Jacksonville	Cherokee	Rural	4	4	0
4	Jefferson	Marion	Rural	6	6	0
4	Kilgore	Gregg	Rural	3	3	0
4	Lakeport	Gregg	Rural	5	4	-1
4	Leary	Bowie	Rural	3	4	1
4	Liberty City	Gregg	Rural	4	4	0
4	Lindale	Smith	Rural	5	5	0
4	Linden	Cass	Rural	4	4	0
4	Log Cabin	Henderson	Rural	6	6	0
4	Lone Star	Morris	Rural	4	4	0
4	Longview	Gregg	Urban	4	4	0
4	Malakoff	Henderson	Rural	5	5	0
4	Marietta	Cass	Rural	3	3	0
4	Marshall	Harrison	Rural	3	3	0
4	Maud	Bowie	Rural	6	6	0
4	Miller's Cove	Titus	Rural	5	6	1
4	Mineola	Wood	Rural	5	5	0
4	Moore Station	Henderson	Rural	6	6	0
4	Mount Enterprise	Rusk	Rural	3	4	1
4	Mount Pleasant	Titus	Rural	4	4	0
4	Mount Vernon	Franklin	Rural	3	3	0
4	Murchison	Henderson	Rural	3	3	0
4	Naples	Morris	Rural	6	6	0
4	Nash	Bowie	Urban	5	5	0
4	Nesbitt	Harrison	Rural	3	3	0
4	New Boston	Bowie	Rural	6	6	0
4	New Chapel Hill	Smith	Rural	3	3	0
4	New London	Rusk	Rural	5	5	0
4	New Summerfield	Cherokee	Rural	4	4	0
4	Noonday	Smith	Rural	5	4	-1
4	Omaha	Morris	Rural	6	6	0
4	Ore City	Upshur	Rural	6	6	0
4	Overton	Rusk	Rural	6	6	0
4	Palestine	Anderson	Rural	4	4	0
4	Paris	Lamar	Rural	5	5	0
4	Payne Springs	Henderson	Rural	3	3	0
4	Pecan Gap	Delta	Rural	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Pittsburg	Camp	Rural	3	3	0
4	Point	Rains	Rural	6	6	0
4	Poynor	Henderson	Rural	6	6	0
4	Queen City	Cass	Rural	6	6	0
4	Quitman	Wood	Rural	4	4	0
4	Red Lick	Bowie	Rural	6	6	0
4	Redwater	Bowie	Rural	4	4	0
4	Reklaw	Cherokee	Rural	3	3	0
4	Reno (Lamar)	Lamar	Rural	3	3	0
4	Rocky Mound	Camp	Rural	3	3	0
4	Roxton	Lamar	Rural	5	5	0
4	Rusk	Cherokee	Rural	5	5	0
4	Scottsville	Harrison	Rural	5	4	-1
4	Seven Points	Henderson	Rural	3	3	0
4	Star Harbor	Henderson	Rural	3	3	0
4	Sulphur Springs	Hopkins	Rural	5	5	0
	Sun Valley	Lamar	Rural	3	3	0
	Talco	Titus	Rural	5	5	0
4	Tatum	Rusk	Rural	5	5	0
4	Texarkana	Bowie	Urban	3	3	0
4	Tira	Hopkins	Rural	3	3	0
4	Тосо	Lamar	Rural	6	6	0
4	Tool	Henderson	Rural	3	3	0
	Trinidad	Henderson	Rural	5	5	0
\vdash	Troup	Smith	Rural	5	5	0
	Tyler	Smith	Urban	4	4	0
	Uncertain	Harrison	Rural	6	5	-1
4	Union Grove	Upshur	Rural	3	3	0
	Van	Van Zandt	Rural	6	6	0
	Wake Village	Bowie	Urban	4	4	0
	Warren City	Gregg	Rural	6	6	0
	Waskom	Harrison	Rural	4	4	0
\vdash	Wells	Cherokee	Rural	5	5	0
	White Oak	Gregg	Urban	5	5	0
	Whitehouse	Smith	Rural	3	3	0
	Wills Point	Van Zandt	Rural	4	4	0
	Winfield	Titus	Rural	4	4	0
	Winnsboro	Wood	Rural	5	5	0
	Winona	Smith	Rural	3	3	0
	Yantis	Wood	Rural	3	3	0
	Appleby	Nacogdoches	Rural	5	5	0
	Beaumont	Jefferson	Urban	4	4	0
	Bevil Oaks	Jefferson	Rural	3	3	0
	Bridge City	Orange	Rural	5	5	0
	Broaddus	San Augustine	Rural	6	6	0
	Browndell	Jasper	Rural	3	3	0
	Buna	Jasper	Rural	3	3	0
	Burke	Angelina	Rural	6	6	0
	Center	Shelby	Rural	4	4	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
-	Central Gardens	Jefferson	Rural	3	3	0
5	Chester	Tyler	Rural	4	4	0
5	China	Jefferson	Rural	4	4	0
5	Chireno	Nacogdoches	Rural	4	4	0
5	Coldspring	San Jacinto	Rural	5	4	-1
5	Colmesneil	Tyler	Rural	5	5	0
5	Corrigan	Polk	Rural	6	6	0
5	Crockett	Houston	Rural	4	4	0
5	Cushing	Nacogdoches	Rural	5	5	0
5	Deweyville	Newton	Rural	4	5	1
5	Diboll	Angelina	Rural	4	4	0
5	Evadale	Jasper	Rural	3	3	0
5	Garrison	Nacogdoches	Rural	4	4	0
5	Goodrich	Polk	Rural	3	3	0
5	Grapeland	Houston	Rural	5	6	1
5	Groves	Jefferson	Urban	4	4	0
5	Groveton	Trinity	Rural	5	5	0
5	Hemphill	Sabine	Rural	3	3	0
5	Hudson	Angelina	Rural	3	3	0
5	Huntington	Angelina	Rural	3	3	0
5	Huxley	Shelby	Rural	3	3	0
5	Jasper	Jasper	Rural	3	4	1
5	Joaquin	Shelby	Rural	3	3	0
5	Kennard	Houston	Rural	6	6	0
5	Kirbyville	Jasper	Rural	5	5	0
5	Kountze	Hardin	Rural	5	5	0
5	Latexo	Houston	Rural	3	3	0
5	Livingston	Polk	Rural	5	5	0
5	Lovelady	Houston	Rural	6	6	0
5	Lufkin	Angelina	Rural	5	5	0
5	Lumberton	Hardin	Rural	3	3	0
5	Mauriceville	Orange	Rural	4	4	0
5	Milam	Sabine	Rural	3	3	0
5	Nacogdoches	Nacogdoches	Rural	6	6	0
5	Nederland	Jefferson	Urban	4	4	0
5	Newton	Newton	Rural	6	6	0
5	Nome	Jefferson	Rural	4	5	1
5	Oakhurst	San Jacinto	Rural	4	4	0
5	Onalaska	Polk	Rural	6	6	0
5	Orange	Orange	Rural	4	4	0
5	Pine Forest	Orange	Rural	5	6	1
5	Pinehurst (Orange)	Orange	Rural	3	3	0
5	Pineland	Sabine	Rural	6	6	0
5	Pinewood Estates	Hardin	Rural	3	4	1
5	Point Blank	San Jacinto	Rural	4	4	0
5	Port Arthur	Jefferson	Urban	3	3	0
5	Port Neches	Jefferson	Urban	4	4	0
5	Rose City	Orange	Rural	6	5	-1
5	Rose Hill Acres	Hardin	Urban	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	San Augustine	San Augustine	Rural	5	5	0
5	Seven Oaks	Polk	Rural	3	3	0
5	Shepherd	San Jacinto	Rural	4	4	0
5	Silsbee	Hardin	Rural	3	4	1
5	Sour Lake	Hardin	Rural	3	3	0
5	South Toledo Bend	Newton	Rural	3	3	0
5	Tenaha	Shelby	Rural	5	5	0
5	Timpson	Shelby	Rural	6	6	0
5	Trinity	Trinity	Rural	5	5	0
5	Vidor	Orange	Rural	3	3	0
5	West Livingston	Polk	Rural	5	5	0
	West Orange	Orange	Rural	4	4	0
	Woodville	Tyler	Rural	6	6	0
5	Zavalla	Angelina	Rural	6	6	0
6	Aldine	Harris	Urban	3	3	0
	Alvin	Brazoria	Urban	4	4	0
	Ames	Liberty	Rural	4	4	0
6	Anahuac	Chambers	Rural	5	5	0
	Angleton	Brazoria	Rural	3	3	0
	Arcola	Fort Bend	Rural	5	5	0
	Atascocita	Harris	Urban	4	4	0
	Bacliff	Galveston	Urban	6	6	0
	Bailey's Prairie	Brazoria	Rural	3	3	0
	Barrett	Harris	Rural	6	6	0
	Bay City	Matagorda	Rural	4	4	0
	Bayou Vista	Galveston	Rural	4	4	0
	Baytown	Harris	Urban	3	3	0
	Beach City	Chambers	Urban	4	4	0
	Beasley	Fort Bend	Rural	4	4	0
	Bellaire	Harris	Urban	4	4	0
	Bellville	Austin	Rural	3	3	0
	Blessing	Matagorda	Rural	3	3	0
	Boling-lago	Wharton	Rural	3	3	0
	Bolivar Peninsula	Galveston	Rural	6	6	0
	Bonney	Brazoria	Rural	3	3	0
	Brazoria	Brazoria	Rural	5	5	0
	Brookshire	Waller	Rural	3	3	0
	Brookside Village	Brazoria	Urban	4	4	0
	Bunker Hill Village	Harris	Urban	6	6	0
	Channelview	Harris	Urban	5	5	0
	Cinco Ranch			5	5	
	Clear Lake Shores	Fort Bend Galveston	Urban Urban			0
	Cleveland		Rural	4	4	0
	Cloverleaf	Liberty		6	6	0
		Harris	Urban	6	6	
	Clute	Brazoria	Urban	3	3	0
	Contrac	Colorado	Rural	4	4	0
	Conroe	Montgomery	Urban	4	4	0
	Cove	Chambers	Rural	6	6	0
6	Crosby	Harris	Rural	4	4	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Cumings	Fort Bend	Rural	4	3	-1
6	Cut and Shoot	Montgomery	Urban	6	6	0
6	Daisetta	Liberty	Rural	5	5	0
6	Damon	Brazoria	Rural	6	6	0
6	Danbury	Brazoria	Rural	6	6	0
6	Dayton	Liberty	Rural	5	5	0
6	Dayton Lakes	Liberty	Rural	3	3	0
6	Deer Park	Harris	Urban	3	3	0
6	Devers	Liberty	Rural	6	6	0
6	Dickinson	Galveston	Urban	5	5	0
6	Eagle Lake	Colorado	Rural	3	3	0
6	East Bernard	Wharton	Rural	4	4	0
6	El Campo	Wharton	Rural	4	4	0
6	El Lago	Harris	Urban	4	4	0
6	Fairchilds	Fort Bend	Rural	4	4	0
6	Fifth Street	Fort Bend	Urban	4	4	0
6	Four Corners	Fort Bend	Urban	5	5	0
6	Freeport	Brazoria	Urban	5	5	0
6	Fresno	Fort Bend	Urban	5	5	0
6	Friendswood	Galveston	Urban	4	4	0
6	Fulshear	Fort Bend	Rural	6	6	0
6	Galena Park	Harris	Urban	4	4	0
6	Galveston	Galveston	Urban	6	6	0
6	Greatwood	Fort Bend	Urban	5	5	0
6	Hardin	Liberty	Rural	3	3	0
6	Hedwig Village	Harris	Urban	5	5	0
6	Hempstead	Waller	Rural	3	3	0
6	Highlands	Harris	Urban	4	4	0
6	Hillcrest	Brazoria	Rural	6	6	0
6	Hilshire Village	Harris	Urban	6	6	0
6	Hitchcock	Galveston	Rural	3	3	0
6	Holiday Lakes	Brazoria	Rural	6	6	0
	Houston	Harris	Urban	4	4	0
6	Humble	Harris	Urban	3	3	0
	Hungerford	Wharton	Rural	3	3	0
6	Hunters Creek Village	Harris	Urban	3	3	0
6	Huntsville	Walker	Rural	6	6	0
6	Industry	Austin	Rural	3	3	0
	Iowa Colony	Brazoria	Urban	5	5	0
	Jacinto City	Harris	Urban	3	3	0
6	Jamaica Beach	Galveston	Urban	6	6	0
6	Jersey Village	Harris	Urban	3	3	0
6	Jones Creek	Brazoria	Rural	4	4	0
6	Katy	Harris	Urban	4	4	0
6	Kemah	Galveston	Urban	6	6	0
6	Kendleton	Fort Bend	Rural	4	4	0
6	Kenefick	Liberty	Rural	5	5	0
6	La Marque	Galveston	Urban	3	3	0
6	La Porte	Harris	Urban	3	3	0

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6 Mea 6 Miss 6 Miss 6 Mor 6 Mor 6 Noe 6 Nee 6 Nee 6 Nor 6 Oak 6 Odd 6 Orc 6 Oys 6 Pala 6 Par 6 Pat 6 Pec 6 Pec 6 Pine 6 Pine	adows Place sion Bend souri City Int Belvieu Intgomery Irgan's Point Issau Bay Interiory Interio	Fort Bend Fort Bend Chambers Montgomery Harris Harris Fort Bend Fort Bend Walker Liberty Montgomery	Urban Urban Urban Rural Rural Urban Urban Urban Rural Rural Rural Urban Rural Rural Rural Rural	3 5 4 4 6 5 6 3 4	3 5 4 4 6 4 6 3 4	0 0 0 0 0 0 -1 0
6 Miss 6 Mor 6 Mor 6 Mor 6 Nev 6 Nev 6 Nev 6 Oak 6 Or 6 Oys 6 Pala 6 Par 6 Pat 6 Pec 6 Pine 6 Pine	sion Bend souri City nt Belvieu ntgomery rgan's Point ssau Bay edville w Territory w Waverly th Cleveland k Ridge North River-Winfree	Fort Bend Fort Bend Chambers Montgomery Harris Harris Fort Bend Fort Bend Walker Liberty Montgomery	Urban Urban Rural Rural Urban Urban Rural Urban Rural Urban Rural Rural Rural	5 4 4 6 5 6 3 4	5 4 4 6 4 6 3 4	0 0 0 0 -1 0
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6 Mor 6 Nas 6 Nec 6 Nev 6 Nev 6 Nor 6 Oak 6 Od 6 Orc 6 Oys 6 Pala 6 Pat 6 Pat 6 Pec 6 Pine 6 Pine	ntgomery rgan's Point ssau Bay edville w Territory w Waverly th Cleveland k Ridge North River-Winfree	Montgomery Harris Harris Fort Bend Fort Bend Walker Liberty Montgomery	Rural Urban Urban Rural Urban Rural Rural Rural Rural	6 5 6 3 4	6 4 6 3 4	0 -1 0 0
6 Mori 6 Nas 6 Nev 6 Nev 6 Nor 6 Oak 6 Old 6 Orc 6 Oys 6 Pala 6 Par 6 Pat 6 Pat 6 Pea 6 Pec 6 Pine 6 Pine	rgan's Point ssau Bay edville w Territory w Waverly th Cleveland k Ridge North River-Winfree	Harris Harris Fort Bend Fort Bend Walker Liberty Montgomery	Urban Urban Rural Urban Rural Rural	5 6 3 4	4 6 3 4	-1 0 0
6 Mori 6 Nas 6 Nev 6 Nev 6 Nor 6 Oak 6 Old 6 Orc 6 Oys 6 Pala 6 Par 6 Pat 6 Pat 6 Pea 6 Pec 6 Pine 6 Pine	rgan's Point ssau Bay edville w Territory w Waverly th Cleveland k Ridge North River-Winfree	Fort Bend Fort Bend Walker Liberty Montgomery	Urban Rural Urban Rural	6 3 4	6 3 4	0
6 Nas 6 Nee 6 Nev 6 Nor 6 Oak 6 OId 6 Orc 6 Oys 6 Pale 6 Par 6 Pat 6 Pec 6 Pine 6 Pine	ssau Bay edville w Territory w Waverly th Cleveland k Ridge North River-Winfree	Fort Bend Fort Bend Walker Liberty Montgomery	Rural Urban Rural Rural	3 4	3	0
6 Need 6 Nev 6 Nev 6 Nor 6 Oak 6 Old 6 Orc 6 Oys 6 Palal 6 Par 6 Pat 6 Pat 6 Pec 6 Pec 6 Pine 6 Pine	edville w Territory w Waverly th Cleveland k Ridge North River-Winfree	Fort Bend Fort Bend Walker Liberty Montgomery	Urban Rural Rural	3 4	3	
6 Nev 6 Nev 6 Nor 6 Oak 6 Od 6 Orc 6 Oys 6 Pala 6 Par 6 Pat 6 Pat 6 Pec 6 Pine 6 Pine	w Territory w Waverly th Cleveland k Ridge North River-Winfree	Fort Bend Walker Liberty Montgomery	Rural Rural	4	4	0
6 Nev 6 Nor 6 Oak 6 Old 6 Orc 6 Oys 6 Pala 6 Par 6 Pas 6 Pat 6 Pec 6 Pec 6 Pine 6 Pine	w Waverly th Cleveland k Ridge North River-Winfree thard	Liberty Montgomery	Rural	6	4	
6 Nor 6 Oak 6 Old 6 Orc 6 Oys 6 Pale 6 Par 6 Pat 6 Pat 6 Pec 6 Pec 6 Pine 6 Pine	th Cleveland k Ridge North River-Winfree thard	Montgomery			U	0
6 Oak 6 Old 6 Orc 6 Oys 6 Palal 6 Par 6 Pas 6 Pat 6 Pec 6 Pine 6 Pine	k Ridge North River-Winfree chard	Montgomery	Urban	3	3	0
6 Old 6 Orc 6 Oys 6 Pala 6 Par 6 Pas 6 Pat 6 Pea 6 Pec 6 Pine 6 Pine	River-Winfree hard	<u> </u>	UIDAH	5	5	0
6 Orc 6 Oys 6 Pall 6 Par 6 Pas 6 Patt 6 Pea 6 Pec 6 Pine 6 Pine	hard		Rural	6	5	-1
6 Palled Parents Paren		Fort Bend	Rural	3	3	0
6 Palled Parents Paren	ster Creek	Brazoria	Rural	4	4	0
6 Par 6 Pas 6 Pat 6 Pat 6 Pea 6 Pea 6 Pine 6 Pine		Matagorda	Rural	3	4	1
6 Pas 6 Patt 6 Patt 6 Pea 6 Pec 6 Pine 6 Pine	norama Village	Montgomery	Urban	5	5	0
6 Pati 6 Pea 6 Pec 6 Pine 6 Pine	sadena	Harris	Urban	4	4	0
6 Pati 6 Pea 6 Pec 6 Pine 6 Pine	tison	Waller	Rural	4	4	0
6 Pea 6 Pea 6 Pine 6 Pine	ton Village	Montgomery	Rural	5	5	0
6 Pec 6 Pine 6 Pine		Brazoria	Urban	3	4	1
6 Pine	can Grove	Fort Bend	Rural	4	4	0
6 Pine	e Island	Waller	Rural	4	4	0
	ehurst (Montgomery)	Montgomery	Rural	4	4	0
	ey Point Village	Harris	Urban	4	4	0
6 Plea	, ,	Fort Bend	Rural	6	6	0
	m Grove	Liberty	Rural	3	3	0
	ter Heights	Montgomery	Rural	3	3	0
	irie View	Waller	Rural	3	3	0
	ntana	Brazoria	Rural	3	3	0
	hmond	Fort Bend	Rural	4	4	0
	hwood	Brazoria	Urban	4	4	0
	erside	Walker	Rural	6	6	0
	man Forest	Montgomery	Rural	4	4	0
	senberg	Fort Bend	Rural	4	5	1
	n Felipe	Austin	Rural	6	6	0
	· r-	Galveston	Urban	6	6	0
	n Leon	Galveston	Urban	3	3	0
	n Leon nta Fe	Harris	Urban	4	4	0
6 Sea	nta Fe	. Idii i S	Rural	3	3	0
6 She	abrook	Austin	Lixurui	3	3	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
6	Shenandoah	Montgomery	Urban	6	6	0
6	Shoreacres	Harris	Urban	6	6	0
6	Sienna Plantation	Fort Bend	Urban	5	5	0
6	Simonton	Fort Bend	Rural	6	6	0
6	South Houston	Harris	Urban	3	3	0
6	Southside Place	Harris	Urban	6	6	0
6	Splendora	Montgomery	Rural	6	6	0
6	Spring	Harris	Urban	4	4	0
6	Spring Valley	Harris	Urban	4	4	0
6	Stafford	Fort Bend	Urban	5	5	0
6	Stagecoach	Montgomery	Rural	3	3	0
6	Stowell	Chambers	Rural	4	3	-1
6	Sugar Land	Fort Bend	Urban	5	5	0
6	Surfside Beach	Brazoria	Rural	4	4	0
6	Sweeny	Brazoria	Rural	4	4	0
	Taylor Lake Village	Harris	Urban	3	3	0
6	Texas City	Galveston	Urban	4	4	0
	The Woodlands	Montgomery	Urban	3	4	1
6	Thompsons	Fort Bend	Urban	4	4	0
	Tiki Island	Galveston	Urban	3	3	0
6	Tomball	Harris	Rural	6	6	0
6	Van Vleck	Matagorda	Rural	3	3	0
6	Waller	Waller	Rural	3	4	1
	Wallis	Austin	Rural	3	3	0
	Webster	Harris	Urban	3	3	0
6	Weimar	Colorado	Rural	3	3	0
6	West Columbia	Brazoria	Rural	5	5	0
6	West University Place	Harris	Urban	3	3	0
	Wharton	Wharton	Rural	5	5	0
6	Wild Peach Village	Brazoria	Rural	3	3	0
	Willis	Montgomery	Rural	3	3	0
6	Winnie	Chambers	Rural	4	4	0
6	Woodbranch	Montgomery	Rural	4	4	0
	Woodloch	Montgomery	Rural	6	6	0
	Anderson Mill	Williamson	Urban	5	5	0
	Austin	Travis	Urban	5	5	0
	Bartlett	Williamson	Rural	6	6	0
	Barton Creek	Travis	Urban	6	6	0
	Bastrop	Bastrop	Rural	4	4	0
	Bear Creek	Hays	Rural	3	3	0
	Bee Cave	Travis	Rural	4	4	0
	Bertram	Burnet	Rural	5	4	-1
	Blanco	Blanco	Rural	5	5	0
	Briarcliff	Travis	Rural	4	4	0
	Brushy Creek	Williamson	Urban	4	4	0
	Buchanan Dam	Llano	Rural	5	5	0
	Buda	Hays	Urban	3	3	0
	Burnet	Burnet	Rural	3	3	0
	Camp Swift	Bastrop	Rural	3	3	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	Carmine	Fayette	Rural	6	6	0
7	Cedar Park	Williamson	Urban	3	3	0
7	Circle D-KC Estates	Bastrop	Rural	3	3	0
7	Cottonwood Shores	Burnet	Rural	6	6	0
7	Creedmoor	Travis	Rural	3	3	0
7	Dripping Springs	Hays	Rural	3	3	0
7	Elgin	Bastrop	Rural	4	4	0
7	Fayetteville	Fayette	Rural	4	4	0
7	Flatonia	Fayette	Rural	5	5	0
7	Florence	Williamson	Rural	6	6	0
7	Garfield	Travis	Rural	4	4	0
7	Georgetown	Williamson	Urban	3	3	0
7	Giddings	Lee	Rural	3	3	0
7	Granger	Williamson	Rural	5	5	0
7	Granite Shoals	Burnet	Rural	5	5	0
7	Hays	Hays	Rural	3	3	0
7	Highland Haven	Burnet	Rural	6	6	0
7	Horseshoe Bay	Llano	Rural	4	4	0
7	Hudson Bend	Travis	Urban	5	5	0
7	Hutto	Williamson	Rural	5	5	0
7	Johnson City	Blanco	Rural	3	3	0
7	Jollyville	Williamson	Urban	5	5	0
7	Jonestown	Travis	Rural	6	6	0
7	Kingsland	Llano	Rural	3	3	0
7	Kyle	Hays	Rural	3	3	0
7	La Grange	Fayette	Rural	5	5	0
7	Lago Vista	Travis	Rural	6	6	0
7	Lakeway	Travis	Rural	4	4	0
7	Leander	Williamson	Urban	3	3	0
7	Lexington	Lee	Rural	4	5	1
7	Liberty Hill	Williamson	Rural	3	3	0
7	Llano	Llano	Rural	3	3	0
7	Lockhart	Caldwell	Rural	4	4	0
7	Lost Creek	Travis	Urban	3	3	0
7	Luling	Caldwell	Rural	4	4	0
7	Manor	Travis	Urban	4	3	-1
7	Marble Falls	Burnet	Rural	3	3	0
7	Martindale	Caldwell	Rural	5	5	0
7	Meadowlakes	Burnet	Rural	6	6	0
7	Mountain City	Hays	Rural	6	6	0
7	Mustang Ridge	Caldwell	Rural	3	3	0
7	Niederwald	Hays	Rural	4	4	0
7	Onion Creek	Travis	Urban	3	3	0
7	Pflugerville	Travis	Urban	3	3	0
7	Rollingwood	Travis	Urban	5	6	1
7	Round Mountain	Blanco	Rural	3	3	0
7	Round Rock	Williamson	Urban	5	5	0
7	Round Top	Fayette	Rural	3	3	0
7	San Leanna	Travis	Urban	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	San Marcos	Hays	Urban	6	6	0
7	Schulenburg	Fayette	Rural	5	5	0
7	Serenada	Williamson	Urban	6	6	0
7	Shady Hollow	Travis	Urban	4	4	0
7	Smithville	Bastrop	Rural	5	5	0
7	Sunrise Beach Village	Llano	Rural	5	6	1
7	Sunset Valley	Travis	Urban	5	5	0
7	Taylor	Williamson	Rural	5	5	0
	The Hills	Travis	Rural	3	3	0
7	Thrall	Williamson	Rural	5	5	0
7	Uhland	Hays	Rural	6	6	0
7	Weir	Williamson	Rural	4	4	0
7	Wells Branch	Travis	Urban	5	5	0
7	West Lake Hills	Travis	Urban	3	3	0
	Wimberley	Hays	Rural	5	5	0
	Windemere	Travis	Urban	5	5	0
7	Woodcreek	Hays	Rural	5	5	0
	Wyldwood	Bastrop	Rural	3	3	0
	Abbott	Hill	Rural	5	5	0
	Anderson	Grimes	Rural	3	3	0
	Aquilla	Hill	Rural	6	6	0
	Bellmead	McLennan	Urban	4	4	0
	Belton	Bell	Urban	4	4	0
	Beverly Hills	McLennan	Urban	5	5	0
	Blum	Hill	Rural	6	6	0
	Bremond	Robertson	Rural	4	4	0
	Brenham	Washington	Rural	4	4	0
	Bruceville-Eddy	McLennan	Rural	5	5	0
	Bryan	Brazos	Urban	6	6	0
	Buckholts	Milam	Rural	6	6	0
	Buffalo	Leon	Rural	6	6	0
	Burton	Washington	Rural	4	4	0
	Bynum	Hill	Rural	6	6	0
	Caldwell	Burleson	Rural	4	4	0
	Calvert	Robertson	Rural	3	3	0
	Cameron	Milam	Rural	3	3	0
	Carl's Corner	Hill	Rural	6	6	0
	Centerville	Leon	Rural	4	5	1
	Clifton		Rural	3	3	0
	College Station	Bosque Brazos	Urban	6	6	0
	Coolidge					
	Cooliage Copperas Cove	Limestone	Rural Urban	5	5	0
	Covington Covington	Coryell Hill	Rural	3	4	0
	=		Rural	4	4	0
	Cranfills Gap	Bosque McLennan				
	Crawford	McLennan	Rural	4	3	-1
	Evant	Coryell	Rural	6	6	0
	Fairfield	Freestone	Rural	5	4	-1
	Fort Hood	Bell	Urban	3	3	0
8	Franklin	Robertson	Rural	4	4	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
8	Gatesville	Coryell	Rural	3	3	0
8	Gholson	McLennan	Rural	3	3	0
8	Goldthwaite	Mills	Rural	3	3	0
8	Golinda	Falls	Rural	5	5	0
8	Groesbeck	Limestone	Rural	3	3	0
8	Hallsburg	McLennan	Rural	5	6	1
8	Hamilton	Hamilton	Rural	3	3	0
8	Harker Heights	Bell	Urban	4	4	0
8	Hearne	Robertson	Rural	5	5	0
8	Hewitt	McLennan	Urban	4	4	0
8	Hico	Hamilton	Rural	4	4	0
8	Hillsboro	Hill	Rural	5	5	0
8	Holland	Bell	Rural	3	3	0
8	Hubbard	Hill	Rural	3	3	0
8	Iredell	Bosque	Rural	4	4	0
8	Itasca	Hill	Rural	3	3	0
8	Jewett	Leon	Rural	6	6	0
8	Kempner	Lampasas	Rural	5	5	0
8	Killeen	Bell	Urban	4	4	0
8	Kirvin	Freestone	Rural	3	3	0
8	Kosse	Limestone	Rural	6	6	0
8	Lacy-Lakeview	McLennan	Urban	5	5	0
	Lampasas	Lampasas	Rural	4	4	0
	Leona	Leon	Rural	6	6	0
8	Leroy	McLennan	Rural	3	3	0
	Little River-Academy	Bell	Rural	6	6	0
	Lometa	Lampasas	Rural	4	4	0
8	Lorena	McLennan	Rural	3	3	0
	Lott	Falls	Rural	5	5	0
8	Madisonville	Madison	Rural	4	4	0
8	Malone	Hill	Rural	3	3	0
8	Marlin	Falls	Rural	5	5	0
	Marquez	Leon	Rural	4	6	2
	Mart	McLennan	Rural	6	6	0
	McGregor	McLennan	Urban	5	5	0
	Meridian	Bosque	Rural	3	3	0
	Mertens	Hill	Rural	6	6	0
	Mexia	Limestone	Rural	4	4	0
	Midway	Madison	Rural	3	3	0
	Milano	Milam	Rural	4	4	0
	Millican	Brazos	Rural	3	3	0
	Moody	McLennan	Rural	6	6	0
	Morgan	Bosque	Rural	3	3	0
	Morgan's Point Resort	Bell	Rural	4	4	0
	Mount Calm	Hill	Rural	4	5	1
	Mullin	Mills	Rural	5	4	-1
	Navasota	Grimes	Rural	4	4	0
	Nolanville	Bell	Rural	5	5	0
	Normangee	Leon	Rural	3	3	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
	Oakwood	Leon	Rural	4	4	0
8	Oglesby	Coryell	Rural	6	6	0
8	Penelope	Hill	Rural	6	6	0
8	Richland Springs	San Saba	Rural	3	3	0
8	Riesel	McLennan	Rural	6	6	0
8	Robinson	McLennan	Urban	4	4	0
8	Rockdale	Milam	Rural	5	5	0
8	Rogers	Bell	Rural	3	3	0
8	Rosebud	Falls	Rural	4	4	0
8	Ross	McLennan	Rural	3	3	0
8	Salado	Bell	Rural	3	3	0
8	San Saba	San Saba	Rural	4	4	0
8	Snook	Burleson	Rural	6	6	0
8	Somerville	Burleson	Rural	5	5	0
8	South Mountain	Coryell	Rural	5	3	-2
	Streetman	Freestone	Rural	3	3	0
	Teague	Freestone	Rural	3	4	1
	Tehuacana	Limestone	Rural	4	3	-1
8	Temple	Bell	Urban	4	4	0
	Thorndale	Milam	Rural	5	5	0
8	Thornton	Limestone	Rural	4	5	1
	Todd Mission	Grimes	Rural	3	3	0
	Troy	Bell	Rural	6	6	0
	Valley Mills	Bosque	Rural	3	3	0
	Waco	McLennan	Urban	6	6	0
	Walnut Springs	Bosque	Rural	3	3	0
	West	McLennan	Rural	3	3	0
	Whitney	Hill	Rural	6	6	0
	Wixon Valley	Brazos	Rural	6	6	0
	Woodway	McLennan	Urban	3	3	0
	Wortham	Freestone	Rural	6	6	0
	Alamo Heights	Bexar	Urban	4	4	0
	Balcones Heights	Bexar	Urban	6	6	0
	Bandera	Bandera	Rural	3	3	0
	Bigfoot	Frio	Rural	3	3	0
	Boerne	Kendall	Rural	3	4	1
	Bulverde	Comal	Rural	3	3	0
	Canyon Lake	Comal	Rural	4	4	0
	Castle Hills	Bexar	Urban	6	6	0
	Castroville	Medina	Rural	5	5	0
	Charlotte	Atascosa	Rural	3	3	0
	China Grove	Bexar	Rural	3	3	0
	Christine	Atascosa	Rural	3	3	0
	Cibolo	Guadalupe	Rural	6	6	0
	Comfort	Kendall	Rural	3	3	0
	Converse	Bexar	Urban	3	3	0
	Cross Mountain	Bexar	Urban	3	3	0
	Devine	Medina	Rural	5	5	0
	Dilley	Frio	Rural	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	Elmendorf	Bexar	Rural	5	4	-1
9	Fair Oaks Ranch	Bexar	Urban	4	5	1
9	Falls City	Karnes	Rural	4	4	0
9	Floresville	Wilson	Rural	3	3	0
9	Fredericksburg	Gillespie	Rural	3	3	0
9	Garden Ridge	Comal	Rural	6	6	0
9	Geronimo	Guadalupe	Rural	3	3	0
9	Grey Forest	Bexar	Rural	4	4	0
9	Harper	Gillespie	Rural	4	4	0
9	Helotes	Bexar	Urban	4	4	0
9	Hill Country Village	Bexar	Urban	3	3	0
9	Hilltop	Frio	Rural	3	3	0
9	Hollywood Park	Bexar	Urban	6	6	0
9	Hondo	Medina	Rural	3	3	0
9	Ingram	Kerr	Rural	6	5	-1
9	Jourdanton	Atascosa	Rural	3	4	1
9	Karnes City	Karnes	Rural	3	3	0
9	Kenedy	Karnes	Rural	4	4	0
9	Kerrville	Kerr	Rural	5	5	0
9	Kingsbury	Guadalupe	Rural	3	3	0
9	Kirby	Bexar	Urban	5	5	0
9	La Vernia	Wilson	Rural	6	6	0
9	Lackland AFB	Bexar	Urban	3	3	0
9	LaCoste	Medina	Rural	5	5	0
9	Lakehills	Bandera	Rural	6	6	0
9	Leon Valley	Bexar	Urban	4	4	0
9	Live Oak	Bexar	Urban	4	4	0
9	Lytle	Atascosa	Rural	3	3	0
9	Marion	Guadalupe	Rural	5	5	0
9	McQueeney	Guadalupe	Rural	4	4	0
9	Moore	Frio	Rural	3		1
9	Natalia	Medina	Rural	6	6	0
9	New Berlin	Guadalupe	Rural	3	3	0
9	New Braunfels	Comal	Urban	5	5	0
9	North Pearsall	Frio	Rural	4	4	0
9	Northcliff	Guadalupe	Rural	4	4	0
9	Olmos Park	Bexar	Urban	4	4	0
9	Pearsall	Frio	Rural	4	4	0
9	Pleasanton	Atascosa	Rural	6	6	0
9	Poteet	Atascosa	Rural	4	4	0
9	Poth	Wilson	Rural	5	4	-1
9	Redwood	Guadalupe	Rural	5	5	0
9	Runge	Karnes	Rural	6	6	0
9	San Antonio	Bexar	Urban	4	4	0
9	Santa Clara	Guadalupe	Rural	6	6	0
9	Scenic Oaks	Bexar	Urban	3	3	0
9	Schertz	Guadalupe	Urban	5	5	0
9	Seguin	Guadalupe	Rural	4	4	0
9	Selma	Bexar	Urban	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
9	Shavano Park	Bexar	Urban	3	3	0
9	Somerset	Bexar	Rural	6	6	0
9	St. Hedwig	Bexar	Rural	6	6	0
9	Stockdale	Wilson	Rural	5	5	0
9	Stonewall	Gillespie	Rural	5	5	0
9	Terrell Hills	Bexar	Urban	4	4	0
9	Timberwood Park	Bexar	Urban	3	3	0
9	Universal City	Bexar	Rural	5	5	0
9	West Pearsall	Frio	Rural	6	6	0
9	Windcrest	Bexar	Urban	6	6	0
9	Zuehl	Guadalupe	Rural	3	3	0
10	Agua Dulce (Nueces)	Nueces	Rural	5	5	0
10	Airport Road Addition	Brooks	Rural	3	3	0
10	Alfred-South La Paloma	Jim Wells	Rural	3	3	0
10	Alice	Jim Wells	Rural	4	4	0
10	Alice Acres	Jim Wells	Rural	3	3	0
10	Aransas Pass	San Patricio	Rural	4	4	0
10	Austwell	Refugio	Rural	6	6	0
10	Bayside	Refugio	Rural	6	6	0
	Beeville	Bee	Rural	4	4	0
10	Benavides	Duval	Rural	5	5	0
10	Bishop	Nueces	Rural	5	5	0
	Bloomington	Victoria	Rural	6	6	0
	Blue Berry Hill	Bee	Rural	3	3	0
	Cantu Addition	Brooks	Rural	3	3	0
10	Concepcion	Duval	Rural	3	3	0
	Corpus Christi	Nueces	Urban	5	5	0
10	Coyote Acres	Jim Wells	Rural	3	3	0
	Cuero	DeWitt	Rural	6	6	0
10	Del Sol-Loma Linda	San Patricio	Rural	3	3	0
10	Doyle	San Patricio	Urban	3	3	0
	Driscoll	Nueces	Rural	6	5	-1
10	Edgewater-Paisano	San Patricio	Rural	6	6	0
	Edna	Jackson	Rural	5	5	0
	Edroy	San Patricio	Rural	3	3	0
	Encino	Brooks	Rural	3	3	0
	Falfurrias	Brooks	Rural	6	6	0
	Falman-County Acres	San Patricio	Rural	6	6	0
	Flowella	Brooks	Rural	3	3	0
10	Freer	Duval	Rural	4	4	0
-	Fulton	Aransas	Rural	5	5	0
	Ganado	Jackson	Rural	4	4	0
	George West	Live Oak	Rural	4	4	0
	Goliad	Goliad	Rural	3	3	0
	Gonzales	Gonzales	Rural	4	4	0
	Gregory	San Patricio	Rural	4	4	0
	Hallettsville	Lavaca	Rural	5	5	0
	Inez	Victoria	Rural	4	4	0
	Ingleside	San Patricio	Urban	4	4	0

10 Ingleside on the Bay San Patricio Urban 6 6 6 0 0 10 K.Bar Ranch Jim Wells Rural 6 6 6 0 0 10 K.Bar Ranch Jim Wells Rural 4 4 4 0 0 10 La Paloma-Losi Creek Nueces Rural 6 6 6 5 -1 10 Lake City San Patricio Rural 4 4 4 0 0 10 Lake Schore Gardens-Hidden Acres San Patricio Rural 3 3 3 0 0 10 Lakeside (San Patricio) San Patricio Rural 3 3 3 0 0 10 Lakeside (San Patricio) San Patricio Rural 3 3 3 0 0 10 Lakeside (San Patricio) San Patricio Rural 3 3 3 0 0 10 Lakeside (San Patricio) San Patricio Rural 3 3 3 0 0 10 Lotta Lida East Iim Wells Rural 3 3 3 0 0 10 Lotta Lida East Iim Wells Rural 3 3 3 0 0 10 Morgan Farm Area San Patricio Rural 4 4 4 0 0 Morgan Farm Area San Patricio Rural 4 4 4 0 0 10 Mordinen Lavaca Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 4 4 4 0 0 10 Nordhelim DeWitt Rural 5 5 0 0 10 Oldem San Patricio Rural 5 5 0 0 10 Oldem San Patricio Rural 5 5 0 0 10 Potrolla Nueces Rural 3 3 0 0 10 Potrolla Nueces Rural 5 5 0 0 10 Rural 5 5	Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
10 Kingsville	10 In	ngleside on the Bay	San Patricio	Urban	6	6	0
10 La Paloma-Lost Creek	10 K-	-Bar Ranch	Jim Wells	Rural	6	6	0
10 La Ward	10 Ki	ingsville	Kleberg	Rural	4	4	0
10 Lake City	10 La	a Paloma-Lost Creek	Nueces	Rural	6	6	0
10 Lakeshore Gardens-Hidden Acres San Patricio Rural 3 3 3 0 10 Lakeside (San Patricio) San Patricio Rural 3 3 3 0 0 10 Lolila Jackson Rural 3 3 3 0 0 10 Loma Linda East Jim Wells Rural 3 3 3 0 0 10 Loma Linda East Jim Wells Rural 3 3 3 0 0 10 Loma Linda East Jim Wells Rural 4 4 4 0 0 10 Morgan Farm Area San Patricio Rural 4 4 4 0 0 10 Morgan Farm Area San Patricio Rural 4 4 4 0 0 10 Morgan Farm Area San Patricio Rural 4 4 4 0 0 10 Morgan Farm Area San Patricio Rural 4 5 1 10 Mordheim DeWitt Rural 4 5 1 10 Nordheim DeWitt Rural 4 5 1 10 Nordheim DeWitt Rural 4 4 4 0 0 10 Nordheim DeWitt Rural 4 4 4 0 0 10 Nordh San Pedro Nueces Rural 4 4 4 0 0 10 Nordh San Pedro Nueces Rural 4 4 4 0 0 10 Nordh San Pedro Nueces Rural 4 4 4 0 0 Nordheim San Patricio Rural 5 5 5 0 0 Nordheim San Patricio Rural 6 6 6 0 0 Nordheim San Patricio Rural 6 6 6 0 0 Nordheim San Patricio Rural 6 6 6 0 0 Nordheim San Patricio Rural 6 6 6 0 0 Nordheim San Patricio Rural 6 6 6 0 0 Nordheim San Patricio Rural 5 5 0 0 Nordheim San Patricio Urban 5 5 0 0 Nordheim San Patricio Urban 5 5 0 0 Nordheim Nor	10 La	a Ward	Jackson	Rural	6	5	-1
10 Lakeside (San Patricio) San Patricio Rural 3 3 3 0 10 Lollia Jackson Rural 3 3 3 0 10 Loma Linda East Jim Wells Rural 3 3 3 0 10 Mathis San Patricio Rural 4 4 4 0 10 Morgan Farm Area San Patricio Rural 6 6 6 0 10 Moulton Lavaca Rural 4 4 4 0 10 Nordhelm DeWitt Rural 4 5 1 10 Normanna Bee Rural 3 3 3 0 10 North San Pedro Nueces Rural 4 4 4 0 10 Normanna Bee Rural 3 3 3 0 10 Odem San Patricio Rural 5 5 5 0 10 Odarge Grove Jim Wells Rural 6 6 0 10 Owl Ranch-Amargosa Jim Wells Rural 6 6 0 10 Parmitas Point Live Oak Rural 3 3 3 0 10 Pettus Bee Rural 3 3 3 0 10 Pettus Bee Rural 3 3 3 0 10 Pott Aransas Nueces Rural 4 4 0 10 Port Aransas Nueces Rural 5 5 5 0 10 Port Aransas Nueces Urban 6 6 0 10 Port Aransas Nueces Urban 6 6 0 10 Port Aransas Nueces Rural 5 5 0 10 Rancho Alegre Jim Wells Rural 5 5 0 10 Rancho Alegre Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho San Patricio Urban 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Jim Wells Rural 5 5 0 10 Rancho Dalore Rural 5 5 0	10 La	ake City	San Patricio	Rural	4	4	0
10	10 La	akeshore Gardens-Hidden Acres	San Patricio	Rural	3	3	0
10 Loma Linda East	10 La	akeside (San Patricio)	San Patricio	Rural	3	3	0
10 Mathis San Patricio Rural 4 4 4 0 10 Morgan Farm Area San Patricio Rural 6 6 6 0 0 10 Moulton Lavaca Rural 4 4 4 0 10 Moulton Lavaca Rural 4 4 4 0 10 Normanna DeWitt Rural 4 5 5 1 1 10 Normanna Bee Rural 3 3 3 0 10 North San Pedro Nueces Rural 4 4 4 0 10 North San Pedro Nueces Rural 5 5 5 0 10 Orange Grove Jim Wells Rural 6 6 6 0 0 Orange Grove Jim Wells Rural 6 6 6 0 0 Orange Grove Jim Wells Rural 6 6 6 0 0 Orange Grove Jim Wells Rural 6 6 6 0 0 Orange Grove Jim Wells Rural 6 6 6 0 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 6 6 6 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 5 5 5 0 Orange Grove Jim Wells Rural 3 3 3 Orange Grove Jim Wells Rural 3 3 3 Orange Grove Jim Wells Rural 4 4 4 Orange Grove Jim Wells Rural 5 5 O	10 Lc	olita	Jackson	Rural	3	3	0
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10 Moulton	10 Ma	1athis	San Patricio	Rural	4	4	0
10 Moulton	10 M	lorgan Farm Area	San Patricio	Rural	6	6	0
10 Nordheim DeWitt Rural 4 5 1			Lavaca	Rural	4	4	0
10 Nordheim DeWitt Rural 4 5 1	10 Ni	lixon	Gonzales	Rural	4	4	0
10 North San Pedro Nueces Rural 4 4 0 0 10 Odem San Patricio Rural 5 5 0 0 10 Orange Grove Jim Wells Rural 6 6 0 0 10 Owl Ranch-Amargosa Jim Wells Rural 6 6 0 0 10 Owl Ranch-Amargosa Jim Wells Rural 6 6 0 0 10 Pawnee Bee Rural 3 3 3 0 0 10 Petronila Nueces Rural 3 3 3 0 0 Owl Petronila Nueces Rural 3 3 3 0 0 Owl Petronila Nueces Rural 3 3 3 0 0 Owl Petronila Nueces Rural 4 4 4 0 0 Owl Petronila Nueces Rural 5 5 0 0 Owl Petronila Nueces Urban 6 6 0 Owl Petronila Nueces Urban 5 5 0 Owl Petronila Nueces			DeWitt	Rural	4	5	1
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10 Odem	10 No	lorth San Pedro	Nueces	Rural	4	4	0
10 Owl Ranch-Amargosa Jim Wells Rural 6 6 6 0 10 Pawnee Bee Rural 3 3 3 0 10 Pernitas Point Live Oak Rural 6 6 6 0 10 Petronila Nueces Rural 3 3 3 0 10 Petronila Nueces Rural 3 3 3 0 10 Pettus Bee Rural 4 4 4 0 10 Point Comfort Calhoun Rural 5 5 0 10 Port Aransas Nueces Urban 6 6 0 10 Port Lavaca Calhoun Rural 5 5 0 10 Port Lavaca Calhoun Rural 5 5 0 10 Portland San Patricio Urban 5 5 0 10 Premont Jim Wells Rural 5 5 0 10 Rancho Alegre Jim Wells Rural 5 6 1 10 Rancho Banquele Nueces Rural 3 3 0 10 Realitos Duval Rural 3 3 0 10 Refugio Refugio Rural 4 4 4 0 10 Robstown Nueces Rural 3 3 0 10 Rockport Aransas Rural 4 4 4 0 10 San Diego Duval Rural 5 5 0 10 San Diego Duval Rural 5 5 0 10 Sandia Jim Wells Rural 5 5 0 10 Sandia Jim Wells Rural 5 5 0 10 Sandia Jim Wells Rural 5 5 0 10 Sinton San Patricio Rural 5 5 0 10 Sinton San Patricio Rural 5 5 0 10 Sinton San Patricio Rural 5 5 0 10 Sildmore Bee Rural 5 5 0 10 Smiley Gonzales Rural 5 5 0 10 Smiley Gonzales Rural 5 5 0 10 Smiley Gonzales Rural 5 5 0 10 Smiley Gonzales Rural 5 5 0 10 Smiley Gonzales Rural 5 5 5 0 10 Rural 5 5 5 0 10 Smiley Gonzales Rural 5 5 5 0 10 Total The Turb The Turb The			San Patricio	Rural	5	5	0
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10 Taft San Patricio Rural 5 5 0							
10 Taft Southwest San Patricio Rural 4 4 0							

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
10	Three Rivers	Live Oak	Rural	5	5	0
10	Tierra Grande	Nueces	Rural	4	4	0
10	Tradewinds	San Patricio	Rural	3	3	0
10	Tuleta	Bee	Rural	3	3	0
10	Tulsita	Bee	Rural	3	3	0
10	Tynan	Bee	Rural	5	5	0
10	Vanderbilt	Jackson	Rural	3	3	0
10	Victoria	Victoria	Urban	5	5	0
10	Waelder	Gonzales	Rural	4	4	0
10	Westdale	Jim Wells	Rural	3	3	0
10	Woodsboro	Refugio	Rural	5	5	0
10	Yoakum	Lavaca	Rural	6	6	0
10	Yorktown	DeWitt	Rural	5	5	0
11	Abram-Perezville	Hidalgo	Rural	6	6	0
11	Alamo	Hidalgo	Urban	3	3	0
11	Alto Bonito	Starr	Rural	3	3	0
11	Alton	Hidalgo	Rural	3	3	0
11	Alton North	Hidalgo	Rural	5	5	0
11	Arroyo Alto	Cameron	Rural	3	3	0
11	Arroyo Colorado Estates	Cameron	Rural	6	6	0
11	Arroyo Gardens-La Tina Ranch	Cameron	Rural	3	3	0
11	Asherton	Dimmit	Rural	6	6	0
11	Batesville	Zavala	Rural	5	5	0
11	Bausell and Ellis	Willacy	Rural	3	3	0
11	Bayview	Cameron	Rural	6	6	0
11	Big Wells	Dimmit	Rural	5	5	0
11	Bixby	Cameron	Rural	3	3	0
11	Bluetown-Iglesia Antigua	Cameron	Rural	5	5	0
11	Botines	Webb	Rural	6	6	0
11	Box Canyon-Amistad	Val Verde	Rural	3	3	0
11	Brackettville	Kinney	Rural	4	4	0
11	Brownsville	Cameron	Urban	4	4	0
11	Brundage	Dimmit	Rural	3	3	0
11	Bruni	Webb	Rural	3	3	0
11	Cameron Park	Cameron	Urban	4	4	0
	Camp Wood	Real	Rural	6	6	0
11	Carrizo Hill	Dimmit	Rural	6	6	0
11	Carrizo Springs	Dimmit	Rural	6	6	0
11	Catarina	Dimmit	Rural	3	3	0
11	Cesar Chavez	Hidalgo	Urban	5	5	0
11	Chula Vista-Orason	Cameron	Rural	6	6	0
	Chula Vista-River Spur	Zavala	Rural	3	3	0
11	Cienegas Terrace	Val Verde	Rural	6	6	0
	Citrus City	Hidalgo	Rural	3	3	0
	Combes	Cameron	Urban	5	5	0
11	Cotulla	La Salle	Rural	3	3	0
11	Crystal City	Zavala	Rural	5	5	0
11	Cuevitas	Hidalgo	Rural	3	3	0
11	Del Mar Heights	Cameron	Rural	3	3	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
11	Del Rio	Val Verde	Rural	5	5	0
11	Doffing	Hidalgo	Rural	5	5	0
11	Donna	Hidalgo	Rural	3	3	0
11	Doolittle	Hidalgo	Urban	4	4	0
11	Eagle Pass	Maverick	Rural	6	6	0
11	Edcouch	Hidalgo	Rural	3	3	0
11	Edinburg	Hidalgo	Urban	5	5	0
11	Eidson Road	Maverick	Rural	4	4	0
11	El Camino Angosto	Cameron	Rural	3	3	0
11	El Cenizo	Webb	Rural	4	4	0
11	El Indio	Maverick	Rural	6	6	0
11	El Refugio	Starr	Rural	6	6	0
11	Elm Creek	Maverick	Rural	3	3	0
11	Elsa	Hidalgo	Rural	4	4	0
11	Encantada-Ranchito El Calaboz	Cameron	Rural	3	3	0
11	Encinal	La Salle	Rural	6	6	0
11	Escobares	Starr	Rural	5	5	0
11	Falcon Heights	Starr	Rural	3	3	0
11	Falcon Lake Estates	Zapata	Rural	5	5	0
11	Falcon Mesa	Zapata	Rural	3	3	0
11	Falcon Village	Starr	Rural	6	6	0
11	Faysville	Hidalgo	Urban	6	6	0
11	Fowlerton	La Salle	Rural	3	3	0
11	Fronton	Starr	Rural	3	3	0
11	Garceno	Starr	Rural	6	6	0
11	Grand Acres	Cameron	Rural	3	3	0
11	Granjeno	Hidalgo	Urban	3	3	0
11	Green Valley Farms	Cameron	Rural	3	3	0
11	Guerra	Jim Hogg	Rural	6	3	-3
11	Harlingen	Cameron	Urban	5	5	0
11	Havana	Hidalgo	Rural	5	5	0
11	Hebbronville	Jim Hogg	Rural	5	5	0
11	Heidelberg	Hidalgo	Rural	6	6	0
11	Hidalgo	Hidalgo	Rural	5	5	0
11	Indian Hills	Hidalgo	Rural	4	4	0
	Indian Lake	Cameron	Rural	6	6	0
11	Knippa	Uvalde	Rural	4	4	0
11	La Blanca	Hidalgo	Rural	6	6	0
11	La Casita-Garciasville	Starr	Rural	4	4	0
11	La Feria	Cameron	Rural	6	6	0
11	La Feria North	Cameron	Rural	6	6	0
11	La Grulla	Starr	Rural	4	4	0
11	La Homa	Hidalgo	Urban	5	5	0
11	La Joya	Hidalgo	Rural	4	4	0
11	La Paloma	Cameron	Rural	6	6	0
11	La Presa	Webb	Rural	3	3	0
11	La Pryor	Zavala	Rural	5	5	0
11	La Puerta	Starr	Rural	3	3	0
11	La Rosita	Starr	Rural	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
11	La Victoria	Starr	Rural	3	3	0
11	La Villa	Hidalgo	Rural	3	3	0
11	Lago	Cameron	Rural	6	6	0
11	Laguna Heights	Cameron	Rural	4	4	0
11	Laguna Seca	Hidalgo	Rural	3	3	0
11	Laguna Vista	Cameron	Rural	3	3	0
11	Lake View	Val Verde	Rural	3	3	0
11	Laredo	Webb	Urban	5	5	0
11	Laredo Ranchettes	Webb	Rural	3	3	0
11	Larga Vista	Webb	Urban	6	6	0
11	Las Colonias	Zavala	Rural	6	6	0
11	Las Lomas	Starr	Rural	6	6	0
11	Las Lomitas	Jim Hogg	Rural	3	3	0
11	Las Palmas-Juarez	Cameron	Rural	4	4	0
11	Las Quintas Fronterizas	Maverick	Rural	4	4	0
11	Lasana	Cameron	Urban	3	3	0
11	Lasara	Willacy	Rural	4	4	0
11	Laughlin AFB	Val Verde	Rural	4	4	0
11	Laureles	Cameron	Rural	5	5	0
11	Leakey	Real	Rural	6	6	0
11	Llano Grande	Hidalgo	Urban	5	5	0
11	Lopeno	Zapata	Rural	3	3	0
11	Lopezville	Hidalgo	Urban	4	4	0
11	Los Alvarez	Starr	Rural	4	4	0
11	Los Angeles Subdivision	Willacy	Rural	6	6	0
11	Los Ebanos	Hidalgo	Rural	5	5	0
11	Los Fresnos	Cameron	Rural	4	4	0
11	Los Indios	Cameron	Rural	3	3	0
11	Los Villareales	Starr	Rural	3	3	0
11	Lozano	Cameron	Rural	3	3	0
11	Lyford	Willacy	Rural	5	5	0
11	Lyford South	Willacy	Rural	6	6	0
11	McAllen	Hidalgo	Urban	5	5	0
11	Medina	Zapata	Rural	4	4	0
11	Mercedes	Hidalgo	Rural	4	4	0
11	Midway North	Hidalgo	Urban	3	3	0
11	Midway South	Hidalgo	Urban	5	5	0
11	Mila Doce	Hidalgo	Rural	4	4	0
11	Mirando City	Webb	Rural	6	6	0
11	Mission	Hidalgo	Urban	4	4	0
11	Monte Alto	Hidalgo	Rural	5	5	0
11	Morales-Sanchez	Zapata	Rural	3	3	0
11	Muniz	Hidalgo	Rural	6	6	0
	New Falcon	Zapata	Rural	3	3	0
11	North Alamo	Hidalgo	Urban	4	4	0
11	North Escobares	Starr	Rural	6	6	0
11	Nurillo	Hidalgo	Urban	5	5	0
11	Oilton	Webb	Rural	3	3	0
11	Olivarez	Hidalgo	Rural	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
11	Olmito	Cameron	Urban	5	5	0
11	Palm Valley	Cameron	Urban	4	4	0
11	Palmhurst	Hidalgo	Urban	5	5	0
11	Palmview	Hidalgo	Urban	5	5	0
11	Palmview South	Hidalgo	Urban	5	5	0
11	Penitas	Hidalgo	Rural	5	5	0
11	Pharr	Hidalgo	Urban	4	4	0
11	Port Isabel	Cameron	Rural	3	4	1
11	Port Mansfield	Willacy	Rural	5	5	0
11	Primera	Cameron	Urban	5	5	0
11	Progreso	Hidalgo	Rural	5	5	0
11	Progreso Lakes	Hidalgo	Rural	3	3	0
11	Quemado	Maverick	Rural	3	3	0
11	Radar Base	Maverick	Rural	3	3	0
11	Ranchette Estates	Willacy	Rural	3	3	0
	Ranchitos Las Lomas	Webb	Rural	3	3	0
11	Rancho Viejo	Cameron	Urban	5	5	0
	Ranchos Penitas West	Webb	Urban	3	3	0
11	Rangerville	Cameron	Rural	3	3	0
	Ratamosa	Cameron	Rural	3	3	0
	Raymondville	Willacy	Rural	4	4	0
	Reid Hope King	Cameron	Urban	6	6	0
	Relampago	Hidalgo	Rural	3	3	0
	Rio Bravo	Webb	Urban	4	4	0
	Rio Grande City	Starr	Rural	4	4	0
	Rio Hondo	Cameron	Rural	5	5	0
	Rocksprings	Edwards	Rural	5	5	0
	Roma	Starr	Rural	6	6	0
	Roma Creek	Starr	Rural	3	3	0
	Rosita North	Maverick	Rural	4	4	0
	Rosita South	Maverick	Rural	5	5	0
	Sabinal	Uvalde	Rural	6	6	0
	Salineno	Starr	Rural	3	3	0
	San Benito	Cameron	Urban	5	5	0
	San Carlos	Hidalgo	Rural	6	6	0
	San Ignacio	Zapata	Rural	3	3	0
	San Isidro	Starr	Rural	5	5	0
	San Juan	Hidalgo	Urban	5	5	0
	San Manuel-Linn	Hidalgo	Rural	3	3	0
	San Pedro	Cameron	Rural	3	3	0
	San Perlita	Willacy	Rural	6	6	0
	Santa Cruz	Starr	Rural	6	6	0
	Santa Maria	Cameron	Rural	4	4	0
	Santa Monica	Willacy	Rural	3	3	0
	Santa Rosa	Cameron	Rural	3	3	0
	Scissors	Hidalgo	Rural	3	3	0
	Sebastian	Willacy	Rural	3	3	0
	Siesta Shores	Zapata	Rural	3	3	0
- 11	Solis	Cameron	Rural	6	6	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
11	South Alamo	Hidalgo	Rural	5	5	0
11	South Fork Estates	Jim Hogg	Rural	3	3	0
11	South Padre Island	Cameron	Rural	6	6	0
11	South Point	Cameron	Rural	6	6	0
11	Spofford	Kinney	Rural	3	3	0
11	Sullivan City	Hidalgo	Rural	5	5	0
11	Tierra Bonita	Cameron	Rural	3	3	0
11	Utopia	Uvalde	Rural	5	5	0
11	Uvalde	Uvalde	Rural	5	5	0
11	Uvalde Estates	Uvalde	Rural	6	6	0
11	Val Verde Park	Val Verde	Rural	5	5	0
11	Villa del Sol	Cameron	Rural	3	3	0
11	Villa Pancho	Cameron	Urban	6	6	0
11	Villa Verde	Hidalgo	Urban	3	3	0
11	Weslaco	Hidalgo	Urban	4	4	0
11	West Sharyland	Hidalgo	Rural	4	4	0
11	Willamar	Willacy	Rural	3	3	0
11	Yznaga	Cameron	Rural	3	3	0
	Zapata	Zapata	Rural	3	4	1
11	Zapata Ranch	Willacy	Rural	3	3	0
	Ackerly	Dawson	Rural	4	4	0
	Andrews	Andrews	Rural	5	5	0
12	Balmorhea	Reeves	Rural	3	3	0
12	Barstow	Ward	Rural	6	6	0
12	Big Lake	Reagan	Rural	5	5	0
	Big Spring	Howard	Rural	5	5	0
12	Brady	McCulloch	Rural	4	4	0
	Bronte	Coke	Rural	6	6	0
12	Christoval	Tom Green	Rural	5	6	1
12	Coahoma	Howard	Rural	4	4	0
12	Coyanosa	Pecos	Rural	3	3	0
	Crane	Crane	Rural	6	6	0
12	Eden	Concho	Rural	6	6	0
	Eldorado	Schleicher	Rural	3	3	0
	Forsan	Howard	Rural	4	4	0
	Fort Stockton	Pecos	Rural	3	3	0
	Gardendale	Ector	Rural	3	3	0
12	Goldsmith	Ector	Rural	4	4	0
	Grandfalls	Ward	Rural	4	4	0
	Grape Creek	Tom Green	Rural	5	5	0
	Imperial	Pecos	Rural	3	3	0
	lraan	Pecos	Rural	3	3	0
	Junction	Kimble	Rural	5	5	0
	Kermit	Winkler	Rural	4	4	0
	Lamesa	Dawson	Rural	5	5	0
	Lindsay (Reeves)	Reeves	Rural	3	3	0
	Los Ybanez	Dawson	Rural	3	3	0
	Mason	Mason	Rural	5	5	0
	McCamey	Upton	Rural	4	4	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12
	Melvin	McCulloch	Rural	6	6	0
12	Menard	Menard	Rural	5	5	0
12	Mertzon	Irion	Rural	3	3	0
12	Midland	Midland	Urban	5	5	0
12	Monahans	Ward	Rural	6	6	0
12	Odessa	Ector	Urban	4	5	1
12	Ozona	Crockett	Rural	3	3	0
12	Paint Rock	Concho	Rural	6	6	0
12	Pecos	Reeves	Rural	3	3	0
12	Pyote	Ward	Rural	3	3	0
12	Rankin	Upton	Rural	3	3	0
12	Robert Lee	Coke	Rural	6	6	0
12	San Angelo	Tom Green	Urban	5	5	0
12	Sanderson	Terrell	Rural	6	5	-1
12	Seagraves	Gaines	Rural	5	5	0
12	Seminole	Gaines	Rural	4	4	0
12	Sonora	Sutton	Rural	3	3	0
12	Stanton	Martin	Rural	5	5	0
12	Sterling City	Sterling	Rural	4	4	0
12	Thorntonville	Ward	Rural	3	3	0
12	Toyah	Reeves	Rural	3	3	0
12	West Odessa	Ector	Urban	5	5	0
12	Wickett	Ward	Rural	6	6	0
12	Wink	Winkler	Rural	4	4	0
13	Agua Dulce (El Paso)	El Paso	Rural	3	3	0
13	Alpine	Brewster	Rural	6	6	0
13	Anthony	El Paso	Urban	3	3	0
13	Butterfield	El Paso	Rural	3	3	0
13	Canutillo	El Paso	Urban	4	4	0
13	Clint	El Paso	Rural	3	3	0
13	Dell City	Hudspeth	Rural	5	6	1
13	El Paso	El Paso	Urban	5	5	0
13	Fabens	El Paso	Rural	6	6	0
	Fort Bliss	El Paso	Urban	4	4	0
	Fort Davis	Jeff Davis	Rural	4	4	0
13	Fort Hancock	Hudspeth	Rural	6	5	-1
	Homestead Meadows North	El Paso	Rural	5	5	0
	Homestead Meadows South	El Paso	Rural	6	6	0
	Horizon City	El Paso	Rural	3	3	0
13	Marathon	Brewster	Rural	4	4	0
	Marfa	Presidio	Rural	4	4	0
	Morning Glory	El Paso	Rural	3	3	0
	Prado Verde	El Paso	Urban	3	3	0
	Presidio	Presidio	Rural	5	5	0
	Redford	Presidio	Rural	3	3	0
	San Elizario	El Paso	Urban	3	3	0
	Sierra Blanca	Hudspeth	Rural	4	4	0
	Socorro	El Paso	Urban	4	4	0
13	Sparks	El Paso	Rural	5	5	0

Region	Area Name	County Name	Area Type	AHNS 11	AHNS 12	Change in AHNS 12 - 11
13	Study Butte-Terlingua	Brewster	Rural	4	4	0
13	Tornillo	El Paso	Rural	6	6	0
13	Valentine	Jeff Davis	Rural	5	5	0
13	Van Horn	Culberson	Rural	6	6	0
13	Vinton	El Paso	Rural	6	6	0
13	Westway	El Paso	Urban	6	6	0

Draft 2012 HTF Affordable Housing Need Scores (AHNS) Place Level

(Sorted by Region then Place.)

Instructions:

Use this table to determine the AHNS of an application that will serve a **single** place. Special Circumstances

(1) Rental Development activities that are not located within a place's jurisdiction will utilize the score of closest place.

All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing Raul Gonzales via facsimile at (512) 475-1473 or by email at raul.gonzales@tdhca.state.tx.us.

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Abernathy	Hale	2,839	Rural	5	5	3
1	Adrian	Oldham	159	Rural	6	6	6
1	Amarillo	Potter	173,627	Urban	5	6	4
1	Amherst	Lamb	791	Rural	5	5	3
1	Anton	Hockley	1,200	Rural	3	3	6
1	Bishop Hills	Potter	210	Rural	3	3	6
1	Booker	Lipscomb	1,315	Rural	5	5	3
1	Borger	Hutchinson	14,302	Rural	4	5	3
1	Bovina	Parmer	1,874	Rural	4	3	3
1	Brownfield	Terry	9,488	Rural	5	6	4
1	Buffalo Springs	Lubbock	493	Rural	4	4	4
1	Cactus	Moore	2,538	Rural	3	3	4
1	Canadian	Hemphill	2,233	Rural	5	5	4
1	Canyon	Randall	12,875	Rural	6	6	3
1	Channing	Hartley	356	Rural	6	6	4
1	Childress	Childress	6,778	Rural	4	5	3
1	Clarendon	Donley	1,974	Rural	5	5	3
1	Claude	Armstrong	1,313	Rural	6	6	4
1	Crosbyton	Crosby	1,874	Rural	5	5	3
1	Dalhart	Dallam	7,237	Rural	6	6	4
1	Darrouzett	Lipscomb	303	Rural	6	6	6
1	Denver City	Yoakum	3,985	Rural	4	4	6
1	Dickens	Dickens	332	Rural	6	6	6
1	Dimmitt	Castro	4,375	Rural	5	4	5
1	Dodson	Collingsworth	115	Rural	6	6	6
1	Dumas	Moore	13,747	Rural	4	4	3
1	Earth	Lamb	1,109	Rural	4	4	5
1	Edmonson	Hale	123	Rural	3	3	5
1	Estelline	Hall	168	Rural	6	6	6
1	Farwell	Parmer	1,364	Rural	6	6	4
1	Floydada	Floyd	3,676	Rural	5	5	3
1	Follett	Lipscomb	412	Rural	3	3	6
1	Friona	Parmer	3,854	Rural	5	5	3
1	Fritch	Hutchinson		Rural	5	5	4
1	Groom	Carson	587	Rural	6	6	6
1	Gruver	Hansford	1,162	Rural	5	5	4
1	Hale Center	Hale	2,263	Rural	5	5	3
1	Нарру	Swisher	647	Rural	4	4	5

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Hart	Castro	1,198	Rural	4	4	4
1	Hartley	Hartley	441	Rural	5	5	5
	Hedley	Donley	379	Rural	6	6	6
1	Hereford	Deaf Smith	14,597	Rural	3	4	4
1	Higgins	Lipscomb	425	Rural	3	3	6
1	Howardwick	Donley	437	Rural	6	6	4
1	Idalou	Lubbock	2,157	Rural	3	3	3
1	Kress	Swisher	826	Rural	5	5	3
1	Lake Tanglewood	Randall	825	Rural	6	6	3
1	Lakeview	Hall	152	Rural	6	6	3
1	Lefors	Gray	559	Rural	3	3	5
1	Levelland	Hockley	12,866	Rural	5	6	5
1	Lipscomb	Lipscomb	44	Rural	3	3	3
1	Littlefield	Lamb	6,507	Rural	6	6	4
1	Lockney	Floyd	2,056	Rural	4	3	3
1	Lorenzo	Crosby	1,372	Rural	4	4	4
1	Lubbock	Lubbock	199,564	Urban	6	6	4
1	Matador	Motley	740	Rural	4	4	3
1	McLean	Gray	830	Rural	5	5	6
1	Meadow	Terry	658	Rural	3	3	3
1	Memphis	Hall	2,479	Rural	5	5	3
1	Miami	Roberts	588	Rural	6	6	4
1	Mobeetie	Wheeler		Rural	3	3	4
1	Morse	Hansford		Rural	5	5	6
1	Morton	Cochran		Rural	3	3	3
1	Muleshoe	Bailey		Rural	3	3	4
1	Nazareth	Castro		Rural	3	3	4
1	New Deal	Lubbock		Rural	5	5	3
1	New Home	Lynn		Rural	4	4	3
1	O'Donnell	Lynn		Rural	3	3	3
1	Olton	Lamb		Rural	3	3	3
1	Opdyke West	Hockley	· ·	Rural	5	5	6
1	Palisades	Randall	352	Rural	5	5	4
1	Pampa	Gray	17,887		4	5	4
	Panhandle	Carson		Rural	4	4	3
	Perryton	Ochiltree		Rural	3	4	3
	Petersburg	Hale		Rural	3	3	3
1	Plains	Yoakum		Rural	5	5	3
1	Plainview	Hale	22,336		5	5	4
1	Post	Garza		Rural	6	6	6
1	Quail	Collingsworth		Rural	3	3	3
1	Quitaque	Briscoe		Rural	6	6	5
1	Ralls	Crosby		Rural	5	5	6
1	Ransom Canyon	Lubbock		Rural	4	4	3
1	Reese Center	Lubbock		Urban	3	3	6
1	Roaring Springs	Motley		Rural	4	4	3
1	Ropesville	Hockley		Rural	3	3	3
1	Samnorwood	Collingsworth		Rural	3	3	3
1	Sanford	Hutchinson		Rural	5	5	4
	Seth Ward	Hale		Rural	5	5	6
	Shallowater	Lubbock		Rural	6	6	5
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Shamrock	Wheeler	2,029	Rural	5	5	6
1	Silverton	Briscoe	771	Rural	5	5	3
1	Skellytown	Carson	610	Rural	3	3	6
1	Slaton	Lubbock	6,109	Rural	5	5	5
1	Smyer	Hockley	480	Rural	4	4	5
1	Spade	Lamb	100	Rural	5	5	3
1	Spearman	Hansford	3,021	Rural	3	3	4
1	Springlake	Lamb	135	Rural	6	6	3
1	Spur	Dickens	1,088	Rural	4	4	4
1	Stinnett	Hutchinson	1,936	Rural	5	5	4
1	Stratford	Sherman	1,991	Rural	3	3	3
1	Sudan	Lamb	1,039	Rural	5	5	3
1	Sundown	Hockley	1,505	Rural	4	4	3
1	Sunray	Moore	1,950	Rural	4	4	3
1	Tahoka	Lynn	2,910	Rural	4	3	6
1	Texhoma	Sherman	371	Rural	6	6	6
1	Texline	Dallam	511	Rural	4	4	5
1	Timbercreek Canyon	Randall	406	Rural	3	3	3
1	Tulia	Swisher	5,117	Rural	4	4	4
1	Turkey	Hall	494	Rural	3	3	3
1	Vega	Oldham	936	Rural	5	5	5
1	Wellington	Collingsworth	2,275	Rural	4	4	5
1	Wellman	Terry	203	Rural	4	3	6
1	Wheeler	Wheeler	1,378	Rural	4	4	3
1	White Deer	Carson	1,060	Rural	5	5	3
1	Whiteface	Cochran	465	Rural	3	3	6
1	Wilson	Lynn	532	Rural	3	3	4
1	Wolfforth	Lubbock	2,554	Rural	5	5	6
2	Abilene	Taylor	115,930	Urban	5	5	3
2	Albany	Shackelford	1,921	Rural	5	4	3
2	Anson	Jones	2,556	Rural	3	3	5
2	Archer City	Archer	1,848	Rural	4	4	3
	Aspermont	Stonewall	1,021	Rural	4	4	5
	Baird	Callahan	1,623	Rural	3	5	4
	Ballinger	Runnels	4,243	Rural	6	6	6
2	Bangs	Brown		Rural	5	4	6
2	Bellevue	Clay	386	Rural	4	4	5
2	Benjamin	Knox	264	Rural	3	3	6
2	Blackwell	Nolan	360	Rural	4	4	3
2	Blanket	Brown	402	Rural	6	6	5
2	Bowie	Montague		Rural	5	6	6
2	Breckenridge	Stephens	5,868	Rural	5	4	3
2	Brownwood	Brown	18,813		3	6	4
2	Bryson	Jack		Rural	5	5	6
2	Buffalo Gap	Taylor	463	Rural	4	4	3
2	Burkburnett	Wichita	10,927	Rural	5	5	3
2	Byers	Clay	517	Rural	6	6	5
2	Carbon	Eastland	224	Rural	3	3	3
2	Chillicothe	Hardeman	798	Rural	6	6	3
	Cisco	Eastland	3,851	Rural	6	6	4
2	Clyde	Callahan	3,345	Rural	5	5	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
2	Coleman	Coleman	5,127	Rural	5	5	6
2	Colorado City	Mitchell	4,281	Rural	6	5	6
2	Comanche	Comanche		Rural	6	6	4
2	Cross Plains	Callahan		Rural	3	6	5
2	Crowell	Foard	1,141		5	5	5
	De Leon	Comanche		Rural	5	5	5
2	Dean	Clay		Rural	6	6	5
2	Early	Brown		Rural	5	4	4
2	Eastland	Eastland	-	Rural	3	6	6
	Elbert	Throckmorton		Rural	6	6	3
2	Electra	Wichita	3,168		5	5	5
2	Girard	Kent		Rural	3	3	6
2	Goree	Knox		Rural	3	3	6
2	Goree	Eastland		Rural	3	3	3
2		Young	8,716		4	4	4
2	Graham	Comanche		Rural	6	6	6
	Gustine			Rural	4	4	
2	Hamlin	Jones	-				6
	Haskell	Haskell		Rural	5	5	6
	Hawley	Jones		Rural	6	6	3
	Henrietta	Clay		Rural	5	5	4
2	Hermleigh	Scurry		Rural	5	5	6
2	Holliday	Archer		Rural	3	3	5
2	Impact	Taylor		Urban	3	3	3
	Iowa Park	Wichita	6,431		5	5	3
2	Jacksboro	Jack	4,533		5	5	5
2	Jayton	Kent		Rural	3	3	3
2	Jolly	Clay		Rural	6	6	6
	Knox City	Knox		Rural	4	4	6
2	Lake Brownwood	Brown		Rural	6	6	6
2	Lakeside City	Archer		Urban	4	4	3
	Lawn	Taylor		Rural	3	3	4
2	Loraine	Mitchell	656	Rural	5	4	3
2	Lueders	Jones		Rural	4	4	6
2	Megargel	Archer		Rural	3	3	3
	Merkel	Taylor		Rural	5	5	3
	Miles	Runnels		Rural	5	4	3
	Moran	Shackelford		Rural	4	4	5
2	Munday	Knox		Rural	3	3	3
2	Newcastle	Young		Rural	6	5	4
2	Nocona	Montague		Rural	4	3	3
2	Novice	Coleman		Rural	3	3	3
2	O'Brien	Haskell		Rural	3	3	6
2	Olney	Young	3,396	Rural	4	4	5
2	Paducah	Cottle	1,498	Rural	4	4	3
	Petrolia	Clay	782	Rural	6	5	3
	Pleasant Valley	Wichita	408	Urban	6	6	5
	Potosi	Taylor	1,664	Urban	6	6	3
	Putnam	Callahan	88	Rural	6	6	4
2	Quanah	Hardeman	3,022	Rural	6	6	3
2	Ranger	Eastland	2,584	Rural	3	3	6
	Rising Star	Eastland	835	Rural	4	4	5
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
2	Roby	Fisher	673	Rural	5	5	3
2	Rochester	Haskell	378	Rural	4	4	5
2	Roscoe	Nolan	1,378	Rural	4	3	4
2	Rotan	Fisher	1,611	Rural	5	4	3
2	Rule	Haskell	698	Rural	4	4	5
2	Santa Anna	Coleman	1,081	Rural	3	4	5
2	Scotland	Archer	438	Rural	3	3	5
2	Seymour	Baylor	2,908	Rural	4	4	3
2	Snyder	Scurry	10,783	Rural	3	4	4
2	St. Jo	Montague	977	Rural	3	3	5
2	Stamford	Jones	3,636	Rural	4	4	4
2	Sunset	Montague	339	Rural	4	3	6
2	Sweetwater	Nolan	11,415	Rural	4	5	4
2	Throckmorton	Throckmorton	905	Rural	3	3	3
2	Trent	Taylor	318	Rural	6	6	3
2	Tuscola	Taylor	714	Rural	3	3	3
2	Туе	Taylor	1,158	Urban	6	6	4
2	Vernon	Wilbarger	11,660	Rural	3	4	4
2	Weinert	Haskell	177	Rural	6	6	4
	Westbrook	Mitchell	203	Rural	5	5	4
	Wichita Falls	Wichita	104,197	Urban	4	5	3
	Windthorst	Archer	440	Rural	3	3	6
	Winters	Runnels		Rural	3	3	4
	Woodson	Throckmorton		Rural	4	4	5
3	Addison	Dallas	14,166		4	4	3
3	Aledo	Parker		Rural	5	5	5
3	Allen	Collin	43,554		5	5	3
3	Alma	Ellis		Rural	6	6	6
	Alvarado	Johnson		Rural	4	3	5
	Alvord	Wise		Rural	5	5	3
	Angus	Navarro	-	Rural	4	4	5
	Anna	Collin		Rural	6	4	3
_	Annetta	Parker		Rural	6	6	3
	Annetta North	Parker		Rural	6	6	3
	Annetta South	Parker		Rural	6	6	3
	Argyle	Denton		Urban	4	4	3
	Arlington	Tarrant	332,969		5	5	3
	Aubrey	Denton		Rural	6	4	5
	Aurora	Wise		Rural	6	6	6
	Azle	Tarrant		Urban	4	4	5
	Bailey	Fannin		Rural	6	6	3
	Balch Springs	Dallas	19,375		3	5	6
	Bardwell	Ellis		Rural	3	3	6
	Barry	Navarro		Rural	6	6	4
	Bartonville	Denton		Rural	3	3	3
	Bedford	Tarrant	47,152		5	5	3
	Bells	Grayson		Rural	5	5	5
	Benbrook	Tarrant	20,208		5	5	4
		Navarro		Rural	4	4	5
	Blooming Grove Blue Mound	Tarrant		Urban	4	4	4
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Bonham	Fannin	9,990	Rural	6	5	5
3	Boyd	Wise	1,099	Rural	4	4	5
	Briar	Tarrant	5,350	Rural	3	3	5
	Briaroaks	Johnson	493	Rural	3	3	4
3	Bridgeport	Wise	4,309	Rural	4	5	5
3	Burleson	Johnson	20,976	Urban	3	4	3
3	Caddo Mills	Hunt	1,149	Rural	6	5	5
3	Callisburg	Cooke	365	Rural	4	4	6
3	Campbell	Hunt		Rural	5	4	6
3	Carrollton	Denton	109,576		4	4	3
3	Cedar Hill	Dallas	32,093		5	5	4
3	Celeste	Hunt		Rural	4	3	5
3	Celina	Collin	1,861	Urban	4	3	4
3	Chico	Wise		Rural	5	5	5
3	Cleburne	Johnson	26,005		3	5	5
3	Cockrell Hill	Dallas		Urban	3	3	4
3	Colleyville	Tarrant	19,636		4	4	3
3	Collinsville	Grayson		Rural	3	3	4
3	Combine	Kaufman		Rural	4	4	4
3	Commerce	Hunt		Rural	6	6	3
3	Cool	Parker		Rural	6	6	6
3	Coppell	Dallas	35,958		4	4	3
3	Copper Canyon	Denton		Urban	6	6	3
3	Corinth	Denton	11,325		3	4	3
3	Corral City	Denton		Rural	3	3	6
3	Corsicana	Navarro	24,485		5	5	5
3	Cottonwood	Kaufman		Rural	3	3	4
	Crandall	Kaufman		Rural	4	4	4
	Cross Roads	Denton		Rural	3	3	6
	Cross Timber	Johnson		Rural	6	6	4
	Crowley	Tarrant		Urban	4	5	4
	Dallas	Dallas	1,188,580		4	5	5
	Dalworthington Gardens	Tarrant		Urban	3	3	3
_	Dawson	Navarro		Rural	3	3	4
		Wise		Rural	3	4	5
	Decatur Denison	Grayson	22,773		4	5	5
		Denton	80,537		6	6	5
	Denton DeSoto	Dallas	37,646		4	6	4
		Fannin		Rural	6	6	5
	Dodd City	Grayson		Urban	3	3	6
	Dorchester Double Oak	Denton		Urban	5	6	3
	Double Oak	Erath		Rural	4	4	5
	Dublin	Dallas		Urban	5	<u> </u>	5
	Duncanville			Urban	4	4	4
	Eagle Mountain	Tarrant		Rural	5	<u> </u>	3
	Ector	Fannin Tarrant		Urban	6	5 5	4
	Edgecliff Village	Navarro		Rural	3	3	3
	Emhouse		16,045				
	Ennis	Ellis			3	4	5
	Euless	Tarrant	46,005	Orban Rural	4	3	3
_	Eureka	Navarro			3		5
3	Everman	Tarrant	5,836	Urban	5	5	6

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Fairview	Collin	2,644	Urban	6	6	3
3	Farmers Branch	Dallas	27,508	Urban	3	3	4
3	Farmersville	Collin	3,118	Rural	4	4	3
3	Fate	Rockwall	497	Rural	6	6	4
3	Ferris	Ellis	2,175	Rural	4	4	3
3	Flower Mound	Denton	50,702	Urban	4	4	3
3	Forest Hill	Tarrant	12,949	Urban	3	5	6
3	Forney	Kaufman	5,588	Rural	5	5	5
3	Fort Worth	Tarrant	534,694	Urban	4	5	5
3	Frisco	Collin	33,714	Urban	5	5	3
3	Frost	Navarro	648	Rural	5	5	6
3	Gainesville	Cooke	15,538	Rural	4	5	4
3	Garland	Dallas	215,768	Urban	4	4	4
3	Garrett	Ellis	448	Rural	6	6	6
3	Glen Rose	Somervell	2,122	Rural	4	4	5
3	Glenn Heights	Dallas	7,224	Urban	5	5	5
3	Godley	Johnson	879	Rural	6	6	3
3	Goodlow	Navarro	264	Rural	3	3	6
3	Gordon	Palo Pinto	451	Rural	6	6	3
3	Graford	Palo Pinto	578	Rural	4	4	4
3	Granbury	Hood	5,718	Rural	5	6	4
3	Grand Prairie	Dallas	127,427	Urban	4	5	4
3	Grandview	Johnson	1,358	Rural	5	5	5
3	Grapevine	Tarrant	42,059	Urban	4	4	3
3	Grays Prairie	Kaufman	296	Rural	6	6	3
3	Greenville	Hunt	23,960	Rural	4	5	5
3	Gunter	Grayson	1,230	Rural	5	4	3
3	Hackberry	Denton		Urban	6	6	6
3	Haltom City	Tarrant	39,018	Urban	5	4	5
3	Haslet	Tarrant		Urban	4	4	3
3	Hawk Cove	Hunt		Rural	3	3	5
3	Heath	Rockwall		Urban	3	3	3
	Hebron	Denton		Urban	3	3	3
	Hickory Creek	Denton		Urban	4	4	3
_	Highland Park	Dallas		Urban	3	3	3
	Highland Village	Denton		Urban	5	5	3
-	Honey Grove	Fannin		Rural	3	5	4
	Howe	Grayson		Urban	5	5	6
	Hudson Oaks	Parker		Rural	6	6	3
_	Hurst	Tarrant		Urban	5	5	3
	Hutchins	Dallas		Urban	5	5	5
	Irving	Dallas	191,615		4	4	3
$\overline{}$	Italy	Ellis		Rural	4	4	4
3	Josephine	Collin		Rural	6	6	3
3	Joshua	Johnson		Urban	4	4	4
3	Justin	Denton		Rural	5	4	4
	Kaufman	Kaufman		Rural	3	4	6
	Keene	Johnson		Rural	5	5	6
	Keller	Tarrant	27,345		3	5	3
$\overline{}$	Kemp	Kaufman		Rural	6	6	5
3	Kennedale	Tarrant	5,850	Urban	4	4	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Kerens	Navarro	1,681	Rural	5	5	5
3	Knollwood	Grayson	375	Urban	6	6	6
3	Krugerville	Denton	903	Rural	6	6	5
3	Krum	Denton	1,979	Rural	3	3	4
3	Ladonia	Fannin	667	Rural	3	3	6
3	Lake Bridgeport	Wise	372	Rural	3	3	4
3	Lake Dallas	Denton	6,166	Rural	5	4	4
3	Lake Kiowa	Cooke	1,883	Rural	3	3	3
3	Lake Worth	Tarrant	4,618	Urban	5	4	5
3	Lakeside (Tarrant)	Tarrant		Urban	5	5	3
3	Lakewood Village	Denton	342	Rural	6	6	5
3	Lancaster	Dallas	25,894	Urban	3	4	6
3	Lavon	Collin		Rural	3	3	4
3	Leonard	Fannin		Rural	5	5	4
3	Lewisville	Denton			5	5	3
3	Lincoln Park	Denton	517	Rural	3	3	6
3	Lindsay (Cooke)	Cooke		Rural	4	4	3
3	Lipan	Hood	425	Rural	3	3	5
3	Little Elm	Denton	3,646	Urban	3	4	5
3	Lone Oak	Hunt	521	Rural	3	3	4
3	Lowry Crossing	Collin	1,229	Urban	6	6	3
3	Lucas	Collin		Urban	6	6	3
3	Mabank	Kaufman		Rural	3	6	5
3	Mansfield	Tarrant	28,031		3	4	3
3	Marshall Creek	Denton		Rural	6	6	6
3	Maypearl	Ellis		Rural	5	4	5
3	McKinney	Collin	54,369		4	5	3
3	McLendon-Chisholm	Rockwall		Rural	6	6	3
3	Melissa	Collin		Urban	5	5	4
	Mesquite	Dallas	124,523		4	5	4
	Midlothian	Ellis		Urban	4	4	4
3	Mildred	Navarro		Rural	6	6	5
	Milford	Ellis		Rural	3	3	6
	Millsap	Parker		Rural	4	4	4
	Mineral Wells	Palo Pinto	16,946		4	5	5
	Mingus	Palo Pinto		Rural	6	6	3
	Mobile City	Rockwall		Rural	4	4	6
	Muenster	Cooke		Rural	5	5	5
	Murphy	Collin		Urban	6	6	3
_	Mustang	Navarro		Rural	3	3	6
	Navarro	Navarro		Rural	3	3	3
	Nevada	Collin		Rural	4	4	3
	New Fairview	Wise		Rural	4	4	6
	New Hope	Collin		Rural	3	3	3
	Newark	Wise		Rural	5	5	5
	Neylandville	Hunt		Rural	3	3	6
	North Richland Hills	Tarrant		Urban	5	5	3
	Northlake	Denton		Urban	4	4	6
	Oak Grove	Kaufman		Rural	6	6	3
	Oak Leaf	Ellis		Rural	6	6	3
3	Oak Point	Denton	1,/4/	Rural	5	4	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Oak Ridge (Cooke)	Cooke	224	Rural	5	5	6
	Oak Ridge (Kaufman)	Kaufman	400	Rural	6	6	6
	Oak Trail Shores	Hood	2,475	Rural	3	3	6
3	Oak Valley	Navarro	401	Rural	6	6	5
3	Ovilla	Ellis	3,405	Urban	6	6	4
3	Palmer	Ellis	1,774	Rural	3	3	6
3	Pantego	Tarrant	2,318	Urban	3	3	3
3	Paradise	Wise	459	Rural	6	6	6
3	Parker	Collin	1,379	Urban	3	3	3
3	Pecan Acres	Wise	2,289	Rural	6	6	4
3	Pecan Hill	Ellis	672	Rural	5	5	3
3	Pecan Plantation	Hood	3,544	Rural	5	4	3
3	Pelican Bay	Tarrant	1,505	Rural	5	5	6
3	Pilot Point	Denton	3,538	Rural	4	4	5
3	Plano	Collin	222,030	Urban	4	4	3
3	Ponder	Denton	507	Rural	4	3	3
3	Post Oak Bend City	Kaufman	404	Rural	3	3	5
3	Pottsboro	Grayson	1,579	Rural	4	4	3
3	Powell	Navarro	105	Rural	3	3	6
3	Princeton	Collin	3,477	Urban	5	4	5
3	Prosper	Collin	2,097	Urban	4	4	4
3	Quinlan	Hunt	1,370	Rural	6	6	4
3	Ravenna	Fannin	215	Rural	3	3	6
3	Red Oak	Ellis	4,301	Urban	3	5	5
	Rendon	Tarrant		Urban	3	3	5
	Reno (Parker)	Parker	2,441	Rural	5	5	5
	Retreat	Navarro		Rural	5	4	6
-	Rhome	Wise		Rural	5	3	6
	Rice	Navarro	798	Rural	5	5	4
3	Richardson	Dallas	91,802	Urban	4	4	3
3	Richland	Navarro	291	Rural	6	6	6
	Richland Hills	Tarrant	8,132	Urban	5	5	4
	Rio Vista	Johnson		Rural	3	3	6
	River Oaks	Tarrant	6,985	Urban	5	5	5
	Roanoke	Denton	2,810	Urban	5	4	5
	Rockwall	Rockwall		Urban	3	4	4
-	Rosser	Kaufman		Rural	6	6	3
_	Rowlett	Dallas	44,503	Urban	5	4	3
	Royse City	Rockwall		Rural	4	4	6
	Runaway Bay	Wise		Rural	5	5	5
3	Sachse	Dallas		Urban	3	3	4
3	Sadler	Grayson		Rural	6	6	5
	Saginaw	Tarrant		Urban	5	4	3
	Sanctuary	Parker		Rural	6	6	5
	Sanger	Denton		Rural	3	4	5
3	Sansom Park	Tarrant		Urban	5	5	6
3	Savoy	Fannin		Rural	5	5	3
	Seagoville	Dallas		Urban	3	4	6
	Shady Shores	Denton		Urban	3	3	5
	Sherman	Grayson		Urban	4	5	5
	Southlake	Tarrant		Urban	4	4	3

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
3	Southmayd	Grayson	992	Rural	4	4	4
3	Springtown	Parker	2,062	Rural	3	5	5
3	St. Paul (Collin)	Collin	630	Rural	3	3	3
3	Stephenville	Erath	14,921	Rural	6	6	5
3	Strawn	Palo Pinto	739	Rural	4	4	6
3	Sunnyvale	Dallas	2,693	Urban	3	3	5
3	Talty	Kaufman	1,028	Rural	3	3	3
3	Terrell	Kaufman	13,606	Rural	5	6	5
3	The Colony	Denton	26,531	Urban	3	4	3
3	Tioga	Grayson	754	Rural	3	3	4
3	Tolar	Hood	504	Rural	4	4	3
3	Tom Bean	Grayson	941	Rural	3	3	5
3	Trenton	Fannin	662	Rural	4	4	3
3	Trophy Club	Denton	6,350	Rural	4	4	3
3	University Park	Dallas	23,324	Urban	4	4	3
3	Valley View	Cooke	737	Rural	4	4	3
3	Van Alstyne	Grayson	2,502	Rural	3	3	3
3	Venus	Johnson	910	Rural	3	3	4
3	Watauga	Tarrant	21,908	Urban	4	4	4
3	Waxahachie	Ellis	21,426	Rural	3	5	5
3	Weatherford	Parker	19,000	Rural	3	5	4
3	West Tawakoni	Hunt	1,462	Rural	6	5	5
3	Westlake	Tarrant	207	Urban	3	3	6
3	Westminster	Collin	390	Rural	3	3	5
3	Weston	Collin	635	Urban	4	4	3
3	Westover Hills	Tarrant	658	Urban	3	3	3
3	Westworth Village	Tarrant	2,124	Urban	4	4	4
3	White Settlement	Tarrant	14,831	Urban	4	5	5
3	Whitesboro	Grayson	3,760	Rural	5	5	4
3	Whitewright	Grayson	1,740	Rural	6	6	5
3	Willow Park	Parker	2,849	Rural	3	3	3
3	Wilmer	Dallas	3,393	Rural	4	4	6
	Windom	Fannin	245	Rural	3	3	5
3	Wolfe City	Hunt	1,566	Rural	5	5	4
3	Wylie	Collin	15,132		3	4	5
4	Alba	Wood		Rural	6	6	6
4	Alto	Cherokee		Rural	4	4	4
4	Annona	Red River		Rural	6	6	4
4	Arp	Smith		Rural	3	3	4
4	Athens	Henderson	11,297		4	5	4
4	Atlanta	Cass		Rural	4	4	5
4	Avery	Red River		Rural	5	5	3
4	Avinger	Cass		Rural	6	6	4
4	Beckville	Panola		Rural	5	5	4
	Berryville	Henderson		Rural	5	4	6
	Big Sandy	Upshur		Rural	3	3	6
4	Bloomburg	Cass		Rural	3	3	5
4	Blossom	Lamar		Rural	4	4	3
4	Bogata	Red River		Rural	3	3	4
	Brownsboro	Henderson		Rural	6	6	5
4	Bullard	Smith	1,150	Rural	5	5	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
4	Caney City	Henderson	236	Rural	6	6	6
4	Canton	Van Zandt	3,292	Rural	4	4	4
4	Carthage	Panola	6,664	Rural	5	5	4
4	Chandler	Henderson	2,099	Rural	3	4	3
4	Clarksville	Red River	3,883	Rural	5	4	3
4	Clarksville City	Gregg	806	Rural	4	4	5
4	Coffee City	Henderson	193	Rural	3	3	6
4	Como	Hopkins	621	Rural	4	4	5
4	Cooper	Delta	2,150	Rural	6	5	5
4	Cumby	Hopkins	616	Rural	5	5	4
	Cuney	Cherokee	145	Rural	5	5	6
_	Daingerfield	Morris	2,517	Rural	6	6	3
	De Kalb	Bowie	1,769	Rural	6	5	4
	Deport	Lamar	718	Rural	4	4	3
	Detroit	Red River	776	Rural	4	4	3
	Domino	Cass	52	Rural	3	3	3
	Douglassville	Cass	175	Rural	3	3	3
4	East Mountain	Upshur	580	Rural	5	5	4
4	East Tawakoni	Rains	775	Rural	6	6	3
4	Easton	Gregg	524	Rural	3	3	5
4	Edgewood	Van Zandt	1,348	Rural	5	5	4
4	Edom	Van Zandt	322	Rural	6	6	6
4	Elkhart	Anderson	1,215	Rural	5	5	5
4	Emory	Rains	1,021	Rural	6	6	3
4	Enchanted Oaks	Henderson		Rural	6	6	4
\vdash	Eustace	Henderson	798	Rural	3	3	3
	Frankston	Anderson		Rural	4	4	4
	Fruitvale	Van Zandt		Rural	4	4	3
	Gallatin	Cherokee	378	Rural	4	4	5
4	Gary City	Panola	303	Rural	3	3	3
4	Gilmer	Upshur		Rural	6	6	4
	Gladewater	Gregg		Rural	5	6	4
	Grand Saline	Van Zandt		Rural	3	3	4
	Gun Barrel City	Henderson		Rural	5	5	5
_	Hallsville	Harrison	2,772	Rural	3	3	3
	Hawkins	Wood		Rural	6	5	5
_	Henderson	Rusk	11,273		3	3	3
	Hooks	Bowie		Rural	3	4	4
	Hughes Springs	Cass		Rural	4	3	3
4	Jacksonville	Cherokee	13,868		4	5	4
4	Jefferson	Marion		Rural	6	6	5
4	Kilgore	Gregg	11,301		3	4	4
_	Lakeport	Gregg		Rural	4	4	5
-	Leary	Bowie		Rural	4	4	5
_	Liberty City	Gregg		Rural	4	3	3
	Lindale	Smith		Rural	5	4	4
-	Linden	Cass		Rural	4	4	3
	Log Cabin	Henderson		Rural	6	6	3
	Lone Star	Morris		Rural	4	5	3
	Longview	Gregg		Urban	4	5	3
_	Malakoff	Henderson		Rural	5	5	5

Region	Place Name	County	2000 Census	Area Type	Rental Development & Tenant Based	Homebuyer	Owner Occupied
Reç	Flace Nathe	County	Population	меа гуре	Rental Assistance	Assistance	Rehabilitation
4	Marietta	Cass	112	Rural	3	3	6
4	Marshall	Harrison	23,935	Rural	3	4	4
4	Maud	Bowie	1,028	Rural	6	6	3
4	Miller's Cove	Titus	120	Rural	6	6	6
4	Mineola	Wood	4,550	Rural	5	5	3
4	Moore Station	Henderson	184	Rural	6	6	6
4	Mount Enterprise	Rusk	525	Rural	4	4	5
4	Mount Pleasant	Titus	13,935	Rural	4	4	4
4	Mount Vernon	Franklin	2,286	Rural	3	5	4
4	Murchison	Henderson	592	Rural	3	3	4
4	Naples	Morris		Rural	6	6	5
4	Nash	Bowie	2,169	Urban	5	3	4
4	Nesbitt	Harrison		Rural	3	3	6
4	New Boston	Bowie	4,808	Rural	6	6	4
4	New Chapel Hill	Smith		Rural	3	3	6
4	New London	Rusk		Rural	5	5	5
4	New Summerfield	Cherokee		Rural	4	3	3
4	Noonday	Smith		Rural	4	4	3
4	Omaha	Morris		Rural	6	6	3
4	Ore City	Upshur		Rural	6	6	5
4	Overton	Rusk		Rural	6	6	5
4	Palestine	Anderson	17,598		4	5	5
4	Paris	Lamar	25,898		5	5	4
4	Payne Springs	Henderson		Rural	3	3	4
4	Pecan Gap	Delta		Rural	5	5	5
4	Pittsburg	Camp		Rural	3	4	4
4	Point	Rains		Rural	6	6	6
4	Poynor	Henderson		Rural	6	6	4
4	Queen City	Cass		Rural	6	5	4
4	Quitman	Wood		Rural	4	4	5
	Red Lick	Bowie		Rural	6	6	3
	Redwater	Bowie	-	Rural	4	4	6
4	Reklaw	Cherokee		Rural	3	3	6
	Reno (Lamar)	Lamar		Rural	3	3	3
	Rocky Mound	Camp		Rural	3	3	6
	Roxton	Lamar		Rural	5	4	4
	Rusk	Cherokee		Rural	5	5	3
4	Scottsville	Harrison		Rural	4	4	6
4	Seven Points	Henderson		Rural	3	6	6
4	Star Harbor	Henderson		Rural	3	3	3
4	Sulphur Springs	Hopkins	14,551		5	5	4
4	Sun Valley	Lamar		Rural	3	3	6
4	Talco	Titus		Rural	5	5	6
4	Tatum	Rusk		Rural	5	4	4
4	Texarkana	Bowie	34,782		3	5	3
4	Tira	Hopkins		Rural	3	3	6
4	Toco	Lamar		Rural	6	6	6
4	Tool	Henderson		Rural Rural	3	3	4
4	Trinidad	Henderson Smith		Rural	5 5	5 4	3 5
4	Troup	Smith	83,650		4	5	4
4	Tyler	SHIIIII	83,650	UIDAII	4	5	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
4	Uncertain	Harrison	150	Rural	5	5	6
4	Union Grove	Upshur	346	Rural	3	3	6
4	Van	Van Zandt	2,362	Rural	6	5	4
4	Wake Village	Bowie	5,129	Urban	4	3	3
4	Warren City	Gregg	343	Rural	6	6	5
4	Waskom	Harrison	2,068	Rural	4	4	4
4	Wells	Cherokee	769	Rural	5	5	6
4	White Oak	Gregg	5,624	Urban	5	5	4
4	Whitehouse	Smith	5,346	Rural	3	4	3
4	Wills Point	Van Zandt	3,496	Rural	4	4	5
4	Winfield	Titus	499	Rural	4	4	5
4	Winnsboro	Wood	3,584	Rural	5	5	4
4	Winona	Smith	582	Rural	3	3	3
4	Yantis	Wood	321	Rural	3	3	6
5	Appleby	Nacogdoches	444	Rural	5	5	5
5	Beaumont	Jefferson	113,866	Urban	4	5	4
5	Bevil Oaks	Jefferson	1,346	Rural	3	3	4
5	Bridge City	Orange	8,651	Rural	5	5	4
	Broaddus	San Augustine	189	Rural	6	6	6
5	Browndell	Jasper	219	Rural	3	3	6
5	Buna	Jasper	2,269	Rural	3	3	5
5	Burke	Angelina	315	Rural	6	6	5
5	Center	Shelby	5,678	Rural	4	5	4
5	Central Gardens	Jefferson	4,106	Rural	3	3	3
5	Chester	Tyler	265	Rural	4	4	6
5	China	Jefferson	1,112	Rural	4	4	3
5	Chireno	Nacogdoches	405	Rural	4	4	4
5	Coldspring	San Jacinto	691	Rural	4	4	5
5	Colmesneil	Tyler	638	Rural	5	5	5
5	Corrigan	Polk	1,721	Rural	6	6	4
5	Crockett	Houston	7,141	Rural	4	4	6
5	Cushing	Nacogdoches	637	Rural	5	5	3
5	Deweyville	Newton	1,190	Rural	5	4	3
5	Diboll	Angelina	5,470	Rural	3	3	4
5	Evadale	Jasper		Rural	3	3	5
5	Garrison	Nacogdoches		Rural	4	4	3
5	Goodrich	Polk		Rural	3	3	6
5	Grapeland	Houston		Rural	6	6	6
5	Groves	Jefferson		Urban	4	4	3
5	Groveton	Trinity		Rural	5	5	6
5	Hemphill	Sabine		Rural	3	4	5
5	Hudson	Angelina		Rural	3	4	4
5	Huntington	Angelina		Rural	3	5	4
5	Huxley	Shelby		Rural	3	3	3
5	Jasper	Jasper		Rural	3	5	6
5	Joaquin	Shelby		Rural	3	4	6
5	Kennard	Houston		Rural	6	6	6
	Kirbyville	Jasper		Rural	5	5	4
5	Kountze	Hardin		Rural	5	5	6
5	Latexo	Houston		Rural	3	3	6
5	Livingston	Polk	5,433	Rural	5	5	5

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
5	Lovelady	Houston	608	Rural	6	6	3
5	Lufkin	Angelina	32,709	Rural	4	6	4
5	Lumberton	Hardin		Rural	3	3	4
5	Mauriceville	Orange		Rural	4	4	4
5	Milam	Sabine		Rural	3	3	3
5	Nacogdoches	Nacogdoches	29,914		6	6	4
5	Nederland	Jefferson	17,422		4	4	3
	Newton	Newton		Rural	6	6	3
	Nome	Jefferson		Rural	5	4	5
\perp	Oakhurst	San Jacinto		Rural	4	4	5
5		Polk	1,174		6	6	5
	Onalaska	Orange	18,643		4	5	4
	Orange	ű		Rural			
5	Pine Forest	Orange		Rural	6	6	4
5	Pinehurst (Orange)	Orange			3	3	3
5	Pineland	Sabine		Rural	6	6	4
5	Pinewood Estates	Hardin		Rural	3	3	3
5	Point Blank	San Jacinto		Rural	4	4	6
5	Port Arthur	Jefferson	57,755		3	4	4
5	Port Neches	Jefferson	13,601		4	3	3
5	Rose City	Orange	519	Rural	5	5	6
5	Rose Hill Acres	Hardin	480	Urban	6	6	3
5	San Augustine	San Augustine	2,475	Rural	5	4	3
5	Seven Oaks	Polk	131	Rural	3	3	4
5	Shepherd	San Jacinto	2,029	Rural	4	3	5
5	Silsbee	Hardin	6,393	Rural	3	4	3
5	Sour Lake	Hardin	1,667	Rural	3	5	4
5	South Toledo Bend	Newton	576	Rural	3	3	4
5	Tenaha	Shelby	1,046	Rural	5	4	5
5	Timpson	Shelby	1,094	Rural	6	6	6
5	Trinity	Trinity	2,721	Rural	5	5	5
5	Vidor	Orange	11,440	Rural	3	4	4
5	West Livingston	Polk		Rural	5	4	6
	West Orange	Orange		Rural	4	4	4
$\overline{}$	Woodville	Tyler		Rural	5	6	4
5	Zavalla	Angelina		Rural	6	6	3
6	Aldine	Harris		Urban	3	3	6
6	Alvin	Brazoria	21,413		4	5	5
6	Ames	Liberty		Rural	4	4	6
6	Anahuac	Chambers		Rural	5	5	5
6	Angleton	Brazoria	18,130		3	5	4
	Arcola	Fort Bend		Rural	5	5	5
		Harris		Urban	4	4	4
-	Atascocita	Galveston		Urban	6	6	6
-	Bacliff			Rural	3	3	5
$\overline{}$	Bailey's Prairie	Brazoria Harris		Rural	6		
	Barrett					6	6
	Bay City	Matagorda	18,667		4	4	3
	Bayou Vista	Galveston		Rural	4	4	5
	Baytown	Harris	66,430		3	4	5
_	Beach City	Chambers		Urban	4	4	4
-	Beasley	Fort Bend		Rural	4	3	6
6	Bellaire	Harris	15,642	Urban	4	3	3

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6 Blessing Malagorda 861 Rural 3 3 6 Bolilog-lago Wharton 1,271 Rural 3 3 6 Bolivar Peninsula Galveston 3,853 Rural 6 6 6 6 Broney Brazoria 3,843 Rural 3 3 3 6 Brookshire Waller 3,450 Rural 3 3 6 6 Brookshire Waller 3,450 Rural 3 6 6 6 Brookshire Waller 3,450 Rural 3 6 6 6 Brookshire Waller 3,450 Rural 3 6 6 6 Brookshire Waller 3,450 Urban 4 4 4 6 Brookshire Harris 29,685 Urban 5 5 5 6 Clicon Ranch Fort Bend 11,196 Urban 5 5 5 6 Clueland Liberty 7,605 Rural 6	Owner Occupied Rehabilitation
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6 Brookshire Waller 3.450 Rural 3 6 6 Brookside Village Brazoria 1,960 Urban 4 4 6 Bunker Hill Village Harris 3,654 Urban 6 6 6 Channekview Harris 29,685 Urban 5 5 6 Cinco Ranch Fort Bend 11,196 Urban 5 5 6 Cinco Ranch Fort Bend 11,196 Urban 4 4 6 Civeland Liberty 7,605 Rural 6 6 6 6 Civeleand Harris 23,508 Urban 5 5 5 6 Citute Brazoria 10,424 Urban 3 4 6	5
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6 Bunker Hill Village Harris 3,654 Urban 6 6 6 Channelview Harris 29,685 Urban 5 5 6 Cinco Ranch Fort Bend 11,196 Urban 5 5 6 Cilore Lake Shores Galveston 1,205 Urban 4 4 6 Cleveland Liberty 7,605 Rural 6 6 6 6 Cloverleaf Harris 23,508 Urban 5 5 6 Cluverleaf Harris 23,508 Urban 5 5 6 Cluverleaf Harris 23,508 Urban 5 5 6 Clute Brazoria 10,424 Urban 3 4 6 Conroce Montgomery 36,811 Urban 4 3 6 Cowe Chambers 323 Rural 6 6 6 Crosby Harris 1,714 Rural 4 4 6 Cumings Fort Bend 683 Rural 3<	4
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6 Conroe Montgomery 36,811 Urban 4 5 6 Cove Chambers 323 Rural 6 6 6 Crosby Harris 1,714 Rural 4 4 6 Cumings Fort Bend 683 Rural 3 3 6 Cut and Shoot Montgomery 1,158 Urban 6 6 6 Daisetta Liberty 1,034 Rural 5 5 6 Damon Brazoria 535 Rural 6 6 6 Danbury Brazoria 1,611 Rural 5 5 6 Dayton Liberty 5,709 Rural 5 5 6 Dayton Lakes Liberty 101 Rural 3 3 3 6 Dayton Lakes Liberty 101 Rural 3 4 6 Dayton Lakes Liberty 101 Rural </td <td>4</td>	4
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6 Greatwood Fort Bend 6,640 Urban 5	3
6 Hardin Liberty 755 Rural 3	5
6 Hedwig Village Harris 2,334 Urban 5 4	3
6 Hempstead Waller 4,691 Rural 3 5	6
6 Highlands Harris 7,089 Urban 4 4	5
6 Hillcrest Brazoria 722 Rural 6 6	4
6 Hilshire Village Harris 720 Urban 6 6	3
6 Hitchcock Galveston 6,386 Rural 3 5	6
6 Holiday Lakes Brazoria 1,095 Rural 6 6	3

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
6	Houston	Harris	1,953,631	Urban	4	5	5
6	Humble	Harris	14,579	Urban	3	5	5
	Hungerford	Wharton		Rural	3	3	5
	Hunters Creek Village	Harris	4.374	Urban	3	3	3
6	Huntsville	Walker	35,078		6	6	4
6	Industry	Austin		Rural	3	3	6
6	Iowa Colony	Brazoria		Urban	5	5	5
6	Jacinto City	Harris	10,302		3	4	3
6	Jamaica Beach	Galveston		Urban	6	6	5
6	Jersey Village	Harris		Urban	3	4	3
6	Jones Creek	Brazoria		Rural	4	4	4
	Katy	Harris	11,775		4	3	5
6	Kemah	Galveston		Urban	6	6	5
6	Kendleton	Fort Bend		Rural	4	4	6
6		Liberty		Rural	5	5	6
6	Kenefick	Galveston	13,682		3	5	6
	La Marque	Harris	31,880		3	4	4
6	La Porte		26,386				
6	Lake Jackson	Brazoria	-		4	5	3
6	League City	Galveston	45,444		3	4	4
6	Liberty	Liberty		Rural	4	5	6
6	Liverpool	Brazoria		Rural	6	6	4
6	Louise	Wharton		Rural	4	3	3
6	Magnolia	Montgomery		Rural	3	4	6
6	Manvel	Brazoria		Urban	3	3	3
6	Markham	Matagorda		Rural	3	3	3
	Meadows Place	Fort Bend		Urban	3	4	4
	Mission Bend	Fort Bend	30,831		5	4	5
	Missouri City	Fort Bend	52,913		4	4	4
	Mont Belvieu	Chambers		Rural	4	4	3
	Montgomery	Montgomery		Rural	6	6	5
	Morgan's Point	Harris		Urban	4	4	4
6	Nassau Bay	Harris		Urban	6	6	3
	Needville	Fort Bend		Rural	3	3	4
6	New Territory	Fort Bend		Urban	4	3	3
	New Waverly	Walker		Rural	6	5	5
6	North Cleveland	Liberty		Rural	3	3	6
6	Oak Ridge North	Montgomery		Urban	5	5	3
6	Old River-Winfree	Chambers		Rural	5	5	5
6	Orchard	Fort Bend		Rural	3	3	3
6	Oyster Creek	Brazoria		Rural	4	4	4
6	Palacios	Matagorda		Rural	4	5	4
6	Panorama Village	Montgomery		Urban	5	4	4
6	Pasadena	Harris	141,674		4	5	5
6	Pattison	Waller		Rural	4	4	5
6	Patton Village	Montgomery		Rural	5	5	5
6	Pearland	Brazoria	37,640	Urban	4	5	4
6	Pecan Grove	Fort Bend	13,551	Rural	4	4	3
6	Pine Island	Waller	849	Rural	4	4	3
6	Pinehurst (Montgomery)	Montgomery	4,266	Rural	4	3	4
	Piney Point Village	Harris	3,380	Urban	4	3	4
	Pleak	Fort Bend	947	Rural	6	6	6
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Place Name	Rehabilitation 6 6 5 6 4
6 Porter Heights Montgomery 1,490 Rural 3 3 6 Prairie View Waller 4,410 Rural 3 6 6 Quintana Brazoria 38 Rural 3 3 6 Richmond Fort Bend 11,081 Rural 4 5 6 Richwood Brazoria 3,012 Urban 4 4 6 Richwood Brazoria 3,012 Urban 4 4 6 Richwood Brazoria 3,012 Urban 4 4 6 Richwood Walker 425 Rural 6 6 6 Roman Forest Montgomery 1,279 Rural 4 3 6 Roman Forest Montgomery 1,279 Rural 4 3 6 San Felipe Austin 868 Rural 6 6 6 6 San Felipe Austin 868 Rural 6 6 6 6 Santa Fe Galveston 9,548 Urban	6 5 6 4
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6 Thompsons Fort Bend 236 Urban 4 4	
6 Tiki Island Galveston 1,016 Urban 3	
6 Tomball Harris 9,089 Rural 5 6	
6 Van Vleck Matagorda 1,411 Rural 3	
6 Waller Waller 2,092 Rural 4 6	
6 Wallis Austin 1,172 Rural 3	
6 Webster Harris 9,083 Urban 3 4	4
6 Weimar Colorado 1,981 Rural 3 4	5
6 West Columbia Brazoria 4,255 Rural 5 6	5
6 West University Place Harris 14,211 Urban 3	
6 Wharton Wharton 9,237 Rural 5 5	5
6 Wild Peach Village Brazoria 2,498 Rural 3 3	4
6 Willis Montgomery 3,985 Rural 3 4	6
6 Winnie Chambers 2,914 Rural 4 3	5
6 Woodbranch Montgomery 1,305 Rural 4 3	4
6 Woodloch Montgomery 247 Rural 6 6	3
7 Anderson Mill Williamson 8,953 Urban 5 5	
7 Austin Travis 656,562 Urban 5 6	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
7	Bartlett	Williamson		Rural	6	6	5
7	Barton Creek	Travis	· ·	Urban	6	6	3
7	Bastrop	Bastrop	5,340	Rural	4	4	5
7	Bear Creek	Hays		Rural	3	3	3
7	Bee Cave	Travis		Rural	4	4	3
7	Bertram	Burnet		Rural	5	4	5
	Blanco	Blanco		Rural	5	5	6
7	Briarcliff	Travis		Rural	4	4	4
7	Brushy Creek	Williamson	15,371		4	4	3
7	Buchanan Dam	Llano	·	Rural	5	4	5
7	Buda	Hays		Urban	3	3	5
7	Burnet	Burnet		Rural	3	5	6
7	Camp Swift	Bastrop		Rural	3	3	6
7	Carmine	Fayette		Rural	6	6	6
	Cedar Park	Williamson	26,049		3	5	4
7	Circle D-KC Estates	Bastrop		Rural	3	3	5
7	Cottonwood Shores	Burnet		Rural	6	5	5
7	Creedmoor	Travis		Rural	3	3	5
7	Dripping Springs	Hays		Rural	3	4	5
7	Elgin	Bastrop	-	Rural	4	5	5
7	Fayetteville	Fayette		Rural	4	4	6
7	Flatonia	Fayette		Rural	5	5	4
7	Florence	Williamson		Rural	6	6	6
7	Garfield	Travis	· ·	Rural	4	3	6
7	Georgetown	Williamson	28,339		3	5	5
7	Giddings	Lee		Rural	3	4	3
7	Granger	Williamson		Rural	5	5	6
7	Granite Shoals	Burnet		Rural	5	5	6
	Hays	Hays		Rural	3	3	4
	Highland Haven	Burnet		Rural	6	6	3
	Horseshoe Bay	Llano		Rural	4	4	4
	Hudson Bend	Travis		Urban	5	5	4
	Hutto	Williamson		Rural	5	3	5
7	Johnson City	Blanco		Rural	3	4	4
7	Jollyville	Williamson		Urban	5	5	3
7	Jonestown	Travis		Rural	6	6	5
	Kingsland	Llano		Rural	3	6	5
	Kyle	Hays		Rural	3	3	5
	La Grange	Fayette		Rural	5	4	3
	Lago Vista	Travis		Rural	6	6	5
_	Lakeway 	Travis		Rural	4	4	4
7	Leander	Williamson		Urban	3	3	5
	Lexington	Lee		Rural	5	4	3
7	Liberty Hill	Williamson		Rural	3	3	6
-	Llano	Llano		Rural	3	5	3
	Lockhart	Caldwell	11,615		4	5	6
-	Lost Creek	Travis		Urban	3	3	3
_	Luling	Caldwell		Rural	4	4	4
	Manor	Travis		Urban	3	3	3
_	Marble Falls	Burnet		Rural	3	6	5
7	Martindale	Caldwell	953	Rural	5	5	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
7	Meadowlakes	Burnet	1,293	Rural	6	6	3
_	Mountain City	Hays	671	Rural	6	6	4
	Mustang Ridge	Caldwell	785	Rural	3	3	6
	Niederwald	Hays	584	Rural	4	4	4
	Onion Creek	Travis	2,116	Urban	3	3	3
7	Pflugerville	Travis	16,335	Urban	3	3	4
	Rollingwood	Travis	1,403	Urban	6	6	3
	Round Mountain	Blanco	111	Rural	3	3	3
	Round Rock	Williamson	61,136	Urban	5	5	3
	Round Top	Fayette	77	Rural	3	3	6
	San Leanna	Travis	384	Urban	6	6	3
_	San Marcos	Hays	34,733	Urban	6	6	6
	Schulenburg	Fayette	2,699	Rural	5	5	5
	Serenada	Williamson	1,847	Urban	6	6	3
	Shady Hollow	Travis	5,140	Urban	4	4	3
	Smithville	Bastrop	3,901	Rural	5	5	6
	Sunrise Beach Village	Llano		Rural	6	6	4
_	Sunset Valley	Travis	365	Urban	5	5	5
7	Taylor	Williamson	13,575		5	4	4
	The Hills	Travis		Rural	3	3	3
7	Thrall	Williamson		Rural	5	4	4
7	Uhland	Hays		Rural	6	6	5
	Weir	Williamson		Rural	4	4	6
	Wells Branch	Travis	11,271		5	5	4
	West Lake Hills	Travis		Urban	3	3	3
	Wimberley	Hays		Rural	5	4	6
	Windemere	Travis		Urban	5	5	4
	Woodcreek	Hays		Rural	5	5	5
	Wyldwood	Bastrop		Rural	3	3	4
	Abbott	Hill		Rural	5	5	5
_	Anderson	Grimes		Rural	3	3	6
	Aquilla	Hill		Rural	6	6	3
	Bellmead	McLennan		Urban	4	4	4
	Belton	Bell	14,623		4	5	3
_	Beverly Hills	McLennan		Urban	5	5	5
	Blum	Hill		Rural	6	6	3
_	Bremond	Robertson		Rural	4	3	4
	Brenham	Washington	13,507		4	6	5
_	Bruceville-Eddy	McLennan		Rural	5	5	4
_	Bryan	Brazos	65,660		6	6	5
	Buckholts	Milam		Rural	6	6	3
_	Buffalo	Leon	1,804	Rural	6	6	6
	Burton	Washington		Rural	4	4	6
	Bynum	Hill		Rural	6	6	6
	Caldwell	Burleson		Rural	4	4	3
	Calvert	Robertson		Rural	3	3	6
	Cameron	Milam		Rural	3	4	5
	Carl's Corner	Hill		Rural	6	6	6
	Centerville	Leon		Rural	5	5	6
	Clifton	Bosque		Rural	3	4	5
	College Station	Brazos	67,890		6	6	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
8	Coolidge	Limestone	848	Rural	5	5	3
-	Copperas Cove	Coryell	29,592	Urban	4	4	4
-	Covington	Hill	282	Rural	4	3	4
	Cranfills Gap	Bosque	335	Rural	4	4	5
8	Crawford	McLennan	705	Rural	3	3	4
8	Evant	Coryell	393	Rural	6	6	6
8	Fairfield	Freestone	3,094	Rural	4	4	6
8	Fort Hood	Bell	33,711	Urban	3	3	3
8	Franklin	Robertson	1,470	Rural	4	4	6
8	Gatesville	Coryell	15,591	Rural	3	5	3
8	Gholson	McLennan	922	Rural	3	3	4
8	Goldthwaite	Mills	1,802	Rural	3	5	5
8	Golinda	Falls	423	Rural	5	5	4
8	Groesbeck	Limestone	4,291	Rural	3	6	4
8	Hallsburg	McLennan	518	Rural	6	6	3
	Hamilton	Hamilton	2,977	Rural	3	4	4
8	Harker Heights	Bell	17,308	Urban	4	4	3
8	Hearne	Robertson	4,690	Rural	5	5	5
8	Hewitt	McLennan	11,085	Urban	4	3	3
8	Hico	Hamilton	1,341	Rural	4	4	6
8	Hillsboro	Hill	8,232	Rural	5	6	4
8	Holland	Bell	1,102	Rural	3	4	4
8	Hubbard	Hill	1,586	Rural	3	4	5
8	Iredell	Bosque	360	Rural	4	4	5
8	Itasca	Hill	1,503	Rural	3	3	3
8	Jewett	Leon	861	Rural	6	6	6
8	Kempner	Lampasas		Rural	5	4	5
8	Killeen	Bell	86,911		4	4	4
8	Kirvin	Freestone		Rural	3	3	4
8	Kosse	Limestone	497	Rural	6	6	6
	Lacy-Lakeview	McLennan		Urban	5	5	5
8	Lampasas	Lampasas		Rural	4	4	5
8	Leona	Leon		Rural	6	6	3
	Leroy	McLennan		Rural	3	3	5
	Little River-Academy	Bell		Rural	6	6	3
_	Lometa	Lampasas		Rural	4	4	3
	Lorena	McLennan		Rural	3	3	3
	Lott	Falls		Rural	5	4	3
	Madisonville	Madison		Rural	4	3	5
	Malone	Hill		Rural	3	3	6
-	Marlin	Falls		Rural	5	5	6
-	Marquez	Leon		Rural	6	6	6
-	Mart	McLennan		Rural	6	6	3
-	McGregor	McLennan		Urban	5	5	4
-	Meridian	Bosque		Rural	3	5	5
\vdash	Mertens	Hill		Rural	6	6	6
	Mexia	Limestone		Rural	4	6	5
	Midway	Madison		Rural	3	3	4
	Milano	Milam		Rural	4	3	6
	Millican	Brazos		Rural	3	3	6
8	Moody	McLennan	1,400	Rural	6	6	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
8	Morgan	Bosque	485	Rural	3	3	6
-	Morgan's Point Resort	Bell	2,989	Rural	4	4	3
-	Mount Calm	Hill		Rural	5	5	3
8	Mullin	Mills		Rural	4	3	6
8	Navasota	Grimes	6,789		4	5	5
8	Nolanville	Bell	2,150		5	5	4
	Normangee	Leon	-	Rural	3	3	6
8	Oakwood	Leon		Rural	4	4	6
8	Oglesby	Coryell		Rural	6	6	4
	Penelope	Hill		Rural	6	6	6
	Richland Springs	San Saba		Rural	3	3	3
	Riesel	McLennan		Rural	6	6	3
\vdash	Robinson	McLennan		Urban	4	3	3
8	Rockdale	Milam		Rural	5	5	3
		Bell		Rural	3	4	4
8	Rogers	Falls		Rural	4	4	4
	Rosebud		•	Rural			
8	Ross	McLennan Bell		Rural	3	3	6 3
	Salado						
8	San Saba	San Saba	2,637		4	4	3
8	Snook	Burleson		Rural	6	6	5
8	Somerville	Burleson		Rural	5	5	5
8	South Mountain	Coryell		Rural	3	3	3
8	Streetman	Freestone		Rural	3	3	6
8	Teague	Freestone		Rural	4	4	4
8	Tehuacana	Limestone		Rural	3	3	3
8	Temple	Bell	54,514	Urban	4	5	3
8	Thorndale	Milam	1,278		5	5	4
8	Thornton	Limestone		Rural	5	5	5
8	Todd Mission	Grimes		Rural	3	3	5
8	Troy	Bell		Rural	6	4	3
8	Valley Mills	Bosque		Rural	3	3	5
-	Waco	McLennan	113,726		6	6	4
-	Walnut Springs	Bosque		Rural	3	3	4
	West	McLennan		Rural	3	4	3
-	Whitney	Hill		Rural	6	6	5
-	Wixon Valley	Brazos		Rural	6	6	3
-	Woodway	McLennan		Urban	3	3	3
8	Wortham	Freestone		Rural	6	6	5
9	Alamo Heights	Bexar		Urban	4	4	4
9	Balcones Heights	Bexar		Urban	6	6	3
-	Bandera	Bandera		Rural	3	5	6
-	Bigfoot	Frio		Rural	3	3	4
	Boerne	Kendall		Rural	4	6	6
	Bulverde	Comal		Rural	3	3	3
$\overline{}$	Canyon Lake	Comal	16,870		4	4	5
9	Castle Hills	Bexar		Urban	6	6	4
9	Castroville	Medina		Rural	5	4	4
	Charlotte	Atascosa		Rural	4	3	5
9	China Grove	Bexar		Rural	3	3	3
9	Christine	Atascosa		Rural	3	3	6
9	Cibolo	Guadalupe	3,035	Rural	6	6	4

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
9	Comfort	Kendall	2,358	Rural	3	4	6
9	Converse	Bexar	11,508	Urban	3	4	5
9	Cross Mountain	Bexar	1,524	Urban	3	3	3
9	Devine	Medina	4,140	Rural	5	5	5
9	Dilley	Frio	3,674	Rural	6	6	6
	Elmendorf	Bexar	664	Rural	5	4	5
9	Fair Oaks Ranch	Bexar	4,695	Urban	5	4	3
9	Falls City	Karnes	591	Rural	4	3	3
	Floresville	Wilson	5,868	Rural	3	5	5
9	Fredericksburg	Gillespie	8,911	Rural	3	5	5
_	Garden Ridge	Comal	1,882	Rural	6	6	3
	Geronimo	Guadalupe	619	Rural	3	3	5
9	Grey Forest	Bexar	418	Rural	4	3	3
_	Harper	Gillespie	1,006	Rural	5	4	6
	Helotes	Bexar	4,285	Urban	4	3	3
	Hill Country Village	Bexar	1,028	Urban	3	3	3
	Hilltop	Frio	300	Rural	3	3	5
_	Hollywood Park	Bexar	2,983	Urban	6	6	3
	Hondo	Medina	7,897	Rural	3	5	4
	Ingram	Kerr	1,740	Rural	5	5	6
	Jourdanton	Atascosa	3,732	Rural	4	6	5
	Karnes City	Karnes	3,457	Rural	3	4	5
	Kenedy	Karnes	3,487		4	4	5
	Kerrville	Kerr	20,425	Rural	5	6	5
	Kingsbury	Guadalupe		Rural	3	3	4
_	Kirby	Bexar	8,673	Urban	5	5	5
	La Vernia	Wilson		Rural	6	6	5
	Lackland AFB	Bexar	7,123	Urban	3	3	6
_	LaCoste	Medina		Rural	5	4	4
	Lakehills	Bandera	4,668		6	6	5
	Leon Valley	Bexar	9,239	Urban	4	5	4
	Live Oak	Bexar	9,156	Urban	5	4	5
	Lytle	Atascosa		Rural	3	4	6
	Marion	Guadalupe		Rural	5	4	4
	McQueeney	Guadalupe	2,527	Rural	4	4	5
	Moore	Frio		Rural	4	3	3
	Natalia	Medina		Rural	6	6	6
	New Berlin	Guadalupe	467	Rural	3	3	4
	New Braunfels	Comal	36,494		5	5	4
	North Pearsall	Frio		Rural	4	4	5
	Northcliff	Guadalupe		Rural	4	4	4
	Olmos Park	Bexar		Urban	4	3	3
	Pearsall	Frio		Rural	4	4	6
	Pleasanton	Atascosa		Rural	6	6	5
	Poteet	Atascosa		Rural	4	5	5
	Poth	Wilson		Rural	5	4	4
	Redwood	Guadalupe		Rural	5	5	6
	Runge	Karnes		Rural	6	5	3
	San Antonio	Bexar	1,144,646		5	5	5
_	Santa Clara	Guadalupe		Rural	6	6	5
_	Scenic Oaks	Bexar		Urban	3	3	3

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
9	Schertz	Guadalupe	18,694	Urban	5	4	4
9	Seguin	Guadalupe	22,011	Rural	4	5	5
9	Selma	Bexar	788	Urban	6	6	4
9	Shavano Park	Bexar	1,754	Urban	3	3	3
9	Somerset	Bexar	1,550	Rural	6	6	6
9	St. Hedwig	Bexar		Rural	6	5	3
9	Stockdale	Wilson		Rural	5	5	4
9	Stonewall	Gillespie		Rural	5	5	5
9	Terrell Hills	Bexar		Urban	4	4	3
9	Timberwood Park	Bexar		Urban	4	3	3
	Universal City	Bexar	14,849		5	5	3
\perp	West Pearsall	Frio		Rural	6	6	3
\vdash	Windcrest	Bexar		Urban	6	6	3
\perp	Zuehl	Guadalupe		Rural	3	3	5
	Agua Dulce (Nueces)	Nueces		Rural	5	4	4
	Airport Road Addition	Brooks		Rural	3	3	5
-	Alfred-South La Paloma	Jim Wells		Rural	3	3	4
	Alice	Jim Wells	19,010		4	4	4
	Alice Acres	Jim Wells		Rural	3	3	3
	Aransas Pass	San Patricio		Rural	4	5	6
\perp	Austwell	Refugio		Rural	6	6	6
	Bayside	Refugio		Rural	6	6	5
	Beeville	Bee	13,129		4	5	4
	Benavides	Duval		Rural	5	5	3
	Bishop	Nueces		Rural	5	5	4
\vdash	Bloomington	Victoria		Rural	6	6	4
	Blue Berry Hill	Bee	982		3	3	6
-	Cantu Addition	Brooks	217	Rural	3	3	6
_	Concepcion	Duval		Rural	3	3	3
	Corpus Christi	Nueces	277,454		5	5	5
	Coyote Acres	Jim Wells		Rural	3	3	6
	Cuero	DeWitt		Rural	6	6	4
	Del Sol-Loma Linda	San Patricio		Rural	3	3	5
-	Doyle	San Patricio		Urban	3	3	3
	Driscoll	Nueces		Rural	5	5	3
	Edgewater-Paisano	San Patricio		Rural	6	6	3
	Edna	Jackson		Rural	5	6	5
	Edroy	San Patricio		Rural	3	3	6
	Encino	Brooks		Rural	3	3	3
	Falfurrias	Brooks		Rural	6	5	6
	Falman-County Acres	San Patricio		Rural	6	6	3
-	Flowella	Brooks		Rural	3	3	6
	Freer	Duval		Rural	4	4	4
	Fulton	Aransas		Rural	5	4	6
	Ganado	Jackson		Rural	4	4	4
	George West	Live Oak		Rural	4	4	4
	Goliad	Goliad		Rural	3	4	6
	Gonzales	Gonzales		Rural	4	4	5
	Gregory	San Patricio		Rural	4	4	3
	Hallettsville	Lavaca		Rural	5	4	3
-	Inez	Victoria		Rural	4	4	3
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
10	Ingleside	San Patricio	9,388	Urban	4	6	4
	Ingleside on the Bay	San Patricio	659	Urban	6	6	5
	K-Bar Ranch	Jim Wells	350	Rural	6	6	3
	Kingsville	Kleberg	25,575	Rural	4	6	5
10	La Paloma-Lost Creek	Nueces	-	Rural	6	6	4
	La Ward	Jackson		Rural	5	5	6
	Lake City	San Patricio		Rural	4	4	6
	•	San Patricio		Rural	3	3	3
	Lakeside (San Patricio)	San Patricio		Rural	3	3	4
	Lolita	Jackson		Rural	3	3	3
10	Loma Linda East	Jim Wells		Rural	3	3	3
	Mathis	San Patricio		Rural	4	6	4
		San Patricio		Rural	6	6	3
	Morgan Farm Area Moulton	Lavaca		Rural	4	4	4
		Gonzales		Rural	4	5	
	Nixon	DeWitt		Rural	5	4	6
	Nordheim						6
$\overline{}$	Normanna	Bee		Rural	3	3	6
-	North San Pedro	Nueces		Rural	4	4	3
	Odem	San Patricio	2,499		5	4	3
10	Orange Grove	Jim Wells	1,288		6	6	3
10	Owl Ranch-Amargosa	Jim Wells			6	6	4
	Pawnee	Bee		Rural	3	3	4
10	Pernitas Point	Live Oak		Rural	6	6	4
10	Petronila	Nueces			3	3	3
10	Pettus	Bee	608	Rural	4	4	4
10	Point Comfort	Calhoun	781	Rural	5	4	3
10	Port Aransas	Nueces		Urban	6	6	5
10	Port Lavaca	Calhoun	12,035	Rural	5	5	4
10	Portland	San Patricio	14,827	Urban	5	5	3
10	Premont	Jim Wells	2,772	Rural	5	5	6
10	Rancho Alegre	Jim Wells	1,775	Rural	6	5	5
10	Rancho Banquete	Nueces	469	Rural	3	3	6
	Rancho Chico	San Patricio	309	Rural	6	6	3
10	Realitos	Duval	209	Rural	3	3	3
	Refugio	Refugio	2,941	Rural	4	4	5
	Robstown	Nueces	12,727	Rural	3	4	5
	Rockport	Aransas	7,385	Rural	4	5	5
	San Diego	Duval	4,753	Rural	5	4	5
	San Patricio	San Patricio		Rural	6	6	5
	Sandia	Jim Wells		Rural	3	3	4
	Sandy Hollow-Escondidas	Nueces		Rural	4	4	4
	Seadrift	Calhoun		Rural	5	5	3
	Shiner	Lavaca		Rural	5	5	6
	Sinton	San Patricio		Rural	5	5	4
	Skidmore	Bee		Rural	5	5	4
	Smiley	Gonzales		Rural	5	5	6
	•	Nueces		Rural	3	3	5
	St. Paul (San Patricio)	San Patricio		Rural	3	3	4
	Taft	San Patricio		Rural	5	5	5
	Taft Southwest	San Patricio		Rural	4	4	6
$\overline{}$		Live Oak		Rural	5	4	4
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
10	Tierra Grande	Nueces	362	Rural	4	4	4
10	Tradewinds	San Patricio	163	Rural	3	3	6
10	Tuleta	Bee	292	Rural	3	3	6
10	Tulsita	Bee		Rural	3	3	3
10	Tynan	Bee		Rural	5	5	3
10	Vanderbilt	Jackson		Rural	3	3	3
	Victoria	Victoria	60,603		5	5	4
-	Waelder	Gonzales		Rural	4	4	4
	Westdale	Jim Wells		Rural	3	3	6
	Woodsboro	Refugio		Rural	5	5	4
		Lavaca		Rural	6	6	3
	Yoakum	DeWitt		Rural	5	4	4
	Yorktown	Hidalgo		Rural			4
	Abram-Perezville		14,760		6 3	4	4
-	Allamo	Hidalgo Starr	•	Orban Rural			
	Alto Bonito				3	3	3
-	Alton	Hidalgo		Rural	3	5	4
	Alton North	Hidalgo		Rural	5	5	4
	Arroyo Alto	Cameron		Rural	3	3	5
	Arroyo Colorado Estates	Cameron		Rural	6	6	3
	Arroyo Gardens-La Tina Ran	Cameron		Rural	3	3	3
11	Asherton	Dimmit		Rural	6	5	3
11	Batesville	Zavala		Rural	5	4	3
11	Bausell and Ellis	Willacy	112	Rural	3	3	3
11	Bayview	Cameron	323	Rural	6	6	6
11	Big Wells	Dimmit	704	Rural	5	5	3
11	Bixby	Cameron	356	Rural	3	3	6
11	Bluetown-Iglesia Antigua	Cameron	692	Rural	5	5	3
11	Botines	Webb	132	Rural	6	6	3
11	Box Canyon-Amistad	Val Verde	76	Rural	3	3	6
11	Brackettville	Kinney	1,876	Rural	4	6	5
11	Brownsville	Cameron	139,722	Urban	5	4	5
11	Brundage	Dimmit	31	Rural	3	3	6
	Bruni	Webb	412	Rural	3	3	6
	Cameron Park	Cameron	5,961	Urban	5	4	4
-	Camp Wood	Real	822	Rural	6	6	6
-	Carrizo Hill	Dimmit		Rural	6	6	6
-	Carrizo Springs	Dimmit		Rural	6	6	4
	Catarina	Dimmit		Rural	3	3	4
	Cesar Chavez	Hidalgo		Urban	5	5	6
	Chula Vista-Orason	Cameron		Rural	6	6	4
	Chula Vista-River Spur	Zavala		Rural	3	3	5
-	Cienegas Terrace	Val Verde		Rural	6	6	5
	Citrus City	Hidalgo		Rural	3	3	5
-	Combes	Cameron		Urban	5	5	5
	Cotulla	La Salle		Rural	3	5	4
	Crystal City	Zavala		Rural	5	5	5
	Cuevitas	Hidalgo		Rural	3	3	6
	Del Mar Heights	Cameron		Rural	3	3	3
	Del Rio	Val Verde	33,867		5	5	4
		Hidalgo		Rural	5	5	4
	Doffing	Hidalgo	14,768		3	5	4
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
11	Doolittle	Hidalgo	2,358	Urban	4	4	3
11	Eagle Pass	Maverick	22,413	Rural	6	6	5
	Edcouch	Hidalgo	3,342	Rural	3	5	5
	Edinburg	Hidalgo	48,465	Urban	5	5	5
11	Eidson Road	Maverick	9,348	Rural	4	4	5
11	El Camino Angosto	Cameron	254	Rural	3	3	3
11	El Cenizo	Webb	3,545	Rural	4	4	3
11	El Indio	Maverick	263	Rural	6	6	3
11	El Refugio	Starr	221	Rural	6	6	6
11	Elm Creek	Maverick	1,928	Rural	3	3	6
11	Elsa	Hidalgo	5,549	Rural	4	6	4
11	Encantada-Ranchito El Calal	Cameron	2,100	Rural	3	3	4
11	Encinal	La Salle	629	Rural	6	5	3
	Escobares	Starr	1,954	Rural	5	5	5
11	Falcon Heights	Starr	335	Rural	3	3	4
11	Falcon Lake Estates	Zapata	830	Rural	5	5	3
11	Falcon Mesa	Zapata	506	Rural	3	3	5
11	Falcon Village	Starr	78	Rural	6	6	6
-	Faysville	Hidalgo	348	Urban	6	6	3
-	Fowlerton	La Salle	62	Rural	3	3	3
11	Fronton	Starr	599	Rural	3	3	4
11	Garceno	Starr	1,438	Rural	6	6	6
11	Grand Acres	Cameron	203	Rural	3	3	4
11	Granjeno	Hidalgo	313	Urban	3	3	6
-	Green Valley Farms	Cameron	720	Rural	3	3	4
11	Guerra	Jim Hogg	8	Rural	3	3	3
11	Harlingen	Cameron	57,564	Urban	5	5	4
	Havana	Hidalgo	452	Rural	5	5	5
11	Hebbronville	Jim Hogg	4,498	Rural	5	5	5
11	Heidelberg	Hidalgo	1,586	Rural	6	6	6
11	Hidalgo	Hidalgo	7,322	Rural	5	5	6
11	Indian Hills	Hidalgo	2,036	Rural	4	4	6
11	Indian Lake	Cameron	541	Rural	6	6	5
11	Knippa	Uvalde	739	Rural	5	4	4
11	La Blanca	Hidalgo	2,351	Rural	6	6	3
11	La Casita-Garciasville	Starr	2,177	Rural	4	6	4
11	La Feria	Cameron		Rural	5	4	4
11	La Feria North	Cameron		Rural	6	6	3
11	La Grulla	Starr	1,211	Rural	4	4	4
11	La Homa	Hidalgo	10,433		5	5	5
11	La Joya	Hidalgo		Rural	4	5	5
	La Paloma	Cameron	354	Rural	6	6	3
11	La Presa	Webb		Rural	3	3	3
11	La Pryor	Zavala		Rural	5	5	4
	La Puerta	Starr		Rural	3	3	5
11	La Rosita	Starr		Rural	5	5	6
	La Victoria	Starr		Rural	3	3	3
11	La Villa	Hidalgo		Rural	3	5	5
11	Lago	Cameron		Rural	6	6	3
11	Laguna Heights	Cameron		Rural	4	4	4
11	Laguna Seca	Hidalgo	251	Rural	3	3	6

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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
11	Laguna Vista	Cameron	1,658	Rural	3	5	4
11	Lake View	Val Verde	167	Rural	3	3	6
11	Laredo	Webb	176,576	Urban	5	5	5
11	Laredo Ranchettes	Webb	1,845	Rural	3	3	3
11	Larga Vista	Webb	742	Urban	6	6	6
11	Las Colonias	Zavala	283	Rural	6	6	5
11	Las Lomas	Starr	2,684	Rural	6	6	4
11	Las Lomitas	Jim Hogg	267	Rural	3	3	6
11	Las Palmas-Juarez	Cameron	1,666	Rural	4	4	5
11	Las Quintas Fronterizas	Maverick	2,030	Rural	4	4	3
11	Lasana	Cameron	135	Urban	3	3	3
11	Lasara	Willacy		Rural	4	4	5
11	Laughlin AFB	Val Verde	2,225	Rural	4	4	3
11	Laureles	Cameron	· ·	Rural	5	5	5
11	Leakey	Real		Rural	6	6	6
11	Llano Grande	Hidalgo		Urban	5	5	3
11	Lopeno	Zapata		Rural	3	3	6
11	Lopezville	Hidalgo	4,476	Urban	4	4	4
11	Los Alvarez	Starr		Rural	4	4	6
11	Los Angeles Subdivision	Willacy	86	Rural	6	6	3
11	Los Ebanos	Hidalgo		Rural	5	5	4
11	Los Fresnos	Cameron		Rural	5	3	6
	Los Indios	Cameron		Rural	3	3	4
	Los Villareales	Starr		Rural	3	3	4
	Lozano	Cameron		Rural	3	3	3
11	Lyford	Willacy		Rural	5	5	5
	Lyford South	Willacy		Rural	6	6	4
	McAllen	Hidalgo	106,414		5	5	5
	Medina	Zapata		Rural	4	4	4
	Mercedes	Hidalgo	13,649		4	6	5
	Midway North	Hidalgo		Urban	3	3	5
	Midway South	Hidalgo		Urban	5	5	6
	Mila Doce	Hidalgo		Rural	4	4	5
	Mirando City	Webb		Rural	6	6	6
	Mission	Hidalgo		Urban	4	5	5
	Monte Alto	Hidalgo Zapata		Rural	5	5	4
	Morales-Sanchez	Zapata		Rural	3	3	3
	Muniz	Hidalgo Zapata		Rural	6	6	5
	New Falcon	Zapata		Rural	3	3	3
	North Alamo	Hidalgo Starr		Urban Rural	4	4	4
	North Escobares	Hidalgo		Urban	6 5	6 5	
	Nurillo	Webb		Rural	3	3	6 5
11	Oilton	Hidalgo		Rural	5 5	5	3
	Olivarez	Cameron		Urban	5	5	4
	Olmito	Cameron		Urban	4	4	3
	Palm Valley Palmhurst	Hidalgo		Urban	5	5	4
	Palmnurst Palmview	Hidalgo		Urban	5	5	5
	Palmview South	Hidalgo		Urban	5	5	4
_	Penitas	Hidalgo		Rural	5	4	4
	Pharr	Hidalgo		Urban	4	5	4
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Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
	Port Isabel	Cameron		Rural	4	4	5
11	Port Mansfield	Willacy		Rural	5	5	5
11	Primera	Cameron		Urban	5	4	5
11	Progreso	Hidalgo	· ·	Rural	5	5	4
11	Progreso Lakes	Hidalgo		Rural	3	3	4
11	Quemado	Maverick		Rural	3	3	3
11	Radar Base	Maverick		Rural	3	3	6
11	Ranchette Estates	Willacy		Rural	3	3	3
	Ranchitos Las Lomas	Webb		Rural	3	3	4
11	Rancho Viejo	Cameron	· ·	Urban	5	5	3
	Ranchos Penitas West	Webb		Urban	3	3	4
11	Rangerville	Cameron		Rural	3	3	5
	Ratamosa	Cameron		Rural	3	3	3
	Raymondville	Willacy		Rural	4	5	6
-	Reid Hope King	Cameron	802		6	6	3
11	Relampago	Hidalgo		Rural	3	3	6
	Rio Bravo	Webb	· ·	Urban	4	3	4
11	Rio Grande City	Starr	11,923		5	4	4
11	Rio Hondo	Cameron	· ·	Rural	5	3	5
11	Rocksprings	Edwards		Rural	5	4	5
11	Roma	Starr	· ·	Rural	6	6	4
11	Roma Creek	Starr		Rural	3	3	3
11	Rosita North	Maverick		Rural	4	4	5
11	Rosita South	Maverick		Rural	5	5	3
11	Sabinal	Uvalde		Rural	6	6	5
11	Salineno	Starr		Rural	3	3	4
11	San Benito	Cameron	23,444		5	4	4
11	San Carlos	Hidalgo		Rural	6	6	6
11	San Ignacio	Zapata		Rural	3	3	6
11	San Isidro	Starr		Rural	5	5	4
	San Juan	Hidalgo	26,229		5	5	5
	San Manuel-Linn	Hidalgo		Rural	3	3	3
-	San Pedro	Cameron		Rural	3	3	3
	San Perlita	Willacy		Rural	6	6	6
	Santa Cruz	Starr		Rural	6	6	5
	Santa Maria	Cameron		Rural	4	4	3
$\overline{}$	Santa Monica	Willacy		Rural	3	3	6
	Santa Rosa	Cameron		Rural	3	5	4
	Scissors	Hidalgo		Rural	3	3	4
-	Sebastian	Willacy		Rural	3	3	6
	Siesta Shores	Zapata		Rural	3	3	5
	Solis	Cameron		Rural	6	6	3
	South Alamo	Hidalgo		Rural	5	5	4
_	South Fork Estates	Jim Hogg		Rural	3	3	3
	South Padre Island	Cameron		Rural	6	6	4
	South Point	Cameron		Rural	6	6	4
	Spofford	Kinney		Rural	3	3	3
	Sullivan City	Hidalgo		Rural	5	5	4
	Tierra Bonita	Cameron		Rural	3	3	4
$\overline{}$	Utopia	Uvalde		Rural	5	5	6
11	Uvalde	Uvalde	14,929	кигаі	5	5	4

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
	Uvalde Estates	Uvalde		Rural	5	5	5
11	Val Verde Park	Val Verde		Rural	5	4	4
11	Villa del Sol	Cameron		Rural	3	3	5
11	Villa Pancho	Cameron		Urban	6	6	6
11	Villa Verde	Hidalgo		Urban	3	3	5
	Weslaco	Hidalgo	26,935		4	5	4
11	West Sharyland	Hidalgo	2,947		4	4	3
	Willamar	Willacy		Rural	3	3	3
11	Yznaga	Cameron		Rural	3	3	6
	Zapata	Zapata		Rural	4	6	4
	Zapata Ranch	Willacy		Rural	3	3	5
12	Ackerly	Dawson		Rural	4	4	6
12	Andrews	Andrews	.,	Rural	5	4	4
	Balmorhea	Reeves	527		3	3	4
	Barstow	Ward		Rural	6	6	5
12	Big Lake	Reagan		Rural	5	5	4
	Big Spring	Howard	25,233		5	6	4
12	Brady	McCulloch		Rural	4	6	5
12	Bronte	Coke		Rural	6	6	5
12	Christoval	Tom Green	422	Rural	6	6	5
12	Coahoma	Howard		Rural	4	4	3
12	Coyanosa	Pecos		Rural	3	3	3
12	Crane	Crane		Rural	6	6	4
12	Eden	Concho	2,561		6	6	5
12	Eldorado	Schleicher		Rural	3	3	6
12	Forsan	Howard	226	Rural	4	4	6
12	Fort Stockton	Pecos		Rural	3	4	5
12	Gardendale	Ector	1,197	Rural	3	3	3
12	Goldsmith	Ector	253	Rural	4	4	3
12	Grandfalls	Ward	391	Rural	4	4	5
12	Grape Creek	Tom Green	3,138	Rural	5	5	5
12	Imperial	Pecos	428	Rural	3	3	3
	Iraan	Pecos		Rural	3	3	3
12	Junction	Kimble		Rural	5	5	5
	Kermit	Winkler		Rural	4	4	3
	Lamesa	Dawson		Rural	5	5	4
12	Lindsay (Reeves)	Reeves		Rural	3	3	6
	Los Ybanez	Dawson		Rural	3	3	3
	Mason	Mason		Rural	6	5	5
	McCamey	Upton		Rural	4	4	4
	Melvin	McCulloch		Rural	6	6	6
12	Menard	Menard		Rural	5	5	6
12	Mertzon	Irion		Rural	3	3	5
	Midland	Midland	94,996		5	5	4
12	Monahans	Ward		Rural	6	6	3
12	Odessa	Ector	90,943		5	5	4
12	Ozona	Crockett		Rural	3	4	4
12	Paint Rock	Concho		Rural	6	6	5
12	Pecos	Reeves	9,501	Rural	3	4	5
12	Pyote	Ward	131	Rural	3	3	6
12	Rankin	Upton	800	Rural	3	3	5

Region	Place Name	County	2000 Census Population	Area Type	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
12	Robert Lee	Coke	1,171	Rural	6	6	6
12	San Angelo	Tom Green	88,439	Urban	6	6	4
12	Sanderson	Terrell	861	Rural	6	5	5
12	Seagraves	Gaines	2,334	Rural	6	5	3
12	Seminole	Gaines	5,910	Rural	4	4	5
12	Sonora	Sutton	2,924	Rural	3	4	4
12	Stanton	Martin	2,556	Rural	5	5	3
12	Sterling City	Sterling	1,081	Rural	4	4	5
12	Thorntonville	Ward	442	Rural	3	3	4
12	Toyah	Reeves		Rural	3	3	3
12	West Odessa	Ector	17,799	Urban	5	5	5
12	Wickett	Ward	455	Rural	6	6	3
12	Wink	Winkler		Rural	5	4	3
13	Agua Dulce (El Paso)	El Paso	738	Rural	3	3	6
13	Alpine	Brewster	5,786		6	6	3
13	Anthony	El Paso		Urban	3	6	4
13	Butterfield	El Paso	61	Rural	3	3	3
13	Canutillo	El Paso		Urban	4	4	4
13	Clint	El Paso	980	Rural	3	6	4
13	Dell City	Hudspeth	413	Rural	6	6	5
13	El Paso	El Paso	563,662		5	6	4
13	Fabens	El Paso	8,043	Rural	6	6	3
13	Fort Bliss	El Paso		Urban	4	3	3
13	Fort Davis	Jeff Davis	1,050	Rural	4	4	6
13		Hudspeth	1,713		5	4	5
		El Paso	4,232		5	5	6
13	Homestead Meadows South	El Paso	6,807		6	6	5
13	Horizon City	El Paso	5,233		3	3	4
13	Marathon	Brewster		Rural	4	3	5
13	Marfa	Presidio	2,121	Rural	4	5	5
	Morning Glory	El Paso		Rural	3	3	3
	Prado Verde	El Paso		Urban	3	3	6
	Presidio	Presidio		Rural	5	5	4
	Redford	Presidio		Rural	3	3	6
	San Elizario	El Paso	11,046		3	3	5
	Sierra Blanca	Hudspeth		Rural	4	3	6
	Socorro	El Paso	27,152		4	3	6
	Sparks	El Paso		Rural	5	5	5
	Study Butte-Terlingua	Brewster		Rural	4	3	3
-	Tornillo	El Paso		Rural	6	3	4
	Valentine	Jeff Davis		Rural	5	4	3
	Van Horn	Culberson		Rural	6	6	3
	Vinton	El Paso		Rural	6	6	5
13	Westway	El Paso	3,829	Urban	6	6	5

Draft 2012 HTF Affordable Housing Need Scores (AHNS) County Level

(Sorted by Region then County.)

Instructions

Use this table to determine an AHNS for an application that will serve an entire county, multiple counties, or multiple places within a county or counties.

Special Circumstances

(1) If multiple counties or places in multiple counties will be served by the application, then the county scores should be averaged.

All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Raul Gonzales via facsimile at (512) 475-1473 or by email at raul.gonzales@tdhca.state.tx.us.

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
1	Armstrong	6	6	4
1	Bailey	3	3	4
1	Briscoe	6	6	4
1	Carson	4	4	4
1	Castro	4	4	4
1	Childress	4	5	3
1	Cochran	3	3	4
1	Collingsworth	4	4	4
1	Crosby	5	5	4
1	Dallam	5	5	4
1	Deaf Smith	3	4	4
1	Dickens	5	5	5
1	Donley	6	6	4
1	Floyd	4	4	3
1	Garza	6	6	6
1	Gray	4	4	5
1	Hale	4	4	4
1	Hall	5	5	4
1	Hansford	4	4	5
1	Hartley	6	6	4
1	Hemphill	5	5	4
1	Hockley	4	4	5
1	Hutchinson	5	5	4
1	Lamb	5	5	3
1	Lipscomb	4	4	5
1	Lubbock	5	5	4
1	Lynn	4	3	4
1	Moore	4	4	3
1	Motley	4	4	3
1	Ochiltree	3	4	3
1	Oldham	6	6	6
1	Parmer	5	5	3

ion	County	Rental Development	Homebuyer	Owner Occupied
Region	County	& Tenant Based Rental Assistance	Assistance	Rehabilitation
1	Potter	4	4	5
1	Randall	5	5	3
1	Roberts	6	6	4
1	Sherman	4	4	4
1	Swisher	4	4	4
1	Terry	4	4	4
1	Wheeler	4	4	4
1	Yoakum	4	4	4
2	Archer	3	3	4
2	Baylor	4	4	3
2	Brown	5	5	5
2	Callahan	4	6	4
2	Clay	6	5	5
	Coleman	4	4	5
2	Comanche	6	6	5
2	Cottle	4	4	3
2	Eastland	4	4	4
2	Fisher	5	4	3
	Foard	5	5	5
2	Hardeman	6	6	3
	Haskell	4	4	5
	Jack	5	5	6
	Jones	4	4	5
	Kent	3	3	4
	Knox	3	3	5
	Mitchell	5	5	4
	Montague	4	4	5
	Nolan	4	4	4
	Runnels	5	4	4
	Scurry	4	4	5
	Shackelford	4	4	4
	Stephens	5	4	3
	Stonewall	4	4	5
	Taylor	5	5	3
	Throckmorton	4	4	4
	Wichita	5	<u></u>	4
	Wilbarger	3	4	4
	Young	5	4	4
	Collin	4	4	4
	Cooke	4	4	4
	Dallas	4	4	4
	Denton	4	4	4
	Ellis	4	5	5
	Erath	5	5	5
	Fannin	4	5	4
	Grayson	4	4	5
	Hood	4	4	4
	Hunt	5	4	5

Region	County	Rental Development & Tenant Based	Homebuyer	Owner Occupied
Rei	304.11	Rental Assistance	Assistance	Rehabilitation
3	Johnson	4	4	4
3	Kaufman	4	5	4
3	Navarro	4	4	5
3	Palo Pinto	5	5	4
3	Parker	5	5	4
3	Rockwall	4	4	4
3	Somervell	4	4	5
3	Tarrant	4	4	4
3	Wise	5	5	5
4	Anderson	4	5	5
4	Bowie	5	5	4
4	Camp	3	4	5
	Cass	4	4	4
	Cherokee	4	4	5
4	Delta	6	5	5
	Franklin	3	5	4
4	Gregg	4	4	4
	Harrison	4	4	5
	Henderson	4	5	4
	Hopkins	4	4	5
	Lamar	4	4	4
	Marion	6	6	5
4	Morris	6	6	4
	Panola	4	4	4
	Rains	6	6	4
	Red River	5	4	3
	Rusk	5	4	4
	Smith	4	4	4
	Titus	5	5	5
	Upshur	5	5	5
	Van Zandt	5	4	4
	Wood	5	5	5
	Angelina	4	5	4
	Hardin	4	4	4
	Houston	5	5	5
	Jasper	3	4	5
	Jefferson	4	4	4
	Nacogdoches	5	5	4
	Newton	5	4	3
	Orange	4	4	4
	Polk	5	4	5
	Sabine	4	4	4
	San Augustine	6	5	4
	San Jacinto	4	4	5
	Shelby	4	4	5
	Trinity	5	5	6
	Tyler	5	5	5
	Austin	4	4	5

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
6	Brazoria	4	5	4
6	Chambers	4	4	4
6	Colorado	3	4	5
6	Fort Bend	4	4	4
6	Galveston	4	5	5
6	Harris	4	4	4
6	Liberty	4	4	5
6	Matagorda	3	4	4
6	Montgomery	4	4	4
6	Walker	6	6	5
6	Waller	4	5	5
6	Wharton	4	4	4
7	Bastrop	4	4	5
	Blanco	4	4	4
7	Burnet	5	5	5
7	Caldwell	4	4	5
7	Fayette	5	4	5
	Hays	4	4	5
	Lee	4	4	3
7	Llano	4	5	4
7	Travis	4	4	4
7	Williamson	5	5	4
8	Bell	4	4	3
8	Bosque	3	4	5
8	Brazos	5	5	4
8	Burleson	5	5	4
8	Coryell	4	5	4
8	Falls	5	4	4
8	Freestone	4	4	5
8	Grimes	3	4	5
8	Hamilton	4	4	5
8	Hill	5	5	5
8	Lampasas	4	4	4
8	Leon	5	5	6
8	Limestone	4	5	4
8	Madison	4	3	4
8	McLennan	4	4	4
8	Milam	5	5	4
8	Mills	4	4	6
8	Robertson	4	4	5
	San Saba	4	4	3
	Washington	4	5	6
9	Atascosa	4	4	5
9	Bandera	4	6	6
9	Bexar	4	4	4
	Comal	4	4	4
	Frio	4	4	5
9	Gillespie	4	5	5

		Dontal Davalanmant		
Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
9	Guadalupe	4	4	5
9	Karnes	4	4	4
9	Kendall	4	5	6
9	Kerr	5	6	6
9	Medina	5	5	5
9	Wilson	5	5	4
10	Aransas	4	4	6
10	Bee	4	4	4
10	Brooks	4	3	5
10	Calhoun	5	5	3
10	DeWitt	5	5	5
10	Duval	4	4	4
10	Goliad	3	4	6
10	Gonzales	4	4	5
10	Jackson	4	4	4
10	Jim Wells	4	4	4
10	Kleberg	4	6	5
	Lavaca	5	5	4
	Live Oak	5	5	4
	Nueces	4	4	4
	Refugio	5	5	5
	San Patricio	4	5	4
	Victoria	5	5	4
	Cameron	4	4	4
	Dimmit	5	5	4
	Edwards	5	4	5
	Hidalgo	4	5	5
	Jim Hogg	4	4	4
	Kinney	4	4	4
	La Salle	4	4	3
	Maverick	4	4	4
	Real	6	6	6
	Starr	4	4	4
	Uvalde	5	5	5
	Val Verde	4	4	5
	Webb	4	4	4
	Willacy	4	4	5
	Zapata	3	4	4
	Zavala	5	5	4
	Andrews	5	4	4
	Coke	6	6	6
	Concho	6	6	5
	Crane	6	6	4
	Crane	3	4	4
		4		
	Dawson		4	4
	Ector	4	4	4
	Gaines	5	4	4
12	Howard	4	5	4

Draft 2012 HTF AHNS - County

Region	County	Rental Development & Tenant Based Rental Assistance	Homebuyer Assistance	Owner Occupied Rehabilitation
12	Irion	3	3	5
12	Kimble	5	5	5
12	Martin	5	5	3
12	Mason	6	5	5
12	McCulloch	5	6	6
12	Menard	5	5	6
12	Midland	5	5	4
12	Pecos	3	3	4
12	Reagan	5	5	4
12	Reeves	3	3	4
12	Schleicher	3	3	6
12	Sterling	4	4	5
12	Sutton	3	4	4
12	Terrell	6	5	5
12	Tom Green	6	6	5
12	Upton	4	4	4
12	Ward	5	5	4
12	Winkler	4	4	3
13	Brewster	5	4	4
13	Culberson	6	6	3
13	El Paso	4	4	4
13	Hudspeth	5	4	5
13	Jeff Davis	4	4	4
13	Presidio	4	4	5

HOUSING RESOURCE CENTER BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the 2012 State of Texas Consolidated Plan: One-Year Action Plan (Draft for Public Comment)

RECOMMENDED ACTION

Approve the publication for public comment on the draft of the 2012 State of Texas Consolidated Plan: One-Year Action Plan

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires the submission of a One-Year Action Plan in accordance with 24 CFR §91.320,

RESOLVED, that the Draft 2012 State of Texas Consolidated Plan: One-Year Action Plan (Draft for Public Comment), in the form presented to this meeting, is hereby ordered and it is approved, and

FURTHER RESOLVED, that the Acting Director or Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to cause the Draft 2012 State of Texas Consolidated Plan: One-Year Action Plan to be published in the Texas Register and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Texas Department of Housing and Community Affairs (TDHCA), Texas Department of Rural Community Affairs (TDRA), and Department of State Health Services (DSHS) prepared the 2012 State of Texas Consolidated Plan: One-Year Action Plan (Plan) in accordance with 24 CFR §91.320. Per Senate Bill 1 of the 82nd Texas Legislative First-called Session, the Texas Department of Rural Affairs' duties will be transferred to the Texas Department of Agriculture effective October 1, 2011. The OYAP will be edited to reflect the change in the Community Development Block Grant Program administration after October 1, 2011.

TDHCA coordinates the preparation of the State of Texas Consolidated Plan documents. The Plan covers the State's administration of the Community Development Block Grant Program (CDBG) by TDRA, the Housing Opportunities for Persons with AIDS Program (HOPWA) by DSHS, and the Emergency Shelter Grant/Emergency Solutions Grant (ESG) Program and the HOME Investment Partnerships (HOME) Program by TDHCA.

The Plan states the intended use of funds received by the State of Texas from the U.S. Department of Housing and Urban Development (HUD) for Program Year 2012. The Program Year begins on February 1, 2012, and ends on January 31, 2013. The Plan also illustrates the

State's strategies in addressing the priority needs and specific goals and objectives identified in the 2010-2014 State of Texas Consolidated Plan.

The Plan will be available for public comment from September 26 through October 19, 2011. Comment on the Plan may be provided in writing or directly at one of the consolidated public hearings to be held across the State. The final version of the Plan will be presented to the Board in November and is due to HUD by December 15, 2011.

DRAFT 2012 State of Texas Consolidated Plan One-Year Action Plan



September 15, 2011

Prepared by:

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EXECUTIVE SUMMARY

24 CFR §91.320(b)

The 2012 One-Year Action Plan (Plan) illustrates the combined actions of the Texas Department of Housing and Community Affairs (TDHCA), Texas Department of Rural Affairs (TDRA), and Department of State Health Services (DSHS), referred to collectively as the State. The One-Year Action Plan reports on the intended use of funds received by the State of Texas from the US Department of Housing and Urban Development (HUD) for Program Year (PY) 2012. This Plan is for the HOME Investment Partnerships (HOME) Program, the Emergency Shelter Grant/Emergency Solutions Grant Program (ESGP), the Community Development Block Grant (CDBG) Program, and the Housing Opportunities for Persons with AIDs (HOPWA) Program. The 2012 PY begins on February 1, 2012 and ends on January 31, 2013. The performance report on PY 2011 funds will be available in May 2012.

One-Year Action Plan consists of the following sections:

- Summary. Provides a detailed synopsis of the One-Year Action Plan.
- General Information. A description of the State's plan to undertake other activities that fulfill requirements of 24 CFR §91.320(b), §91.320(c), §91.320(f), §91.320(h), and §91.320(i).
- Action Plans. Program-specific plans for HOME, ESGP, CDBG, and HOPWA illustrating funding guidelines and fund allocations as required under 24 CFR §91.320(d), §91.320(e), §91.320(g), and §91.320(k).
- Other Actions. A description of the State's plan to undertake other activities that fulfill requirements of §91.320(j).

OBJECTIVES AND OUTCOMES

The 2012 One-Year Action Plan:

- 1. Reports on the intended use of funds received by the State of Texas from the US Department of Housing and Urban Development (HUD) for Program Year (PY) 2012
- 2. Explains the State's method for distributing CDBG, ESG, HOME, and HOPWA program funds
- 3. Provides opportunity for public input on the development of the annual plan

The State's progress in achieving the goals put forth in the One-Year Action Plan will be measured according to HUD guidelines (24 CFR 91.520) and outlined in the Annual Performance Report released yearly in May.

In accordance with the guidelines from HUD, the State complies with the CPD Outcome Performance Measurement System. Program activities are categorized into the objectives and outcomes listed in the chart on the next page.

OBJECTIVES	OUTCOME 1 Accessibility	OUTCOME 2 Affordability	OUTCOME 3 Sustainability
OBJECTIVE #1 Suitable Living Environment	Enhance Suitable Living Environment Through Improved/New Accessibility (SL-1)	Enhance Suitable Living Environment Through Improved/New Affordability (SL-2)	Enhance Suitable Living Environment Through Improved/New Sustainability (SL-3)
OBJECTIVE #2 Decent Housing	Create Decent Housing with Improved/New Availability (DH-1)	Create Decent Housing with Improved/New Affordability (DH-2)	Create Decent Housing with Improved/New Sustainability (DH-3)
OBJECTIVE #3 Economic Opportunity	Provide Economic Opportunity Through Improved/New Accessibility (EO-1)	Provide Economic Opportunity Through Improved/New Affordability (EO-2)	Provide Economic Opportunity Through Improved/New Sustainability (EO-3)

The objectives and outcomes as they apply to each of the four programs are listed below. The estimated performance figures are based on planned performance during the Program Year (February 1st through January 31st) of contracts committed and projected households to be served. In contrast, the performance measures reported to the Texas Legislative Budget Board for the State Fiscal Year (September 1st through August 31st) are based on anticipated units and households at time of award.

HOME Program Performance Measures, PY 2012

Outcomes and Objectives	Performance Indicators	Expected Number
DH-2	No. of rental units assisted through new construction and rehabilitation	524
DH-2	No. of tenant-based rental assistance units	223
DH-2	No. of existing homeowners assisted through owner-occupied assistance	42
DH-2	No. of first-time homeowners assisted through homebuyer assistance	168

ESGP Performance Measures, PY 2012

Outcomes and Objectives	Performance Indicators	Expected Number
51-1	Provide funding to support the provision of emergency and/or transitional shelter to homeless persons.	19,482
1)H-7	The provision of non-residential services including homelessness prevention assistance.	39,556

CDBG Performance Measures, PY 2012

Objectives and Outcomes	Performance Indicators	Expected Number
SL-1	Neighborhood Facilities	3
SL-1	Water/Sewer Improvements	124
SL-2	Water/Sewer Improvements	8

Objectives and Outcomes	Performance Indicators	Expected Number
SL-3	Water/Sewer Improvements	65
SL-1	Street Improvements	84
SL-2	Street Improvements	2
SL-3	Street Improvements	2
SL-1	Rehabilitation; Single Unit Residential	45
DH-2	Rehabilitation; Single Unit Residential	7
DH-3	Rehabilitation; Single Unit Residential	2
DH-2	Homeownership Assistance	1
SL-1	Parks, Playgrounds, and Other Recreational Facilities	2
SL-1	Public Service	2
SL-1	Other Public Utilities	2
E0-3	Other Public Utilities	1
SL-1	Clearance Demolition Activities	8
SL-3	Clearance Demolition Activities	1
SL-1	Fire Stations/Equipment	3
E0-1	ED Direct Financial Assistance for For-Profits	2
E0-2	ED Direct Financial Assistance for For-Profits	28

HOPWA Performance Measures, PY 2012

Outcomes and Objectives	Performance Indicators	Expected Number
DH-2	TBRA housing assistance	475
DH-2	STRMU housing assistance	555
DH-2	Supportive Services (restricted to case mgt., smoke detectors, and phone service)	1,030
DH-1	Permanent Housing Placement (security deposits, application fees, credit checks)	10

EVALUATION OF PAST PERFORMANCE

The HOME Program committed \$46,596,253 with 983 total beneficiaries reported in PY 2010 (February 1, 2010, through January 31, 2011). Distribution of the funds by activity is described in the table below.

HOME Funds Committed, PY 2010

Activity	Amount
Homebuyer Assistance (all activities)	\$3,451,000
Homeowner Rehabilitation	\$10,120,386
Tenant Based Rental Assistance	\$1,637,234
CHDO Rental Development	\$7,461,428
CHDO Single Family Development	\$1,475,811
CHDO Operating Expenses	\$250,000
Rental Housing Development	\$22,450,394
Total	\$46,596,253

ESGP funds received for PY 2010 were awarded in May 2010. The State ESGP contracts using PY 2010 funds began on September 1, 2010, and will end August 31, 2011, corresponding with the Texas State Fiscal Year (FY). For PY 2010, ESGP committed \$5,037,477 through 77 grants, including shared administrative funds.

ESGP Fund Expenditures by Activity, PY 2009 (FY'09 2/1/10-8/31/10 and FY'10 9/1/10-1/31/11)

Activity	Funding Amount	Percentage
Rehabilitation	\$10,250	.15%
Maintenance, Operations	\$3,349,294	50.12%
Essential Services	\$1,133,108	16.96%
Homeless Prevention	\$1,858,626	27.82%
Operations Administration	\$322,613	4.83%
Administration shared w/local govt's	\$8,182	.12%
Total Funds Committed	\$6,682,073	

^{*}Includes ESG expenditures from two contract periods, FY 2008 and FY 2009

During Program Year 2010, the Texas CDBG Program committed a total of \$79,332,251 through 288 awarded contracts. For contracts that were awarded in PY 2010, 213,068 persons received service. Distribution of the funds by activity is described in the table below.

CDBG Funds Committed, PY 2010

Fund	Program Description	2010 Total Obligation
Community Development	Provides grants on a competitive basis to address public facility and housing needs such as sewer, water system, road, and drainage improvements.	\$49,345,460
Texas Capital Fund	Provides financing for projects that create and retain jobs primarily for low- and moderate-income persons.	\$9,243,050
Colonia Construction Fund	Colonia Construction Fund provides grants for colonia projects; primarily water, sewer and housing.	\$7,205,500
Colonia EDAP Fund	Provides grants for colonias for the cost of service lines, service connections, and plumbing improvements associated with being connected to a Texas Water Development Board's (TWDB) Economically Distressed Areas Program (EDAP)-funded water and sewer system improvement project.	\$500,000
Colonia Planning Fund	Colonia Area Planning Fund – provides grants for preliminary surveys and site engineering, provides assistance towards the cost of architectural services, mortgage commitments, legal services, and obtaining construction loans. Colonia Comprehensive Planning Fund - provides assistance that is used to conduct a	\$0

Fund	Program Description	2010 Total Obligation
	complete inventory of the colonias that	
	includes demographic, housing, public	
	facilities, public services, and land use	
Oalania Calf Halm	statistics.	
Colonia Self-Help Centers	Provides grant funds for the operation of seven Self-Help Centers in colonias.	\$2,393,828
Centers	Provides grants on a competitive basis to	
Planning / Capacity	communities for planning activities that	\$1,030,013
Building	address public facility and housing needs.	\$1,030,013
	Provides grants to communities on an as-	
	needed basis for recovery from disasters	
Disaster Relief/	such as floods or tornadoes and Urgent	
Urgent Need	water and sewer needs of recent origin that	\$6,699,590
	are unanticipated and pose a serious public	
	safety or health hazard.	
	Provides grants to cities and counties for	
	solving water and sewer problems with a	
STEP Fund	self-help approach that requires local	\$2,505,310
	participation through donated labor and	
	materials.	
	Provides grants to cities and counties for	
	demonstration projects that employ	
	renewable energy for at least 20% of the	
	total energy requirements, (excluding the	
Renewable Energy	purchase of energy from the electric grid	\$410,500
	that was produced with renewable energy).	,
	The priority will be for projects that are	
	connected with providing public facilities to	
	meet basic human needs such as water or	
	waste water.	\$70.220.0E4
Total		\$79,332,251

The HOPWA Program expended \$2,920,099 in Plan year 2010 and served a reported 1,096 HOPWAeligible individuals with housing assistance. Funds were used toward tenant-based rental assistance and emergency assistance to prevent homelessness of low-income persons with HIV/AIDS, support services and administration. Distribution of the funds by activity is described in the table below.

HOPWA Program Expenditures, PY 2010

Activity	Amount
Expenditures for Housing Information Services	\$0
Expenditures for Resource Identification	\$0
Expenditures for Housing Assistance (equals the sum of all sites and scattered-site Housing Assistance)	\$2,303,018
Expenditures for Supportive Services	\$425,505
Grantee Administrative Costs expended	\$27,650
Project Sponsor(s) Administrative Costs expended	\$163,926
Total of HOPWA funds expended during period	\$2,920,099

GENERAL INFORMATION

The following General Information section meets the requirements of 24 CFR §91.320(b), §91.320(c), §91.320(f), §91.320(h), and §91.320(i). General Information includes Citizen Participation; Managing the Process; Available Resources; Geographic Areas of Jurisdiction and Allocation; Homeless Needs and Other Special Needs Categories; Barriers to Affordable Housing; and Monitoring.

CITIZEN PARTICIPATION

§91.320(b)

CITIZEN PARTICIPATION PROCESS

The Action Plan was made available for a 24-day public comment period from September 26, 2011 to October 18, 2011. In addition, public hearings were held at 4 locations across the State, including Austin, Brownsville, Houston, and Abilene. Written comment will be accepted at the public hearings and by mail, fax, or email.

EFFORTS MADE TO BROADEN PUBLIC PARTICIPATION

The notification process for the public hearings will includ the following: a notice in the Texas Register; a TDHCA website posting; and email to TDHCA email lists including approximately 3,000 cities, counties, developers, non-profit organizations, legislative contacts, advocacy groups, subcontractors, and other interested parties. Spanish-speaking staff will be in attendance at the hearing in and Brownsville to assist individuals who require a language interpreter.

MANAGING THE PROCESS

LEAD AGENCY

The Texas Department Housing and Community Affairs is the lead agency for the Plan.

AGENCY PARTICIPATION

Before preparing the Plan, the Texas Department of Housing and Community Affairs, the Texas Department of Rural Affairs, and the Texas Department of State Health Services meet with various organizations concerning the prioritization and allocation of the Departments' resources. Because this is a working document, all forms of public input are taken into account in its preparation.

Collaborative efforts between TDHCA and numerous organizations resulted in a participatory approach towards defining strategies to meet the diverse affordable housing needs of Texans. TDHCA acknowledges the assistance provided by several public and private organizations to assist the Department in working towards reaching its mission, goals, and objectives, which relate directly to the formation of the Consolidated Plan. Contributions were made in various forms, from direct contact at conferences and remotely to availability of research materials on the Internet, from public and private organizations.

Per Senate Bill 1 of the 82nd Texas Legislative Session, the Texas Department of Rural Affairs' duties will be transferred to the Texas Department of Agriculture effective October 1, 2011. The OYAP will be edited to reflect the change in the Community Development Block Grant Program administration after October 1, 2011. The Texas Department of Rural Affairs has had a good working relationship with HUD, State program committees, State agencies, federal funding partners, local communities, Councils of Governments (COGs), public and private sector, and others involved in the CDBG program. Through public hearings, application workshops, technical assistance visits, monitoring visits, interagency work groups, and general communications, TDRA has worked to keep the public aware of program modifications and changes.

The Texas Department of Agriculture (TDA) administers the Texas Capital Fund under a memorandum of understanding. The agency coordinates activities including the public hearings on the Action Plan, a project Implementation Manual that contains the Texas Capital Fund, and presentations to the TDRA Board. As of October 1, 2011, TDA will have an Office of Rural Affairs which will coordinate the Texas Rural Health and Economic Development Advisory Council. This Council will establish the Rural Health Task Force.

TDRA also works with a variety of other programs through several interagency workgroups. Workgroups focusing on State and federal funding coordination Statewide and in the colonias include the Texas Water Development Board (TWDB), the Secretary of State's Office, the U.S. Department of Agriculture's Rural Development division, the North American Development Bank & Border Environment Cooperation Commission, the Comptroller's Office, the Attorney General's Office, the Texas Commission on Environmental Quality (TCEQ), the U.S. Army Corps of Engineers, and TDHCA. Further, the division and TCEQ is currently working on a process in which TCEQ field representatives help verify new service to Texas CDBG Program project beneficiaries when first-time water, wastewater and waste disposal is funded.

Available Resources

The Texas Department of State Health Services contracts with eight Administrative Agencies across the State to provide administrative support in implementing the State's HOPWA formula program. One of the Administrative Agencies' responsibilities is to work with HIV Planning Councils in the major metropolitan areas of the State and with other organizations and stakeholders outside the major metropolitan areas to develop comprehensive HIV Services Plans and needs assessments. In both the major metropolitan and other areas of the State, HIV Services Plans and needs assessments are developed through consultation with clients and other stakeholders through interviews, focus groups, and public hearings. Administrative Agencies must communicate with stakeholders through dissemination of written copies of services plans, posting of the plans on the Internet, town hall meetings, and advisory groups. Administrative Agencies are also required to evaluate the effectiveness of the services plans in meeting the plans' stated goals and identified needs and to periodically assess the need for reallocation of resources to assure the efficient and appropriate expenditure of funds.

ENHANCE COORDINATION

Understanding that no single entity will be able to address the enormous needs of the State of Texas, TDHCA, TDRA and DSHS support the formation of partnerships in the provision of housing, housing-related and community development endeavors. The Departments work with many housing and community development partners including consumer groups, community-based organizations, neighborhood associations, community development corporations, community housing development organizations, community action agencies, real estate developers, social service providers, local lenders, investor-owned electric utilities, local government, nonprofits, faith-based organizations, property managers, state and local elected officials and other state and federal agencies.

TDHCA has staff committed to several external State advisory workgroups and statutory commissions. Many of these commissions have members from the public and private sectors. These external groups include, but are not limited to:

	T
Workgroup/Commission	Lead agency
Aging Texas Well Advisory Committee (ATWAC)	Department of Aging and Disability Services
Community Resource Coordination Groups (CRCG)	Health and Human Services Commission
Faith and Community Based Initiative	One Star Foundation
Governor's Commission for Women	Governor's Office
Mental Health Planning Advisory Commission (MHPAC)	Department of State Health Services
Money Follows the Person Demonstration Advisory Committee (MFTPDAC)	Department of Aging and Disability Services
Promoting Independence Advisory Committee (PIAC)	Department of Aging and Disability Services
Reentry Task Force	Department of Criminal Justice
Interagency Coordinating Commission for Building Healthy	Department of Family Protective Services

Available Resources

Workgroup/Commission	Lead agency
Families (ICC)	
Transformation Workgroup (TWG)	Department of State Health Services

In addition to the external workgroups and commissions, TDHCA is the lead agency for four groups: the Disability Advisory Workgroup, Rural Housing Workgroup, Texas Interagency Council for the Homeless, and the Housing and Health Services Coordination Council.

TDHCA has actively maintained a Disability Advisory Workgroup which provides ongoing guidance to the Executive Director on how TDHCA's programs can most effectively serve persons with disabilities. TDHCA has found that directly involving program beneficiary representatives, community advocates and potential applicants for funding in the process of crafting its policies and rules is extremely helpful. This process is often done through a working group format. The working groups provide an opportunity for staff to interact with various program stakeholders in a more informal environment than that provided by the formal public comment process.

Similarly, the Rural Housing Workgroup provides a forum for feedback to TDHCA management and staff as they develop policies and rules for the federal and state programs administered by TDHCA. TDHCA programs serve urban and rural areas of the State. However, providing services and housing in rural areas presents unique challenges and opportunities. In order to address those challenges and make sure that rural input and concerns are adequately considered across all aspects of TDHCA's program development, design and implementation, TDHCA established the Rural Housing Workgroup in 2010. The Rural Housing Workgroup includes representatives from a spectrum of rural housing interests. The group includes for- and non-profit rural housing providers, rural policy advocates, and affordable housing membership organizations.

The Texas Interagency Council for the Homeless was created in 1989 to coordinate the State's homeless resources and services. The Texas Interagency Council for the Homeless consists of representatives from all State agencies that serve the homeless. It receives no funding and has no full-time staff, but receives clerical and advisory support from TDHCA. This Council holds public hearings in various parts of the State to gather information useful to its members in administering programs.

The 81st Legislature created the Housing and Health Services Coordination Council through SB 1878. Its purpose is to increase the amount of service-enriched housing for seniors and people with disabilities; improve interagency understanding of housing and services and increase the number of staff in State housing and State health services agencies that are conversant in both housing and health care policies; and offer a continuum of home and community-based services that is affordable the target population. The Housing and Health Services Coordination Council includes 16 members including the Executive Director of TDHCA, eight members appointed by the Governor, and seven members appointed by State Agencies. TDHCA provides clerical and advisory support. This Council's first report was submitted to the Governor and the Legislative Budget Board on September 1, 2010 and is available to the public on the TDHCA website at www.tdhca.state.tx.us.

AVAILABLE RESOURCES

§91.320(c)

The Plan must describe the Federal resources expected to be available to address the priority needs and specific objectives identified in the strategic plan, in accordance with §91.315. Descriptions of the funding amounts for the specific HUD programs covered by this Plan are provided in each program's Action Plan section. The Plan must also describe resources from private and non-federal public sources that are reasonably expected to be made available to address the needs identified in the plan. The Plan must explain how federal funds will leverage those additional resources, including a description of how matching requirements of the HUD programs will be satisfied. A description of the match requirements of the HUD programs covered by this Plan are provided in each program's Action Plan section.

HOME ADDRESSES AVAILABLE RESOURCES

For the HOME Program, Section 2306.111(d) of the Texas Government Code requires that TDHCA use a Regional Allocation Formula (RAF) to allocate its HOME funding. This RAF objectively measures the affordable housing need and available resources in the 13 State Service Regions TDHCA uses for planning purposes. To mitigate any inherent inequities in the way these resources are regionally allocated, the RAF compares each region's level of need to its level of resources. Regional funding adjustments are made based on the results of this comparison. The following available resources were determined to have been available or distributed in FY 2011 in the areas eligible for TDHCA HOME funds.

Source	Funding Level
Texas Housing Trust Fund	2,117,775
Housing Opportunities for Persons with HIV/AIDS	613,200
HUD PHA Capital Funds	36,240,760
HUD Housing Choice Vouchers (Sec. 8)	146,141,631
USDA Multifamily Development	5,653,423
USDA Rental Assistance	4,021,528
Housing Tax Credits	175,295,296
TXBRB Multifamily Tax Exempt Bond	3,472,000
Housing Tax Credits w/ MF Tax Exempt Bond	18,072,376
USDA Owner Occupied	64,274,470
TXBRB Single Family Bond	53,669,748
HUD HOME Investment Partnerships Program	83,140,000
Total	592,712,207

FY 2011 Available Resources*

TDHCA expects similar funding levels for FY 2012 to serve priority needs in the State of Texas. The private funds available for priority needs may include loans or grant programs through private banks, for-profit or nonprofit organizations; this source of funding varies from year to year.

^{*}These numbers will be updated in the final version of this document. Currently they reflect FY2010 funding levels.

Available Resources

ESGP ADDRESSES AVAILABLE RESOURCES

ESGP available resources are in the *Homeless and Other Special Needs Categories* section below, starting on page 22.

CDBG Addresses Available Resources

Due to the economic downturn and the need to reduce spending, the special appropriations of State general revenue to supplement the State CDBG the last two years was eliminated. The following resources are expected to be available from the non-federal public sources. The grant recipients provide the greatest share of non-federal public sources of funds for cost sharing on the funded projects. For Program Year 2010, the grant recipients provided additional financial resources in the amount of \$28,789,148. For economic development projects, the owners contribute equity funds into the CDBG-funded projects.

HOPWA ADDRESSES AVAILABLE RESOURCES

Leveraged funds are absolutely essential for the provision of HOPWA program administration and supportive services for HOPWA clients in the State of Texas. DSHS, Administrative Agencies, and Project Sponsors expect to continue to receive leveraged funds from federal, state, local, and private resources to administer the HOPWA program and to achieve established program objectives for 2012. For project year 2010, Project Sponsors reported \$579,583 in leveraged funds for housing assistance compared to \$363,947 reported for 2009. For supportive services, permanent housing placement services, and other non-direct housing costs, Project Sponsors reported \$746,061 in leveraged funds for project year 2010 as compared to \$1,478,355 in 2009. DSHS also collects leveraged dollars Administrative Agencies expend on administrative costs because Administrative Agencies do not receive any HOPWA funding to administer the HOPWA program. For 2010, Administrative Agencies reported \$150,079 (down from \$182,232 in 2009) leveraged for HOPWA administrative costs. In addition, DSHS leveraged approximately \$115,355 (down from \$205,879 in 2009) of federal and state funds to provide administration at the State level. This is a conservative estimate of \$265,434 (down from \$388,111 in 2009) leveraged for administrative costs to support the 2010 HOPWA program.

OTHER PROGRAMS

TDHCA is required by State law to publish a Program Guide that outlines state and federal housing and housing-related programs available in Texas. The guide describes all TDHCA programs and includes housing-related programs from other state and federal agencies. This detailed document is organized by activity area and then by administering entity. For each specific program, contact information at the appropriate agency is provided. The 160-plus page document is updated annually and is currently available online at http://www.tdhca.state.tx.us/ppa/housing-center/pubs.htm or in hard copy upon request.

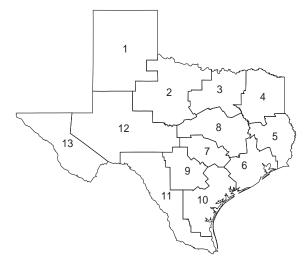
GEOGRAPHIC AREAS OF JURISDICTION AND ALLOCATION

§91.320(f)

HOME PROGRAM GEOGRAPHIC PRIORITIES

TDHCA uses a Regional Allocation Formula (RAF) to distribute its HOME Investment Partnerships Program (HOME). The 13 regions used under the RAF are shown in the figure to the right, State Service Regions. The RAF also determines how funding is allocated to rural and urban areas within each region. The RAF's funding distributions are based on objective measures of each region's affordable housing need and available resources to address this need. The RAF is legislatively required by Section 2306.111(d) of the Government Code.

The first step in the RAF is to determine how the program funding would be distributed based solely



on measures of regional need provided by US Census data. With the exception of the poverty numbers, the most relevant Census data is for households at or below 80 percent of the Area Median Family Income (AMFI). The following factors are used in the RAF to measure affordable housing need:

- Poverty: Number of persons in the region who live in poverty.
- Extreme Cost Burden: Units with a monthly gross rent to monthly household income ratio that exceeds 30 percent.
- Overcrowded Units: Units with more than one person per room.
- Units with Incomplete Kitchen or Plumbing: Units that do not have all of the following: a sink with piped water; a range or cook top and oven; refrigerator, hot and cold piped water, a flush toilet and a bathtub or shower.
- 1) Census need data is adjusted to current year levels by applying a growth factor based on the growth experienced since 2000.
- 2) Each factor is assigned a weight based on its perceived value as a measure of affordable housing need (poverty = 50 percent, cost burden = 36 percent, overcrowding = 12 percent and substandard housing = 2 percent). In general, the weights reflect the relative number of persons or households affected by the housing problem.
- 3) Each measure's weight is multiplied by total amount of funding available under the RAF to determine the measure's funding amount.
- 4) For each measure, the region's number of affected persons or households is divided by the State total to determine the percentage of the State's need that is present in the region.
- 5) Each region's percentage of State need is multiplied by the measure's funding amount.
- 6) Finally, the funding distributed by the measures is summed for each region to determine the region's total allocation. The resulting regional funding distribution provides an overall measure of each region's affordable housing need.

Consideration of Available Housing Resources

In addition to TDHCA, there are many other funding sources that address affordable housing need. To address any inherent regional funding inequities, the RAF analyzes the regional distribution of State and federal sources that provide housing assistance to households that are similar to those served by the program.

Other Considerations in Developing the Formula

The allocation formula was developed under the premise that it would not serve as a static measure of need. Rather, the formula should be updated to reflect the availability of more accurate demographic information and the need to assess and modify the formula based on its actual performance. Specifically the following issues were considered:

- As information from other data sources becomes available, the formula should be revised to reflect this more recent data. The poverty statistics will be updated on an ongoing basis as they become available.
- As additional components of housing assistance may become relevant to the formula, the formula will continue to be open for public comment through the Department's public hearings.
- The affected programs have specific federal and state legislative requirements that govern how the funding may be distributed. In some instances, these rules may require that specific portions of funding shall be excluded from the allocation formula. It was also determined that dividing relatively small amounts of funding which are dedicated for specific uses on a regional basis would result in allocation amounts so small as to preclude their effective use by an applicant. Such issues will be carefully documented in each program's operating rules.

The 2012 RAF distributes funding for the following activities:

- CHDO Project Funds,
- Rental Housing Development Program,
- Single Family Activity Program.

The table below shows the regional funding distribution for all of the activities distributed under the RAF. Targeted funding amounts for each activity will also be established using the percentages generated by the RAF.

Draft 2012 Targeted Distribution of Funds under the RAF*

Region		Regional	Regional	Rural	Rural	Urban	
egi	Place for Geographical	Funding	Funding	Funding	Funding	Funding	Urban Funding
2	Reference	Amount	%	Amount	%	Amount	%
1	Lubbock	\$2,469,065	7.3%	\$2,468,868	100.0%	\$197	0.0%
2	Abilene	\$1,933,823	5.7%	\$1,891,243	97.8%	\$42,580	2.2%
3	Dallas/Fort Worth	\$4,369,395	12.8%	\$1,661,149	38.0%	\$2,708,247	62.0%
4	Tyler	\$4,059,284	11.9%	\$3,559,075	87.7%	\$500,209	12.3%
5	Beaumont	\$1,741,051	5.1%	\$1,454,590	83.5%	\$286,461	16.5%
6	Houston	\$3,856,593	11.3%	\$1,030,854	26.7%	\$2,825,739	73.3%
7	Austin/Round Rock	\$1,264,579	3.7%	\$427,451	33.8%	\$837,128	66.2%
8	Waco	\$1,755,987	5.2%	\$967,029	55.1%	\$788,958	44.9%
9	San Antonio	\$1,703,903	5.0%	\$1,123,026	65.9%	\$580,877	34.1%
10	Corpus Christi	\$2,873,540	8.4%	\$1,986,752	69.1%	\$886,788	30.9%
11	Brownsville/Harlingen	\$4,979,183	14.6%	\$2,408,979	48.4%	\$2,570,204	51.6%
12	San Angelo	\$2,206,208	6.5%	\$1,665,349	75.5%	\$540,859	24.5%
13	El Paso	\$797,204	2.3%	\$578,426	72.6%	\$218,778	27.4%
	Total	\$34,009,814	100.0%	\$21,222,789	62.4%	\$12,787,025	37.6%

^{*}These numbers will be updated in the final version of this document.

2012 TARGETED DISTRIBUTION OF FUNDS UNDER THE RAF

TDHCA does not provide priorities for allocating investment geographically to areas of minority concentration as described in Section 91.320(d). However, the geographic distribution of HOME funds to minority populations is analyzed annually. TDHCA is statutorily required by the Texas Government Code to provide a comprehensive statement on its activities during the preceding year through a document called the State of Texas Low Income Housing Plan and Annual Report. Part of this document describes the ethnic and racial composition of families and individuals applying for and receiving assistance from each housing-related program operated by TDHCA.

ESGP GEOGRAPHIC PRIORITIES

ESGP funds are reserved according to the percentage of poverty population identified in each of 13 TDHCA service regions (i.e., Region 1, with 3.95 percent of the State's poverty population, was awarded 3.95 percent of the available funds). The top scoring applications in each region are recommended for funding, based on the amount of funds available for that region.

CDBG GEOGRAPHIC PRIORITIES

Funds for projects under the Community Development Fund are allocated among the 24 State planning regions through a formula based on the following factors:

Funds for projects under the Community Development Fund are allocated among the 24 State planning regions based on the following:

The original CD formula is used to allocate 40 percent of the annual State CDBG allocation; and the HUD formula is used to allocate 21.71 percent of the annual State CDBG allocation.

Original CD formula (40%) factors:

a.	Non-Entitlement Population	30%
b.	Number of Persons in Poverty	25%
c.	Percentage of Poverty Persons	25%
d.	Number of Unemployed Persons	10%
e.	Percentage of Unemployed Persons	10%

To the extent possible, the information used to calculate the regional allocations through these factors will be based on the eligible nonentitlement applicants within each region. The population and poverty information used is from the current available decennial census data. The unemployment information used is the current available annual average information.

HUD formula (21.71%) -the formula is the same methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs. The HUD factors, percentages, and methodology are specified in 42 U.S.C. 5306(d). The Tx CDBG will use available data to calculate the allocations to each region.

Using the HUD methodology, the allocation for each region shall be the greater of an amount that bears the same ratio to the allocation for all 24 regions available as either:

(A) the average of the ratios between:

- the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time 25% weight);
- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted two times 50% weight); and
- the extent of housing overcrowding in the nonentitlement areas in that region and the extent of housing overcrowding in the nonentitlement areas of all 24 regions (counted one time - 25% weight);

OR

(B) the average of the ratios between:

- the age of housing in the nonentitlement areas in that region and the age of housing in the nonentitlement areas in all 24 regions (counted two and one half times 50% weight);
- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted one and one half times 30% weight); and
- the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time 20% weight).

The Tx CDBG will continue to involve the non-entitlement communities and the public in a review of the regional allocation formula through public hearings, Task Forces, and input from the Regional Councils of Governments, local and state government officials, and other interested parties.

Regional Priority Set-asides: Housing and Non-Border Colonia projects - Each Regional Review Committee (RRC) is encouraged to allocate a percentage or amount of its Community Development Fund allocation to housing projects and, for RRCs in eligible areas, non-border colonia projects proposed in and for that region. Under a set-aside, the highest ranked applications for a housing or non-border colonia activity, regardless of the position in the overall ranking, would be selected to the extent permitted by the housing or non-border colonia set-aside level. If the region allocates a percentage of its funds to housing and/or non-border colonia activities and applications conforming to the maximum and minimum amounts are not received to use the entire set-asides, the remaining funds may be used for other eligible activities. (Under a housing and/or non-border colonia set-aside process, a community would not be able to receive an award for both a housing or non-border colonia activity and an award for another Community Development activity during the biennial process. Housing projects/activities must conform to eligibility requirements in 42 U.S.C Section 5305 and applicable HUD regulations.)

Overall, funds are allocated to the following priority categories:

FUND	2012 PERCENT
Community Development Fund	61.71
Texas Capital Fund (TCF)	14.51
Colonia Fund	
Colonia Planning and Construction Fund	7.00
Colonia EDAP Legislative Set-aside	3.00
Colonia Self-Help Centers Legislative Set-aside	2.50
Planning And Capacity Building Fund	1.0
Disaster Relief/Urgent Need Fund	
Disaster Relief	4.10
Urgent Need	Deob/PI
Tx CDBG STEP Fund	3.03
Administration – Percentage (fungible)	2.69
Administration - \$100,000	.15
Technical Assistance (fungible)	.31 admin percent
Pilot Programs (Deobligated Funds/	
Program Income)	
Renewable Energy Demonstration Pilot Program	Deob/PI

Overall, this allocation methodology has resulted in approximately 90% to 97% of overall funding benefiting low and moderate income persons. It has resulted in funding the nonhousing priority needs described below while resulting in a very high percentage of awards primarily benefiting extremely low-income, low-income and moderate income households.

Nonhousing Community Development Priority Needs Summary Table

Priority Community Development Needs	Priority Need Level H=High, M=Medium, L=Low, N=No Such Need
PUBLIC FACILITY NEEDS	M
INFRASTRUCTURE IMPROVEMENT	Н
Solid Waste Disposal Improvements	M
Drainage and Flood Control Improvements	Н
Water System Improvements	Н
Street and Bridge Improvements	Н
Sewer System Improvements	Н
PUBLIC SERVICE NEEDS	M
ECONOMIC DEVELOPMENT NEEDS	Н
OTHER COMMUNITY DEVELOPMENT NEEDS	M
PLANNING	Н

The Priority Needs Summary Table uses the following definitions:

- High Priority (H): Activities to address this need will be funded by the State during the five-year period.
- Medium Priority (M): If funds are available, activities to address this need may be funded by the State during the five-year period.
- Low Priority (L): The State will not fund activities to address this need during the five-year period.
 The State will consider certifications of consistency for other entities' applications for federal assistance.
- No Such Need (N): The State finds there is no need or the State shows that this need is already substantially addressed. No certifications of consistency will be considered.¹

The tables below illustrate the amount of community development application requests for the 2006 to 2010 CDBG program years. Requested amounts are included for water, sewer, engineering, street paving, administration, housing rehabilitation, drainage, removal of architectural barriers, acquisition demolition, community center, senior centers and fire protection. Under the Community Development Fund, each region through its Regional Review Committee, establishes its funding priority through scoring factors that reflect local prioritization of need. To be competitive, the applications submitted generally reflect the local needs as prioritized through the Regional Review Committee process and are therefore reflective of local needs. Each cycle, the Regional Review Committee has an opportunity to revise its local priorities to reflect any change in needs.

REQUESTS FOR COMMUNITY DEVELOPMENT PROGRAM FUNDS FOR 2006-2010 BY ACTIVITY

Activity	Amount Requested
Water Facilities	\$155,481,581
Sewer Facilities	\$119,236,926
Engineering/Architectural Serv.	\$48,133,135
Street Improvements	\$38,557,330
General Administration	\$31,407,673
Rehabilitation of Private Properties (sewer service)	\$16,206,232
Flood and Drainage Facilities	\$15,803,358
Rehabilitation of Private Properties	\$5,095,724
Rehabilitation of Private Properties (water service)	\$2,743,548
Neighborhood Facilities / Community Centers	\$2,447,913
Parks, Playgrounds, and Other Recreational Facilities	\$2,018,911
Fire Protection Facilities and Equipment	\$2,000,814
Clearance Demolition Activities	\$1,972,185
Acquisition - Easement	\$1,446,492
Economic Development - For Profit	\$1,199,500
Planning & Urban Env. Design	\$1,185,318
Activity Delivery	\$1,066,530
Economic Development Loan	\$713,000
Senior Centers	\$553,394
Other Public Utilities (Gas)	\$251,193
Removal of Architectural Barriers	\$191,650
Main Street Program	\$150,000
Acquisition	\$117,000
Specially Authorized Public Facilities and Improvements	\$90,956
Code Enforcement	\$19,200

HOPWA GEOGRAPHIC PRIORITIES

The funding allocations are geographically distributed across the State according to the HIV service delivery areas (HSDA) and cover all 254 counties in Texas.

Homelessness and Other Special Need

HOMELESSNESS AND OTHER SPECIAL NEEDS CATEGORIES

§91.320(h)

Sources of Funds

Based on the 77 organizations funded in PY 2010 through the Emergency Shelter Grant Program, it is estimated that 15 of the 77 organizations serve the chronically homeless. The Department estimates that 5,416 beds were available from the funded organizations for PY 2010. The Department is not aware of how many of the beds are utilized to shelter chronically homeless individuals.

Emergency Shelter	Existing Beds	Unmet Need
Family Beds	4,523	2,795
Individual Beds	8,362	3,566
Total	12,885	6,361

Transitional Housing	Existing Beds	Unmet Need
Family Beds	4,139	3,855
Individual Beds	3,097	4,527
Total	7,236	8,382

Permanent Supportive Housing	Existing Beds	Unmet Need
Family Beds	2,821	4,274
Individual Beds	4,429	6,704
Total	7,070	10,978

CHRONIC HOMELESSNESS

Nine of the organizations that serve the chronically homeless are Salvation Army organizations. These organizations are located across the State.

Homelessness and Other Special Needs

HOMELESS PREVENTION

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS ADDRESSES HOMELESSNESS

Homelessness Prevention and Rapid Re-Housing Program

The Homelessness Prevention and Rapid Re-Housing (HPRP) Program provides homelessness prevention assistance to households who would otherwise become homeless and provides assistance to rapidly re-house persons who are homeless. Made available through the American Recovery and Reinvestment Act of 2009, the U.S. Department of Housing and Urban Development (HUD) will provide the State of Texas, through TDHCA funding for HPRP, a program which will last approximately three years.

Funds to awarded program administrators can be used for four activities. (1) Financial assistance is limited to short-term (up to 3 months) and medium-term (up to 18 months) rental assistance; security deposits; utility deposits and payments; moving cost assistance; and motel and hotel vouchers. (2) Housing relocation and stabilization services are limited to case management (e.g. arrangement, coordination, monitoring and delivery of services related to meeting housing needs); outreach and engagement; housing search and placement; legal services (e.g. legal advice and representation in administrative or court proceedings related to tenant/landlord matters or housing issues, excluding mortgage legal services); and credit repair. (3) Data collection and evaluation including the use of the Homeless Management Information Systems (HMIS); or the use of a comparable client-level database. (4) Administrative costs are the fourth activity that can be funded through HPRP. On July 30, 2009, the TDHCA Board authorized funding awards to 59 recipients totaling approximately \$40 million.

Eligible applicants include units of general local government and private nonprofit organizations whose professional activities include the promotion of social welfare and the prevention or elimination of homelessness. Since the inception of the HPRP Program in September 2009, 58 sub-recipients have assisted 37,825 persons and 14,830 households. A total of \$32,694,846 has been expended. Of the persons assisted, 31,576 have received homelessness prevention assistance and 6,351 have received homeless assistance.

Homeless Housing and Services Program

Funded with State appropriated funds, the Homeless Housing and Services Program's (HHSP) purpose is assisting the eight largest urban areas in providing services to homeless individuals and families, including services such as case management, and housing placement and retention. In 2010, funding for this program was awarded by TDHCA through a competitive matching grant process whereby the eight largest cities sought additional funding for this purpose. The agency distributes these funds to the eight largest cities with populations larger than 285,500 persons per the latest U.S. Census figures. HHSP sub-recipients have assisted 33,787 persons and expended \$16.3 million as of June 2011. It is anticipated that activity will increase significantly in the next few months.

Emergency Shelter Grant/Emergency Solutions Grant Program

The Emergency Shelter Grant/Emergency Solutions Grant Program (ESGP) funds entities that provide shelter and related services for homeless persons. For purposes of this Plan, Statewide information on homeless service providers has been collected from the ESGP applications that were submitted for funding in 2010. This is not a comprehensive listing of service providers. Because some local

Homelessness and Other Special Needs

governments receive ESGP funding directly from the US Department of Housing and Urban Development, organizations that apply for these local ESGP funds are not included. For SFY2010 program year contracts end 8/31/2011. In SFY 2011, 59,038 persons will be assisted.

TEXAS DEPARTMENT OF RURAL AFFAIRS ADDRESSES HOMELESSNESS

The Texas Department of Rural Affairs does not have a specific program directed at homelessness. It is a member of the Housing and Health Services Coordinating Council created by the Texas legislature. This Council continues to explore the opportunity for service-enriched housing options as cost efficient housing alternatives for the homeless population.

TEXAS DEPARTMENT OF STATE HEALTH SERVICES ADDRESSES SPECIAL NEEDS

The Texas Department of State Health Services' (DSHS) mission is to improve the health and well-being in Texas. To achieve its mission, DSHS is responsible for certifications, licenses and permits for certain health-related equipment, facilities, businesses and occupations; community mental health and family health resources; substance abuse recovery resources; vital records, such as birth, death, marriage and divorce records; and health-related data and reports.

Projects for Assistance in Transition from Homelessness (PATH)

The Department of State Health Services Community Mental Health and Substance Abuse Division receives funds through the federal government's Center for Mental Health Services. Funds are used for administration of homelessness prevention services and mental health crisis services. Funds are available to subdivisions of State of Texas, units of local government and non-profit entities.

The HOPWA program prevents homelessness by providing short-term rent, mortgage, and utilities assistance (STRMU) to eligible individuals living with HIV in emergency situations.

Barriers to Affordable Housing

BARRIERS TO AFFORDABLE HOUSING

§91.320(i)

The State of Texas has given local jurisdictions a great amount of authority over their lands. As a result, many of the regulatory barriers to affordable housing found at the state level in other states do not exist in Texas. For instance, municipalities have zoning authority. Even though zoning may be a barrier to affordable housing depending on minimum lot size required, this is not a regulatory barrier imposed by the State of Texas. In fact, counties do not have zoning authority, eliminating the potential barrier completely in non-incorporated areas. The State also does not impose impact or development fees or deed restrictions on developments. Furthermore, TDHCA is not a regulatory agency for building codes with the exception of manufactured housing and projects that receive funding through TDHCA. Impact fees, deed restrictions and building codes may add to the cost of development, but these are not part of the State's regulations.

In contrast, TDHCA does have two regulatory barriers to affordable housing, as found below.

Environmental Regulations

The Department works to enforce federal environmental regulations, such as the National Environmental Policy Act, Endangered Species Act, the National Pollutant Discharge Elimination System, and the Wetland regulations. In Texas, rules to protect the environment are promulgated by the Texas Commission on Environmental Quality (TCEQ). These include rules for the installation of septic systems and for development of the Edwards Aquifer. The restrictions associated with the regulations can add to the cost of development which, in turn, may raise the cost of the housing thereby decreasing affordability.

Public Opposition

When a developer proposes an affordable housing development, regulations require that the developer notify local community groups and state and local officials. The required public notification process provides notice to persons who may oppose affordable housing.

STRATEGY TO OVERCOME REGULATORY BARRIERS TO AFFORDABLE HOUSING

Local governments and officials more often have a greater awareness of their local economic, demographic and housing conditions. In order to meet the needs of residents in all parts of the second largest state in the nation, the State of Texas gives local governments a great deal of power over their own lands. Please note that, as a governmental entity, the Department cannot lobby or attempt to influence the policies related to the governing of the State of Texas. However, TDHCA can and does encourage localities to implement specific regulatory reforms related to affordable housing.

The State of Texas does not implement zoning, impose impact development fees or deed restrictions, or regulate building codes and so cannot directly affect these barriers. Nonetheless, TDHCA does act as an information resource to assist localities overcome unnecessary regulatory barriers which may increase the cost of housing. TDHCA accomplishes this as follows:

 Formation of the Texas Housing and Health Services Coordination Council within TDHCA in 2009 to pursue opportunities to create and conduct policy research on service-enriched housing for persons with disabilities and seniors.

Barriers to Affordable Housing

- Continuing education programs such as the Texas Statewide Homebuyer Education Program, which provides lenders, homebuyer educators and consumers information on serving traditionally underserved populations (e.g. persons with disabilities, lower income populations).
- Continuing research on defining and eliminating or reducing both State and local policy barriers.

TDHCA also mitigates the affects of its environmental and public notice regulatory barriers propagated by TDHCA. For example, TDHCA offers environmental compliance training free of charge for organizations that receive funding through TDHCA. These trainings are conducted throughout the State. In this way, TDHCA helps local communities comply with environmental rules.

To overcome the public opposition roused by public notice of affordable housing developments, TDHCA acts as an information resource for affordable housing studies and information. The Department has funds available for research studies from qualified professionals to determine the effect of affordable housing developments on property values, social conditions and quality of life in surrounding neighborhoods. For example, according to Harvard's Joint Center for Housing Studies, affordability problems once concentrated among the lowest-income families is now affecting more lower middle-and middle-income renters such as teachers, first responders, and health-care workers, who often spend more than 30 percent of their income on housing needs, creating a cost burden.² Affordable housing can allow productive members of the community to live in the same neighborhoods they serve.

The public may also fear that affordable housing increases traffic, increases crime and lowers property values. In actuality, allowing people who serve the community to afford to live in the same community reduces traffic by reducing the distance between where people live and where they work. Furthermore, studies have not proven a link between affordable housing and crime; factors that negatively affect crime include community disinvestment, overcrowding, and lack of jobs and community services. In fact, affordable housing helps address several of these factors by allowing for community investment and alleviating overcrowding.

Regarding property values, studies have proven that affordable housing can actually improve property values are often the keystone of neighborhood revitalization.³ By educating the public on the realities of affordable housing, TDHCA believes it can overcome public opposition.

² Joint Center for Housing Studies of Harvard University. (2011). America's Rental Housing: Meeting Challenges, Building on Opportunities. Retrieved from

http://www.jchs.harvard.edu/publications/rental/rh11_americas_rental_housing/AmericasRentalHousing-2011-bw.pdf ³ Joint Center for Housing Studies of Harvard University. (2011). America's Rental Housing: Meeting Challenges, Building on Opportunities. Retrieved from

http://www.jchs.harvard.edu/publications/rental/rh11_americas_rental_housing/AmericasRentalHousing-2011-bw.pdf

MONITORING

§92.330

HOME AND ESGP MONITORING

TDHCA has established oversight and monitoring procedures within the TDHCA HOME, Compliance and Asset Oversight (CAO) and Community Affairs divisions to ensure that activities are completed and funds are expended in accordance with contract provisions and applicable state and federal rules, regulations, policies, and related statutes. TDHCA's monitoring efforts are guided by both its responsibilities under the HOME and ESGP and its affordable housing goals for the State of Texas. These monitoring efforts include the following:

- Identifying and tracking program and project results
- Identifying technical assistance needs of subrecipients
- Ensuring timely expenditure of funds
- Documenting compliance with program rules
- Preventing fraud and abuse
- Identifying innovative tools and techniques that support affordable housing goals
- Ensuring quality workmanship in funded projects
- Long-term compliance
- Risk management
- Sanctions

Identifying and Tracking Program and Project Results

HOME contract and project activities are tracked through the TDHCA Contract System, including funds committed, pending projects, funds drawn, activities and contracts completed, and funds disbursed through the internet-based system, HUD's IDIS, and other reports generated as needed. The Contract System provides information necessary to track the success of the program and identify process improvements and administrator training needs. IDIS tracks HOME Program data such as commitment and disbursement activities, the number of units developed, the number of households assisted, the ongoing expenditures of HOME funds, and beneficiary information.

Other resources utilized by TDHCA to track project results include a performance team, to provide oversight and monitor contract progress, and an asset management division and loan servicing division. If either of these areas identifies problems, steps are taken to resolve the issue, including project workouts and oversight of reserve accounts. Real Estate Analysis, the division for underwriting economic feasibility pre-award, is also responsible for identification of high risk housing developments, and is responsible for review of housing sponsored annual financial statements and other asset management functions during the affordability period. Finally, the establishment of a Physical Inspections section in the Compliance Division assists with maintaining quality and integrity during project construction.

ESGP project and contract activities are tracked through TDHCA's website, which maintains an Oracle-based reports system. This system maintains funds drawn, funds expended, performance data, and other reports as needed. ESGP data such as commitment and disbursement activities, number of persons assisted, ongoing expenditures, and program activities are also tracked through HUD's IDIS.

Identifying Technical Assistance Needs Subrecipients

Identification of technical assistance needs for HOME and ESGP subrecipients is performed through analysis of administrator management practices, analysis of sources used by TDHCA to track technical assistance such as information captured in the HOME Division Database and Contract System, review of documentation submitted, desk reviews based on state and federal requirements results of on-site audits, technical assistance visits, phone calls, e-mail and monitoring visits.

Ensuring Timely Expenditure of Funds

TDHCA ensures adequate progress is made toward committing and expending HOME and ESGP funds. Regular review of internal reports and data from IDIS is performed to assess progress of fund commitment and to ensure that all funds are committed by the expiration date of 24 months from the last day of the month in which HUD and TDHCA enter into an Agreement. HUD Performance deadlines for spending and reporting matching funds are reviewed on a monthly basis to track expenditure totals. To enure the timely reprogramming of funds, HOME set-aside requirements are also tracked as a part of the HOME Fund Balance Report, which reports the Division's status of HOME funds including program income and deobligated funds. Additionally, The Department includes performance benchmarks in the Department's State HOME Rule and as part of its written agreements with subrecipients. Through pilot programs, TDHCA is implementing reservation systems for most HOME Program activities in order to be more responsive to local needs and provide more timely access to HOME funds based on readiness-to-proceed.

Documenting Compliance with Program Rules

Compliance with program rules is documented through contract administration and other formal monitoring processes. Staff document compliance issues as part of their ongoing contract management reviews and notify administrators of any noncompliance and required corrective action. On-site reviews, including physical onsite project site inspections of a representative sample of project sites, on-site reviews of client files, shelters, and the delivery of services are conducted with summarized reports identifying necessary corrective actions.

TDHCA has developed a set of standards for HOME administrators to follow to ensure that subcontractors and lower-tiered organizations entering into contractual agreements with administrators perform activities in accordance with contract provisions and applicable state and federal rules, regulations, policies, and related statutes.

TDHCA maintains a database to document an administrator's compliance history with rental housing developments. During the application process the previous participation of the applicant is evaluated. If there are any minor uncorrected issues of noncompliance identified, the request for funding will be denied unless those issues are corrected. If material noncompliance is identified, the application is terminated. The compliance history is considered by TDHCA's Board prior to finalizing awards and evaluated again prior to execution of written agreements.

Preventing Fraud and Abuse

TDHCA monitors for mismanagement of funds in the HOME and ESGP during onsite visits through a review of supporting documentation provided by the administrator and through information gathered from outside sources. This is done throughout the contract period to ensure that funds are spent on

eligible activities. If an administrator mismanages funds, sanctions are enforced and disallowed costs are refunded to TDHCA. Also, if fraud is suspected, TDHCA makes referrals and works closely with HUD, the State Auditor's Office, the Inspector General, the Internal Revenue Service, and local law enforcement agencies as applicable.

Identifying Innovative Tools and Techniques that Support Affordable Housing Goals

Staff identifies innovative tools and techniques to support affordable housing goals by attending trainings and conferences, maintaining contact with other State affordable housing agencies, and through the HUD internet listserv and HUD website.

Ensuring Quality in Funded Projects

Ensuring the administrator provides the committed product, amenities and compliance with accessibility requirements is a Departmental priority. Staff ensures the quality of workmanship in HOME-funded projects through the inspection process. TDHCA staff, in conjunction with Manufactured Housing Inspectors, conducts inspections to substantiate the quality of the work performed. Deficiencies and concerns are identified during an initial inspection, with corrective action required by construction completion. The clearance of a final inspection is required of all rental housing developments funded by the Department.

TDHCA staff has attended trainings and become familiar with the construction standards of Section 504, Rehabilitation Act of 1973. Manufactured Housing Inspection Staff assisting with conducting inspections have been given the necessary tools to thoroughly complete these inspections and are provided annual training by Department staff on the procedures, expectations, and accessibility requirements.

Other processes used to ensure quality workmanship have included plan reviews. Beginning with the 2006 commitments, the Department required plans to have architectural sign off on specifications, and confirm compliance with committed amenities and compliance with any accessibility requirements.

Long-Term Compliance

The CAO Division is responsible for long term monitoring of HOME rental developments and conducts onsite monitoring reviews in accordance with 24 CFR 92.504(d) of the HOME Final Rule and the Department policies and procedures, as described in 10 TAC, Compliance Rules, Subchapter A, the Financing/Loan Agreements, Deed Restrictions, and Regulatory and Land Use Restriction Agreements.

The CAO Division schedules and performs on-site monitoring reviews at the commencement of leasing of all HOME rental developments. HOME rental developments are monitored every 1 to 3 years as required by federal regulations and continue to be monitored throughout the development's affordability period. An onsite monitoring review consist of CAO staff reviewing 20% percent, or 5 minimum, resident files to ensure compliance with income and rent restrictions and all other federal regulations. A physical inspection of the development, buildings and units is also completed in accordance with HUD's Uniform Physical Condition Standards (UPCS) protocol. The UPCS inspections, with the exception of new construction rental developments, are conducted by the Department's Contractor or Inspection staff. In addition, CAO staff conducts on-going limited accessibility inspections with the construction requirements of Section 504, Rehabilitation Act of 1973, and Fair Housing Act. The Department is committed to ensuring HOME rental developments are in compliance with federal

and state rules and regulations. If a HOME development fails to comply with those, the Department has created enforcement procedures and administrative penalties described in 10 TAC, Compliance Rules, Subchapters A and C.

Risk Management

HOME contracts are monitored based on a risk assessment model that is updated on an annual basis or more frequently if required. Some of the elements of the Risk Assessment Model may include the type of activity, existence of a construction component, Davis/Bacon requirements, results of previous on-site visits, status of the most recent monitoring report, amount funded, previous administrator experience, entity type, and Single Audit status. In addition to the results of the risk assessment survey, referrals from division staff are considered when determining in depth monitoring reviews or required technical assistance. An emphasis is placed on monitoring of contracts within the current draw period and contracts with projects in the affordability period as defined by HUD.

If complaints are received by the Department, they are considered a risk management element and will be reviewed in detail. Supplemental monitoring activities will be performed to ensure program compliance and detection of possible fraud or mismanagement.

The Risk Assessment Model is also implemented for ESGP. TDHCA monitors ESGP subrecipients based on an assessment of associated risks. The assessment of associated risks utilizes factors developed by the Department's Compliance and Asset Oversight Division in conjunction with the Community Affairs Division. The factors include the status of the most recent monitoring report, timeliness of grant reporting, results of the last on-site monitoring review, number and dollar amounts of Department funds contracts and single audit issues. Additional risk factors include length of time since last on-site visit, results of last on-site visit, status of most recent monitoring report, timeliness of grant reporting, total amount funded during assessment period, current program expenditure level, prior program year cumulative expenditure levels (if applicable), total amount funded for all TDHCA contracts during assessment period, number of TDHCA contracts funded during assessment period, and Single Audit Status. Subrecipients with the highest rankings are considered high risk and will receive an on-site monitoring review. Subrecipients with low rankings will have a desk review conducted. During the onsite monitoring review, staff determine subrecipients' compliance with the ESGP contract, ESGP State Regulations, State Policy Issuances, 24 CFR Ch V, Part 576, OMB Circulars related to expenditure of funds, and requirements of Chapter 58 of the Environmental Protection Act as it relates to projects funded for rehabilitation, conversion, or renovation.

Sanctions

Based on the results of ongoing HOME monitoring, sanctions are imposed for noncompliance issues based on the severity of noncompliance, which may include delays in project set-ups, draw request processing, questioned/disallowed costs, suspension of the contract, or contract termination. When necessary, the Executive Director executes a referral to the State Auditor's Office for investigation of fraud as required by Section 321.022(a) of the Texas Government Code. Sanctions imposed may affect future application requests and scoring. In addition, if fraud or mismanagement of funds is suspected, TDHCA will make referrals and work closely with HUD, the State Auditor's Office, the Inspector General, the Internal Revenue Service, and local law enforcement agencies as applicable.

The majority of HOME administrators comply with program rules and regulations. However, for the few who do not, after technical assistance and a corrective action period are provided, administrative penalties are considered. The Department's enforcement provisions in 10 TAC, Subchapter C §60.307 establish monetary penalties for owners who do not correct noncompliance violations. Owners are referred to the Department's Administrative Penalty Committee for enforcement. The Department conducts informal hearings with owners to address their compliance violations and work with them to restore compliance. The administrative penalty process is proving to be a successful and effective tool for restoring compliance.

In addition, the Department has the ability to debar individuals and companies from participation in our programs. Debarred entities will be listed as such on the Department's website which will likely affect their ability to be awarded contracts with other state and federal agencies.

The results of ongoing ESGP monitoring will also determine if sanctions are imposed for noncompliance issues. Sanctions range from questions or disallowed costs, corrective action, quality improvement plans, the use of the cost reimbursement method of payment, deobligation of funds, suspension of funds, and/or termination of the contract. TDHCA's legal staff is notified and referrals are made to the Attorney General's Office. Sanctions imposed affect the future consideration of ESGP applications for funding.

CDBG MONITORING

The monitoring function of the Tx CDBG has four components: project implementation, contract management, audit, and monitoring compliance.

Project Implementation

Prior to the award of funds, each community is evaluated for compliance in prior contracts. The application scoring process at the state level includes a scoring factor for past performance on CDBG contracts. In addition, once a funding recommendation has been made the contract is routed through the Program Development Unit, Compliance Unit and Finance Division to verify that no outstanding issues in previously awarded contracts prevent the contract execution for the recommended award.

Contract Management

All open Tx CDBG projects are assigned to a specific Regional Coordinator who is responsible for contract compliance and project management. All projects have formal contracts that include all federal and state requirements. Regional Coordinators monitor progress and compliance through formal reporting procedures. Program Specialists for Labor Standards and Environmental compliance also exist under the Tx CDBG project oversight function. Additionally, all reimbursement requests require complete supporting documentation before payment is made.

Audit

The audit function is authorized by OMB A-133, which requires that governmental units and nonprofit organizations spending more than \$500,000 in either federal or state funds during their fiscal years ending after December 31, 2003, submit a copy of a Single Audit to the Agency. A Single Audit is required for desk review by TDRA regardless of whether there are findings noted in the audit pertaining

to CDBG funds, since it is an additional monitoring tool used to evaluate the fiscal performance of grantees.

Monitoring Compliance

The on-site programmatic reviews are conducted on every CDBG contract prior to close-out to ensure the contractual obligations of each grant are met. The projects are considered available for review when 75 percent of the contracted funds have been drawn down, and for construction projects, when construction has been substantially completed. Interim monitoring reviews may be conducted as necessary.

The areas reviewed include procurement procedures paid with CDBG funds or with match dollars, accounting records including copies of cancelled checks, bank statements and general ledgers (source documentation is reviewed at the time of draw requests), equipment purchases and/or procurement for small purchases, on-site review of environmental records, review of any applicable construction contracts, file review of any applicable client files for rehabilitation services, review of labor standards and/or a review of local files if internal staff used for construction projects, and a review of documentation on hand pertaining to fair housing and civil rights policies.

In addition to the formal monitoring function described above, the staff of the Compliance Unit communicates with the staff of the Project Management Unit as needed to evaluate issues throughout the contract implementation phase of CDBG contracts in order to identify and possibly resolve contract issues prior to the monitoring phase of the project.

HOPWA Monitoring

A team of DSHS consultant staff monitor the Administrative Agencies' HOPWA administration activities, and the Administrative Agencies monitor the Project Sponsors for HOPWA program compliance. This monitoring involves periodic site visits, technical assistance, and the submission of quarterly progress reports. Desk audits are conducted by the Contract Management Unit at the division level in DSHS. Additionally, fiscal audits are conducted as part of a centralized service of DSHS, the Contract Monitoring and Oversight Section, directly under the Chief Operations Officer.

Administrative Agencies and Project Sponsors are required to comply with HUD regulations, the DSHS Program Manual and their contractual Statement of Work. The DSHS HOPWA program manual is located at http://www.dshs.state.tx.us/hivstd/hopwa/default.shtm. The HOPWA monitoring tool Statement of Work, renewal application, and Grantee Oversight Resource Guide can also be accessed from this same DSHS webpage. Principles for fiscal administration are established by the Texas Uniform Grants Management Standards located at http://www.governor.state.tx.us/divisions/stategrants/files/UGMS062004.doc. The requirements for project monitoring are established by DSHS in the Administrative Agency Core Competencies document located at http://www.dshs.state.tx.us/hivstd/pops/pdf/pdf_administrative_duties_standards.pdf.

HOUSING ACTION PLAN: HOME INVESTMENT PARTNERSHIPS PROGRAM

FEDERAL RESOURCES EXPECTED PY 2012

The purpose of the HOME Investment Partnerships (HOME) Program is to expand the supply of decent, safe, and affordable housing for extremely low, very low, and low income households, and to alleviate the problems of excessive rent burdens, homelessness, and deteriorating housing stock. HOME strives to meet both the short-term goals of increasing the supply and the availability of affordable housing and the long-term goal of building partnerships between State and local governments and private and nonprofit organizations in order to strengthen their capacity to meet the housing needs of low-income Texans. TDHCA conducts detailed application workshops and provides technical assistance to all recipients of HOME funds to ensure that all participants meet and follow the State implementation guidelines and federal regulations.

The State of Texas HOME Program anticipates receiving \$40,000,000 in HOME allocated funds and \$3,000,000 in multifamily and single-family program income for a total of \$43,000,000 estimated funding available for distribution.

ALLOCATION OF PY 2012 FUNDS

§91.320(d) and (f)

TDHCA will use the following method for allocating funds and may make adjustments throughout the program year to transfer funding from an undersubscribed activity or set-aside to an activity that may be experiencing higher demand with the Board's approval:

Use of Funds	Estimated Available Funding	% of Total HOME Allocation
Administration Funds (10% of Allocation) ¹	\$4,000,000	10%
CHDO Project Funds Set Aside (15% of Allocation)	\$6,000,000	15%
CHDO Operating Expenses Set Aside (5% of CHDO Set Aside) ¹	\$300,000	1%
State Mandated Funds for Contract for Deed Conversions ¹	\$2,000,000	5%
Housing Programs for Persons with Disabilities (5% of Allocation) 12	\$2,000,000	5%
Rental Housing Development Program	\$15,650,000	39%
General Funds for Single Family Activities	\$10,050,000	25%
Total PY 2012 HOME Allocation	\$40,000,000	100%
Estimated Program Income (to be included with Reservation System) for Multifamily Activities) ¹	\$3,000,000	_
Total Estimated Funding Available for Distribution	\$43,000,000	_

¹The funding for these activities is not subject to the Regional Allocation Formula.

² Per Section 2306.111(c) of the Texas Government Code, TDHCA shall expend 95 percent of HOME funds for the benefit of non-PJ areas of the State. Five percent of HOME funds shall be expended for the benefit of persons with disabilities who live in any area of the State.

The following targets will be used to distribute General Funds for Single Family Activities:

Activity	Funding Amount	% of Available Funding
Homebuyer Assistance	\$3,350,000	33.3%
Homeowner Rehabilitation	\$3,350,000	33.3%
Tenant Based Rental Assistance	\$3,350,000	33.3%
Total Estimated Funding Available for Distribution	\$10,050,000	100.0%

Estimated PY 2012 Beneficiaries

Based on anticipated program activities TDHCA estimates that the number of PY 2012 beneficiaries assisted will be approximately 957 low-, very low-, or extremely low-income households. On the basis of historical performance, TDHCA estimates that approximately 50 percent of those households will be minority households.

DESCRIPTION OF ACTIVITIES

§91.320(d) and (e)

Homeowner Rehabilitation

Rehabilitation, new construction or reconstruction cost assistance is provided to eligible homeowners for their existing home in the form of a grant or loan. The home must be the principal residence of the homeowner and the homeowner must meet all other eligibility requirements.

Pursuant to 24 CFR §92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction, newly constructed single family housing must meet the International Residential Code (IRC) as currently required by State statute. In the absence of a local code for rehabilitation, the single family housing must meet the rehabilitation standards established by the Department. If a home is newly constructed or reconstructed, the applicant must also ensure compliance with the universal design features in new construction, established by §2306.514, Texas Government Code, required for any applicants utilizing federal or state funds administered by TDHCA in the construction of single family housing.

The available funding for this activity is approximately \$3.3 million, which may only be used in non-PJs. The Department may set-aside a portion of these funds during the 2012 program year using a reservation system as a method of distribution. In addition, the Department may allow the refinance of existing debt for single-family, owner-occupied housing, when rehabilitation to correct substandard conditions is the primary use of the HOME funds. This amount does not include Housing Programs for Persons with Disabilities funding that may be issued under a separate NOFA.

Tenant-Based Rental Assistance

According to the American Community Survey 3-Year Estimates, approximately 44% or 1,267,171 households that rent in Texas have a housing cost burden of equal or greater than 30 percent of their income between 2006 and 2008. Rental subsidy and security and utility deposit assistance is provided to tenants, in accordance with written tenant selection policies, for a period not to exceed 24 months. If available, additional funds may be set-aside to provide assistance beyond 24 months. Rental units must be inspected prior to occupancy and must comply with Housing Quality Standards (HQS) in 24 CFR §982.401. The Department may set-aside a portion of these funds during the 2012 program year using a reservation system as a method of distribution. In addition, the Department may set-aside a portion of the estimated program income toward a pilot program that would allow the extension of assistance beyond 24 months. The available funding for this activity is approximately \$3.3 million, which may only be used in non-PJs. This amount does not include Housing Programs for Persons with Disabilities funding that may be issued under a separate NOFA.

Homebuyer Assistance with or without Rehabilitation §92.254

According to the American Community Survey 3-Year Estimates, approximately 26% or 1,398,322 households that own a home in Texas had a housing cost burden of equal or greater than 30 percent of their income between 2006 and 2008. Down payment, closing cost, rehabilitation, and contract for deed conversion assistance may be provided to homebuyers for the acquisition of affordable single family housing. This activity may also be used for the following:

- Construction costs associated with architectural barrier removal in assisting homebuyers with disabilities by modifying a home purchased with HOME assistance to meet their accessibility needs.
- Acquisition and rehabilitation costs associated with contract for deed conversions to serve colonia residents.
- Construction costs associated with the rehabilitation of a home purchased with HOME assistance.
- Acquisition or new construction costs for the replacement of manufactured housing.

Eligible homebuyers receive assistance in the form of a loan. HBA loans are required to be repaid at the time of resale of the property, refinance of the first lien, repayment of the first lien, or if the unit ceases to be the assisted homebuyer's principal residence. If any of these occur before the end of the loan term, the amount of recapture will be based on the pro-rata share of the remaining loan term and the shared net proceeds in the event of sale of the housing unit.

Pursuant to 24 CFR §92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction, newly constructed single family housing must meet the International Residential Code (IRC) as currently required by State statute. In the absence of a local code for rehabilitation, the single family housing must meet the rehabilitation standards established by the Department. If a home is newly constructed or reconstructed, the

applicant must also ensure compliance with the universal design features in new construction, established by §2306.514, Texas Government Code. Housing units that are provided assistance for acquisition only must meet all applicable State and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

The available funding for this activity is approximately \$3.3 million, which may only be used in non-PJs. This amount does not include Housing Programs for Persons with Disabilities funding, which may be issued under a separate NOFA. The Department may set-aside a portion of these funds during the 2012 program year using a reservation system as a method of distribution.

Rental Housing Development

Awards for eligible applicants are to be used for the acquisition, construction, and rehabilitation of affordable multifamily rental housing. TDHCA will not provide funding for the refinancing and/or acquisition of affordable housing developments that were constructed within the past 10 years. A standard underwriting review will be performed on applications under this activity. TDHCA generally make awards in form of a loan. Owners of rental units assisted with HOME funds must meet affirmative marketing requirements as delineated in the Department's Compliance Rules. Owners of rental units assisted with HOME funds also must comply with initial and long-term income restrictions and keep the units affordable for a minimum period. Housing assisted with HOME funds must, upon completion, meet all applicable local, state, and federal construction standards and building codes. Additionally, the owner and/or all future owners of a HOME-assisted rental project must maintain all units in full compliance with local, state, and federal housing codes, which include, but are not limited to, the Uniform Physical Condition Standards (UPCS) as developed by the Real Estate Assessment Center (REAC), the International Building Code, Texas Government Code, and Section 504 of the 1973 Rehabilitation Act for the full required period of affordability.

Eligible expenses and activities may further be limited by TDHCA in accordance with State rule and legislation. Rental Housing Development funds may also be used for the acquisition and/or rehabilitation (including barrier removal activities) for the preservation of existing affordable or subsidized rental housing. Additionally, TDHCA will ensure that all multifamily rental housing developments are built and managed in accordance with its Integrated Housing Rule.

For applications consisting of five or more HOME-assisted units, the applicant is required to submit an Affirmative Marketing Plan in accordance with the HOME Final Rule (24 CFR §92.351). The Department's Compliance and Asset Oversight Division monitors for compliance with the requirements specified in the HOME Final Rule (24 CFR §92.351) and also delineated in 10 Texas Administrative Code §60.112.

Approximately \$15.6 million, is available for Rental Housing Development Funding for these activities may only be used in non-PJs. The Department may also make additional funds available from the \$3 million in estimated program income. This amount does not include the Housing Programs for Persons with Disabilities funding which may be issued under a separate NOFA.

Administrative Expenses

Up to 10 percent of the sum of the Program Year HOME basic formula allocation and program income may be set aside for HOME Administrative expenses to cover the costs of administering the Statewide program. A portion of this set-aside may be provided to applicants receiving HOME funds for the cost of administering the program. For-profit organizations are not eligible to receive administrative funds. TDHCA may utilize these funds for construction and Section 504 inspection costs as needed.

CHDO Set-Aside

A minimum of 15 percent of the annual HOME allocation, approximately \$6 million (plus \$300,000 – for CHDO operating expenses) is reserved for CHDOs. 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 the CHDO owns the project in partnership, it or its wholly-owned forprofit or nonprofit subsidiary must be the managing general partner. These organizations can apply for multifamily rental housing acquisition, rehabilitation, or new construction, as well as for the acquisition, rehabilitation, or new construction of single family housing. CHDOs can also apply for homebuyer assistance if their organization is the owner or developer of the single family housing project.

For applications consisting of five or more HOME-assisted units, the applicant is required to submit an Affirmative Marketing Plan in accordance with the HOME Final Rule (24 CFR §92.351). The Department's Compliance and Asset Oversight Division monitors for compliance with the requirements specified in the HOME Final Rule (24 CFR §92.351) and also delineated in 10 Texas Administrative Code §60.112.

In accordance with 24 CFR 92.208, up to 5 percent of the State's Fiscal Year HOME allocation may be used for operating expenses of CHDOs. In accordance with 92.300(a)(2)(f), a CHDO may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the CHDOs total operating expenses in that fiscal year. TDHCA may award CHDO Operating Expenses in conjunction with the award of CHDO Development Funds, or through a separate application cycle not tied to a specific activity.

Contract for Deed Conversions

The 81st Legislature passed Appropriations Rider 6 to TDHCA's appropriation, which requires TDHCA to spend no less than \$4 million for the biennium on contract for deed conversions for families that reside in a colonia and earn 60 percent or less of the applicable area median family income (AMFI). Furthermore, TDHCA is targeted to convert no less than 200 contracts for deeds into traditional notes and deeds of trust. The intent of this program is to help colonia residents become property owners by converting their contracts for deeds into traditional mortgages. Households served under this initiative must not earn more than 60 percent of AMFI and the home converted must be their primary residence. HOME funds may be used in the administration of this program at the determination of the Department. If HOME funds are used for this activity, the program must comply with federal requirements as established in 24 CFR 92 and in accordance with §2306.111 (c), Texas Government Code, these funds may only be used in non-PJs. As a statutorily required set-aside, these funds would not be subject to the Regional Allocation Formula, pursuant to §2306.111(d-1)(2) of the Texas Government Code.

Housing Programs for Persons with Disabilities

According to the American Community Survey 3-Year Estimates, between 2005-2007, there were approximately 3,019,042 million people in Texas over the age of five, or approximately 14.4 percent, had some type of long lasting condition or disability. Of these, 312,812 households, include persons with self-care limitations in Texas. Approximately 23.4 percent of people over the age of five with a disability were under the poverty level. However, leveraging other federal funds, the numbers of persons with disabilities transitioning from institutional living into community-based living is increasing, becoming a priority for the State of Texas. This is based on the most recent data available. The Department's Tenant-Based Rental Assistance Program for Persons with Disabilities is a critical component in the housing continuum toward helping households transition back into the community.

Approximately 5% of the State's annual HOME allocation shall be directed toward assistance for Persons with Disabilities (PWDs) who live in any area of the State. TDHCA will ensure that all housing developments are built and managed in accordance with its Integrated Housing Rule, 10 Texas Administrative Code §1.15.

Special Needs Populations

Subject to the availability of qualified applications, TDHCA has a goal to allocate a minimum of 20 percent of the annual HOME allocation to applicants serving persons with special needs. Eligible applicants include nonprofits, for-profits, units of general local government, and PHAs with documented histories of working with special needs populations. All HOME Program activities will be included in attaining this goal. Additional incentives may be established under each of the eligible activities to assist TDHCA in reaching its goal. Funds will be made available via Notices of Funding Availability based on activity type.

FUNDING DISTRIBUTION

Subject to Texas Government Code §2306.111, HOME funds will be distributed according to the established Regional Allocation Formula (RAF), The 2012 RAF distributes funding for the following activities:

- CHDO Project Funds,
- Rental Housing Development Program,
- General Funds for Single Family Activities.

The table below shows the regional funding distribution for all of the activities distributed under the RAF. Targeted funding amounts for each activity will also be established using the percentages generated by the RAF.

Draft 2012 Targeted Dist	ibution of Funds under the RAF*
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Region	Place for Geographical	Regional Funding	Regional Funding	Rural Funding	Rural	Urban Funding	
Re	Reference	Amount	%	Amount	Funding %	Amount	Urban Funding %
1	Lubbock	\$2,469,065	7.3%	\$2,468,868	100.0%	\$197	0.0%
2	Abilene	\$1,933,823	5.7%	\$1,891,243	97.8%	\$42,580	2.2%
3	Dallas/Fort Worth	\$4,369,395	12.8%	\$1,661,149	38.0%	\$2,708,247	62.0%
4	Tyler	\$4,059,284	11.9%	\$3,559,075	87.7%	\$500,209	12.3%
5	Beaumont	\$1,741,051	5.1%	\$1,454,590	83.5%	\$286,461	16.5%
6	Houston	\$3,856,593	11.3%	\$1,030,854	26.7%	\$2,825,739	73.3%
7	Austin/Round Rock	\$1,264,579	3.7%	\$427,451	33.8%	\$837,128	66.2%
8	Waco	\$1,755,987	5.2%	\$967,029	55.1%	\$788,958	44.9%
9	San Antonio	\$1,703,903	5.0%	\$1,123,026	65.9%	\$580,877	34.1%
10	Corpus Christi	\$2,873,540	8.4%	\$1,986,752	69.1%	\$886,788	30.9%
11	Brownsville/Harlingen	\$4,979,183	14.6%	\$2,408,979	48.4%	\$2,570,204	51.6%
12	San Angelo	\$2,206,208	6.5%	\$1,665,349	75.5%	\$540,859	24.5%
13	El Paso	\$797,204	2.3%	\$578,426	72.6%	\$218,778	27.4%
	Total	\$34,009,814	100.0%	\$21,222,789	62.4%	\$12,787,025	37.6%

^{*}These numbers will be updated in the final version of this document.

Review of Applications

All programs will be operated through direct administration by TDHCA or announced by the release of a Notice of Funding Availability. For Notices of Funding Availability, applicants must submit a complete application to be considered for funding, along with an application fee determined by TDHCA. Applications received by TDHCA will be reviewed for applicable threshold, eligibility and/or scoring criteria in accordance with the Department's rules and application review procedures published in the NOFA and/or application materials.

Selection Process

Qualifying applications are recommended for funding based on the Department's rules and any additional requirements established in the Notice of Funding Availability. Applications submitted for development activities will also receive a review for financial feasibility and underwriting. Applications will be reviewed and recommended for funding in the manner prescribed in the State of Texas HOME Program Rule.

Match Requirements

TDHCA will provide matching contributions from several sources for HOME funds drawn down from the State's HOME Investment Trust Funds Treasury account within the fiscal year. The State sources may include the following:

- Loans originated from the proceeds of single family mortgage revenue bonds issued by the State. TDHCA will apply no more than 25 percent of bond proceeds to meet its annual match requirement.
- Match contributions from the State's Housing Trust Fund to affordable housing projects that are not HOME-assisted, but that meet the requirements as specified in 24 CFR 92.219(b)(2).

- Eligible match contributions from State recipients and subrecipients, as specified in 24 CFR 92.220.
- Match contributions from local political jurisdictions provided through the abatement of real estate property taxes for affordable housing properties developed and owned by qualified CHDO applicants.

Deobligated HOME Program Funds

When administrators have not successfully expended the HOME funds within their contract period, TDHCA deobligates the funds and pools the dollars to award applicants according to TDHCA's Deobligated Funds Policy.

APPLICABLE FEDERAL AND STATE REGULATIONS

§91.320(k)

HOME funds will be distributed in accordance with the eligible activities and eligible costs listed in 24 CFR 92.205–92.209 and 10 TAC Chapter 53.

Developments receiving funding from TDHCA must comply with accessibility standards required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), as amended, and specified under 24 CFR Part 8, Subpart C. This includes a provision that a minimum of 5 percent of the total dwelling units or at least one unit, whichever is greater, must be made accessible for individuals with mobility impairments. An additional 2 percent of the total number of dwelling units or at least one unit, whichever is greater, must be accessible for individuals with hearing or vision impairments.

Minority Participation

TDHCA encourages minority employment and participation among all applicants under the HOME Program. All applicants to the HOME Program are required to submit an affirmative marketing plan as part of the application process. Additionally, TDHCA encourages outreach to Historically Underutilized Businesses (HUBs) by including advertisement examples aimed at HUBs in the sample procurement plan during implementation training. Additionally, form HUD-702, which lists businesses used for the contract including HUBs, is required from sub-recipients with the final draw request for each HOME activity.

In an effort to comply with the regulations under Title VI of the Civil Rights Act of 1964, the Housing Resource Center is presenting a Limited English Proficiency (LEP) policy to be approved by TDHCA's Board. Tile VI ensures program access to residents of Texas designated as possessing "limited English proficiency" or LEP. The policy will outlines the responsibilities of TDHCA and its subrecipients and contractors in relation to Title VI. TDHCA commits to conduct an assessment to determine the extent of its obligation to provide LEP services. Federal guidance requires a Four-Factor Analysis which analyzes (1) the number or proportion of LEP persons served or encountered in the eligible service population; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity or service provided by the program; and (4) the resources available and costs to the recipient. TDHCA also commits to develop, maintain, and periodically update a Language Access Plan (LAP). TDHCA will also train staff, subrecipients, and contractors and inform LEP persons about policies and procedures regarding the LAP.

Economic Opportunities for Low- and Very Low-Income Persons

TDHCA will require sub-recipients that receive Section 3-covered assistance, including housing rehab, construction, or reconstruction, to comply with and report on Section 3. Such report enumerates low-income persons hired and trained as a result of the construction activity. Contracts using Section 3-covered funds will include the Section 3 Clause (24 CFR §135.38) as a certification signifying compliance. The TDHCA web site contains compliance guidance and public notification of economic opportunities. Section 3 encourages the use of Section 3 business concerns (those that commit to creating economic opportunities for low-income persons in the general vicinity of the HUD-funded construction project) and employment of Section 3 residents. Section 3 status does not depend on minority status. Section 3 residents are people who make 80 percent or less than the area median family income and reside in the general vicinity in which certain HUD-funded assistance takes place.

RECAPTURE PROVISIONS UNDER HOMEOWNERSHIP PROGRAMS

§92.254(a)(4)

If the participating jurisdiction intends to use HOME funds for homebuyers, the guidelines for resale or recapture must be described as required in 24 CFR 92.254(a)(5). Recapture provisions are not applicable for HOME-assisted multifamily rental projects; in the case of default, sale, short sale, and/or foreclosure, the entire HOME investment must be repaid.

TDHCA has elected to utilize the recapture provision under 24 CFR 92.254(a)(5)(ii) as its method of recapturing HOME funds under any program the State administers that is subject to this provision. The following methods of recapture would be acceptable to TDHCA and will be identified in the note prior to closing:

- Recapture the amount of the HOME investment reduced on a prorata share based on the time
 the homeowner has owned and occupied the unit measured against the required affordability
 period. The recapture amount is subject to available shared net proceeds in the event of sale or
 foreclosure of the housing unit.
- 2. In the event of sale or foreclosure of the housing unit, if the shared net proceeds (i.e., the sales price minus closing costs; any other necessary transaction costs; and loan repayment, other than HOME funds) are in excess of the amount of the HOME investment that is subject to recapture, then the net proceeds may be divided proportionately between TDHCA and the homeowner as set forth in the following mathematical formulas. Effective with the 2011 Program Year and forward, if there are no Net Proceeds from the sale, no repayment will be required of the homebuyer and the balance of the loan shall be forgiven:

(HOME investment / (HOME investment + homeowner investment)) X net proceeds = HOME amount to be recaptured

(Homeowner investment / (HOME investment + homeowner investment)) X net proceeds = amount to homeowner

RESALE PROVISIONS UNDER HOMEOWNERSHIP PROGRAMS

In certain instances, TDHCA may choose to utilize the resale provision at 24 CFR 92.254(a)(5)(i) under any program the State administers that is subject to this provision. If before that time an instance occurs for which the resale provisions are triggered, the Department will work with the Ft. Worth Field Office to address. The following method of resale would be acceptable to TDHCA and will be identified in the note prior to closing:

- 1. Resale requirements must ensure that, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability, the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low or very low income family and will use the property as its principal residence.
- 2. The resale requirement must also ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's investment and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of low or very low income homebuyers.
- 3. The period of affordability is based on the total amount of HOME funds invested in the housing.

OTHER FORMS OF INVESTMENT

§91.320(k)(2)(i)

If a participating jurisdiction intends to use other forms of investment not described in §92.205(b), a description of the other forms of investment must be provided.

The State is not proposing to use any form of investment in its HOME Program that is not already listed as an eligible form of investment in 24 CFR 92.205(b).

Refinancing Debt

§91.320(k)(2)(iii)

If the State intends to use HOME funds to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds, it must state its refinancing guidelines required under 24 CFR § 92.206(b).

TDHCA may use HOME funds to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds as described in 24 CFR § 92.206(b). TDHCA shall use its underwriting and evaluation standards, codified at 10 Texas Administrative Code, Chapter 1 and its HOME Program Rule at 10 Texas Administrative Code, Chapter 53, for refinanced properties in accordance with its administrative rules. At a minimum, these rules require the following:

- That rehabilitation is the primary eligible activity for developments involving refinancing of existing debt;
- No HOME funds will be used to refinance affordable housing developments that were constructed within the past 10 years.
- Sets a minimum funding level for rehabilitation on a per unit basis;

- Requires a review of management practices to demonstrate that disinvestments in the property has not occurred;
- That long term needs of the project can be met;
- That the financial feasibility of the development will be maintained over an extended affordability period;
- State whether new investment is being made to maintain current affordable units, and or create additional affordable units;
- Specifies the required period of affordability;
- Specifies that HOME funds may be used throughout the entire jurisdiction, except as TDHCA may be limited by the Texas Government Code; and
- States that HOME funds cannot be used to refinance multifamily loans made or insured by any Federal program, including CDBG.

CPD OUTCOME PERFORMANCE MEASUREMENT SYSTEM REPORTING

§91.320(c)(3), §91.3320(e), §91.320(g)

In accordance with the guidelines from HUD, TDHCA will comply with the new CPD Outcome Performance Measurement System. Compliance will be attained through the creation and development of additional tracking screens in TDHCA's central database to enable the Department to capture information needed for input into IDIS. HOME Program eligible activities will be categorized into the objectives and outcomes listed in the chart below. It is anticipated most HOME Program eligible activities will be categorized as Outcome #2 and Objective #2.

The estimated performance figures are based on planned performance during the Program Year (February 1st through January 31st) of contracts committed and projected households served. In contrast, the performance measures reported to the Texas Legislative Budget Board for the State Fiscal Year (September 1st through August 31st) are based on anticipated units and households at time of award. The HOME performance figures reported herein may include funding from several years as funds from previous years are deobligated and refunded.

OBJECTIVES	OUTCOME 1	OUTCOME 2	OUTCOME 3
OBJECTIVE #1 Suitable Living Environment	Enhance Suitable Living	Enhance Suitable Living	Enhance Suitable Living
	Environment Through	Environment Through	Environment Through
	Improved/New Accessibility	Improved/New Affordability	Improved/New Sustainability
OBJECTIVE #2 Decent Housing	Create Decent Housing with Improved/New Availability	Create Decent Housing with Improved/New Affordability (DH-2)	Create Decent Housing with Improved/New Sustainability
OBJECTIVE #3 Economic Opportunity	Provide Economic	Provide Economic	Provide Economic
	Opportunity Through	Opportunity Through	Opportunity Through
	Improved/New Accessibility	Improved/New Affordability	Improved/New Sustainability

HOME Program Performance Measures

Outcomes and Objectives	Performance Indicators	Expected Number
1)H-/	No. of rental units assisted through new construction and rehabilitation	524
DH-2	No. of tenant-based rental assistance units	223
1)H-7	No. of existing homeowners assisted through owner-occupied assistance	42
DH-2	No. of first-time homeowners assisted through homebuyer assistance	168

HOME Homeless and Special Needs Goals

ANNUAL AFFORDABLE HOUSING GOALS	Expected Annual Number of Units To Be Completed
Homeless households	50
Non-homeless households	500
Special needs households	350

HOMELESS ACTION PLAN: EMERGENCY SHELTER GRANT/EMERGENCY SOLUTIONS GRANT PROGRAM

FEDERAL RESOURCES EXPECTED PY 2012

TDHCA anticipates receiving \$7,185,228 for FY 2012 in combined Emergency Shelter Grant/Emergency Solutions Grant Program funds. HUD delayed the implementation of the Emergency Solutions Grants Program. The majority of the funds available for FY 2011 will be under the Emergency Shelter Grants Program. HUD plans to release the rules for the Emergency Solutions Grants Program in the fall of 2011.

RECIPIENTS

Recipients of ESGP funds are units of general local government and private nonprofit organizations.

ESTIMATED PY 2012 BENEFICIARIES

TDHCA expects to fund 63 projects in PY 2012 (See the ESGP Obligation Process later in this section). It is anticipated that four of the subrecipient organizations will be collaborative projects which combined will have approximately 12 partners. It is estimated that approximately 59,038 homeless persons or persons at risk of homelessness will be assisted in PY 2012.

Targeted Beneficiaries

The targeted beneficiaries are homeless individuals and individuals at risk of homelessness.

FUNDING DISTRIBUTION

§91.320(d) and (f)

TDHCA has administered ESGP since 1987. TDHCA will administer the S-094-DC-48-0001 ESGP funds in a manner consistent with the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. Sec 11371 et seq.). TDHCA will obligate PY 2011 ESGP funds through a statewide competitive application process. ESGP funds are reserved for each of the State's 13 Uniform State Service Regions based on the poverty population of each region taken from the 2000 US Census.

OBJECTIVES

§91.320(d)

The objectives of ESGP consist of the following:

- Help improve the quality of emergency shelters for the homeless.
- Make additional emergency shelters available.
- Help meet the costs of operating and maintaining emergency shelters.
- Provide essential services so that homeless individuals have access to the assistance they need to improve their situations.

Provide emergency intervention assistance to prevent homelessness.

The State's strategy to help homeless persons includes: community outreach efforts to ensure that homeless persons and persons at risk of homelessness are aware of available services, providing funding to support emergency shelter and transitional housing programs, helping homeless persons make the transition to permanent housing and independent living through comprehensive case management, and supporting other efforts to address homelessness. This strategy is outlined below.

Helping low income families avoid becoming homeless

TDHCA awards ESGP funds using the competitive process described in the ESGP One-Year Action Plan. In that process, up to 30 percent of the State's ESGP annual allocation is made available to support homelessness prevention activities, and up to 30 percent of the ESGP annual allocation is made available to provide essential services. Homelessness prevention efforts include short-term rent and utility assistance for homeless individuals and families and, if they meet certain criteria, those who are at-risk of losing their housing.

Applicants for ESGP funding are required to demonstrate coordination with other providers in their communities as part of the ESGP scoring criteria. ESGP grant recipients are encouraged to maximize all community resources when providing homelessness prevention assistance to ensure the appropriate use of these limited resources.

Reaching out to homeless persons and assessing their individual needs

Each application for ESGP funding includes information about the case management system used by the applicant organization.

Each application for ESGP funding includes a description of services provided to homeless persons. This description is evaluated during the application review process as a criterion for receiving ESGP funding.

ESGP grant recipients will be required to report on outcomes achieved by homeless persons assisted. Reporting on outcomes will provide TDHCA with information on the long-term impact of the services provided such as the attainment of transitional housing or permanent housing, obtaining a GED or high school diploma or the achievement of other education and training goals, obtaining job skills, job placement, etc.

Addressing the emergency shelter and transitional housing needs of homeless persons

ESGP grants provide support to organizations that provide emergency services, shelter, and transitional housing to homeless persons and families.

To ensure equitable distribution of funding, a portion of the ESGP allocation is reserved for each of the 13 regions in the State on the basis of the poverty population in each region. TDHCA expects to fund 63 projects in PY 2012. (See the ESGP Obligation Process later in this section.)

Helping homeless persons make the transition to permanent housing

ESGP funds can be used to pay rent and utility deposits as well as first month's rent for homeless individuals making the transition to permanent housing.

TDHCA will require ESGP sub-recipients that are performing construction or rehabilitation to submit a Section 3 report. Such report enumerates low-income persons hired and trained as a result of the construction activity. Contracts using Section 3-covered funds will include the Section 3 Clause (24 CFR §135.38) as a certification signifying compliance. The TDHCA web site contains compliance guidance and public notification of economic opportunities.

Supporting other efforts to address homelessness

The State has contracted with an organization to provide technical assistance in FY 2011 to rural homeless coalitions representing approximately 182 Texas counties and will support the State's effort to assist rural communities in their efforts to access federal CoC funds and that are interested in being part of the State's application for Continuum of Care funds for the balance of State areas in the State. Types of technical assistance to be rendered include, but are not be limited to, homeless counts/surveys, compilation of a housing and services inventory, identification of housing gaps, and development of homeless discharge plan strategies for their area. Organizations receiving the technical assistance must be located in a Balance of State area and applying for Continuum of Care funds through the U.S. Department of Housing and Urban Development. The State has provided State General Revenue funds to the Texas Homeless Network (THN), the awardee of the RFP which the Department released in 2008, to provide the referenced technical assistance. The first year of funding began September 1, 2008 and is currently in its fourth year of funding. As a result of the technical assistance rendered by THN, to the annual applications submitted to HUD for Continuum of Care funds have been more competitive and have resulted in awards of over \$9 million.

ELIGIBLE ACTIVITIES

§91.320(d)

The provision of assistance to obtain and maintain housing and the provision of funding to support the maintenance and operation of shelters help meet the priority needs of providing emergency shelter and transitional housing to very low-income individuals.

ESGP funds may be used for the following eligible activities:

- (1) Renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters for the homeless.
- (2) Provision of essential services, including, but not limited to, the following:
 - (A) Assistance in obtaining permanent housing
 - (B) Medical and psychological counseling and supervision
 - (C) Employment counseling
 - (D) Nutritional counseling
 - (E) Substance abuse treatment and counseling

(F) Assistance in obtaining other federal, state, and local assistance

- (G) Other services such as child care, transportation, job placement, and job training
- (H) Staff salaries necessary to provide the above services

These services may be provided only pursuant to Sec. 414 of the McKinney Act as amended by Sec. 832 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Sec. 11374), which requires that services funded with ESGP must be provided in a nondiscriminatory manner.

- (3) Payment of maintenance, operation, and furnishings costs, except that not more than 10 percent of the amount of any ESGP grant may be used to pay operation staff costs.
- (4) Developing and implementing homeless prevention activities as per Sec. 414 of the McKinney Act as amended by Sec. 832 of the Cranston-Gonzalez National Affordable Housing Act.

Recipient Requirements

Recipients of ESGP funding are required to meet certain minimum specifications that include, but are not limited to, the following:

- (1) Being a unit of general local government or private nonprofit organization.
- (2) Documenting, in the case of a private nonprofit organization, that the proposed project has the approval of the city, county, or other unit of local government in which the project will operate.
- (3) Providing for the participation of homeless or formerly homeless individuals on their board of directors or other policy-making entity.
- (4) Assuring that ESGP subrecipients obligate funds within 180 days from the date that TDHCA received the award letter from HUD.
- (5) Documentation of fiscal accountability, as specified in the application.
- (6) Proposing to undertake only eligible activities.
- (7) Demonstrating need.
- (8) Assuring ability to provide matching funds.
- (9) Demonstrating effectiveness in serving the homeless, including the ability to establish, maintain, and/or improve the self-sufficiency of homeless individuals.
- (10) Assuring that homeless individuals will be involved in the provision of services funded through ESGP, to the maximum extent feasible, through employment, volunteerism, renovating, maintaining or operating facilities, and/or providing direct services to occupants of facilities assisted with ESGP funds.
- (11) Assuring the operation of an adequate, sanitary, and safe homeless facility.
- (12) Assuring that it will administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

- (13) Assuring that it will develop and implement procedures to ensure the confidentiality of records of any individual receiving assistance as a result of family violence.
- (14) Proposing a sound plan consistent with the State of Texas Consolidated Plan, the McKinney-Vento Homeless Assistance Act, and all other assurances and certifications.
- (15) Assuring the participation in the development and implementation, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of person from publicly funded institutions and systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) to prevent such discharge from immediately resulting in homelessness for such persons. ESGP funds are not to be used to assist such persons in place of State and local resources.
- (16) Assuring that it will meet HUD's standards for participation in a local Homeless Management Information System and the collection and reporting of client-level information.
- (17) Any renovation carried out with ESGP assistance shall be sufficient to ensure that the building involved is safe and sanitary, and the renovation will assist homeless individuals in obtaining:
 - (A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
 - (B) other federal, state, local, and private assistance available for such individuals.

FUND OBLIGATION PROCESS

§91.320(k)

TDHCA will obligate PY 2012 ESGP funds to units of general local government or to private nonprofit organizations which have local government approval to operate a project which assists homeless individuals. TDHCA will evaluate all applications received and award funds in accordance with the application specifications. This Statewide competitive application process will allow ESGP funds to be distributed equitably.

The State's anticipated ESGP allocation for PY 2012 is \$7,185,228 less 7.5 percent (\$538,892) for State administration costs of which approximately \$4,000 will be shared with subrecipient organizations which are units of general local government. TDHCA reserves ESGP funds for each of the 13 Uniform State Service Regions. Funds are reserved for each region in direct proportion to the percentage of poverty population that exists in each region according to the most recent county Census data. Applicants compete only against other applicants in their Uniform State Service Region.

TDHCA is statutorily required by the Texas Government Code to provide a comprehensive statement on its activities during the preceding year through a document called the State of Texas Low Income Housing Plan and Annual Report. Part of this document describes the ethnic and racial composition of families and individuals applying for and receiving assistance from each housing-related program operated by TDHCA.

TDHCA issues a notice of funding availability (NOFA) and posts an application to its website. Applications are also provided directly to any organization or individual upon request. The applications

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are reviewed using a standardized review instrument. A variety of factors, as per the application instructions, are evaluated and scored to determine each application's merit in identifying and addressing the needs of the homeless population, as well as the organization's capacity to carry out the proposed project.

The top scoring applications in each region will be recommended for funding based on the amount of funds reserved for each region. All available ESGP funds are obligated each year through 12-month contracts.

APPLICABLE FEDERAL AND STATE REGULATIONS

- 24 CFR 576 as amended:
- Title IV, Subtitle B of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. sec, 11371 et seq.)
- 10 Texas Administrative Code, Chapter 5, Subchapter C.
- 24 CFR 135, also known as Section 3*

*Section 3 requires certain recipients of HUD financial assistance to provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their communities. Grant recipients rehabilitating or constructing homeless shelters with ESGP funds will be required to submit a Section 3 report. TDHCA will require subrecipients that receive Section 3-covered assistance to take actions to meet Section 3 requirements.

LEVERAGING RESOURCES

Section 576.51 of the ESGP regulations state that each grantee must match the funding provided by HUD. Match resources must be provided after the date of the ESGP grant award and must be provided in an amount equal to or greater than the ESGP grant award. Resources used to match a previous grant may not be used to match a subsequent award. Sources of match may include, but are not limited to, unrestricted funds from the grant recipient, volunteer hours, the value of donated materials or buildings, or the fair market rent or lease value of a building used to provide services to the homeless population. Each applicant must identify the source and amount of match they intend to provide if they are selected for funding and may report monthly on the amount of match provided. ESGP monitors review the match documentation during each on-site monitoring visit. A desk review is completed at the closeout of each contract to ensure, among other things, that each ESGP recipient has provided an adequate amount of match during the contract period.

SPECIAL INITIATIVES AND PARTNERSHIPS

TDHCA is the lead agency in the Texas Interagency Council for the Homeless. This Council is charged with surveying and evaluating services for the homeless in Texas, assisting in the coordination and provision of services to homeless person throughout the State, increasing the flow of information among service providers and appropriate authorities, developing guidelines to monitor services to the homeless, providing technical assistance to the housing finance division of TDHCA in assessing housing needs for persons with special needs, establishing a central resource and information center for the

Emergency Shelter Grant Program

State's homeless population, and developing a strategic plan to address the needs of the homeless in cooperation with TDHCA and the Health and Human Services Commission.

TDHCA also supports activities that address homelessness, including providing technical assistance to develop and strengthen homeless coalitions throughout Texas, distributing a Statewide bimonthly newsletter on homelessness, maintaining an information resource center, workshops, sponsoring an annual Statewide conference on homeless issues, and the provision of training and technical assistance to organizations interested in being part of the State's application for Continuum of Care funds for the balance of State areas in the State.

CPD OUTCOME PERFORMANCE MEASUREMENT SYSTEM REPORTING

§91.320(c)(3), §91.320(e), §91.320(g)

ESGP began reporting using the HUD CPD Outcome Performance Measurement System on September 1, 2006, with the implementation of the 2006 ESGP contracts. TDHCA will continue to utilize this reporting system in 2012. In 2007, the HUD CPD Outcome Performance Measurement System became automated whereby subrecipients began to report performance data via a Web based application. TDHCA's monthly performance reports have been amended to include changes in reporting requirements required by HUD and to gather data on persons assisted with services which are outcome oriented and have a long-term impact. ESGP activities related to renovation/rehabilitation, essential services, maintenance, operations, and furnishings will fall under HUD's Outcome 1, Availability/Accessibility, and Objective 1, Create a Suitable Living Environment (SL-1). ESGP activities related to homelessness prevention will be reported under HUD's Outcome 1, Affordability and Objective 2, Provide Decent Housing (DH-2).

ESGP Annual Action Plan Planned Project Results

	Outcomes and Objectives	Performance Indicators	Expected Number	Activity Description
•	SL-1 Availability/ Accessibility and Create a Suitable Living Environment	Accessibility for the purpose of creating a suitable living environment.	19,482	Provide funding to support the provision of emergency and/or transitional shelter to homeless persons.
	DH-2 Affordability and Provide Decent Housing	Affordability for the purpose of providing decent housing.	39,556	The provision of non-residential services including homelessness prevention assistance.

ESGP Homeless and Special Needs Goals

ANNUAL AFFORDABLE HOUSING GOALS	Expected Annual Number of Units To Be Completed
Homeless households	755*
Non-homeless households	22,860*
Special needs households	40*

^{*}These numbers are estimates; ESGP collects data on persons not households.

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ESGP only provides rental assistance and assists households who are facing foreclosure, but cannot be utilized to purchase a home. Consequently, ESGP does not impact the number of properties that are affordable. ESGP funds are utilized to assist all homeless persons and persons at-risk of homelessness.

TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM 2012 ACTION PLAN

[Per Senate Bill 1 of the 82nd Texas Legislative Session, the Texas Department of Rural Affairs' duties will be transferred to the Texas Department of Agriculture effective October 1, 2011. This Action Plan will be edited to reflect the change in the Community Development Block Grant Program administration after October 1, 2011.]

I. PROGRAM YEAR 2012 GENERAL PROGRAM INFORMATION

A. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ADMINISTRATION

The Texas Department of Rural Affairs (TDRA) administers the State of Texas Community Development Block Grant Program (CDBG), called the Texas Community Development Block Grant Program (Texas CDBG). The Texas Department of Agriculture (TDA) administers the Texas Capital Fund through an interagency agreement between TDRA and TDA. The Tx CDBG will continue to fund the Colonia Self-Help Centers Fund but administration of that program will remain with the Texas Department of Housing and Community Affairs (TDHCA) Office of Colonia Initiatives through a Memorandum of Understanding between TDRA and TDHCA.

The mission of the Texas Department of Rural Affairs is to enhance the quality of life for rural Texans.

B. ELIGIBLE APPLICANTS

§91.320(k)

Eligible applicants are nonentitlement general purpose units of local government including cities and counties that are not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program (CDBG). Nonentitlement cities that are not participating in urban county programs through existing participation agreements are eligible applicants (unless the city's population is counted towards the urban county CDBG allocation).

Nonentitlement cities are located predominately in rural areas and are cities with populations less than 50,000 persons; cities that are not designated as a central city of a metropolitan statistical area; and cities that are not participating in urban county programs. Nonentitlement counties are also predominately rural in nature and are counties that generally have fewer than 200,000 persons in the nonentitlement cities and unincorporated areas located in the county.

Hidalgo County, a designated CDBG urban county, is eligible to receive assistance under the Texas Community Development Block Grant (Tx CDBG) Program Colonia Fund (and each fund category included under the Colonia Fund).

Counties eligible under both the Tx CDBG Colonia Fund and the Texas Water Development Board's Economically Distressed Areas Program (EDAP) are eligible under the Tx CDBG Colonia Economically Distressed Areas Program Fund. Non-entitlement cities located within eligible counties that meet other eligibility criteria, including the geographic requirements of the Colonia Fund, are also eligible applicants for the Tx CDBG Colonia Economically Distressed Areas Program Fund.

With the enactment of §43.907 of the Texas Local Government Code, a colonia meeting specified requirements that is annexed by a municipality remains eligible for five years after the effective date of the annexation to receive any form of assistance for which the colonia would be eligible if the annexation had not occurred. This only applies to a colonia annexed by a municipality on or after September 1, 1999.

C. ELIGIBLE ACTIVITIES

§91.320(d) and (e)

Eligible activities under the Texas Community Development Block Grant Program are listed in 42 U.S.C Section 5305. The Tx CDBG staff reviews all proposed project activities included in applications for all fund categories, except the Texas Capital Fund, to determine their eligibility. The Texas Department of Agriculture determines the eligibility of activities included in Texas Capital Fund applications.

All proposed activities must meet one of the following three National Program Objectives:

- 1. principally benefit low- and moderate-income persons; or
- 2. aid in the elimination of slums or blight; or
- 3. meet other community development needs of particular urgency which represent an immediate threat to the health and safety of residents of the community

Area benefit can be used to qualify street paving projects. However, for street paving projects that include multiple and non-contiguous target areas, each target area must separately meet the principally benefit low and moderate income national program objective. At least fifty-one percent (51%) of the residents located in each non-contiguous target area must be low and moderate income persons. A target area that does not meet this requirement cannot be included in an application for Tx CDBG funds. The only exception to this requirement is street paving eligible under the Disaster Relief/Urgent Need Fund.

D. INELIGIBLE ACTIVITIES

In general, any type of activity not described or referred to in 42 U.S.C Section 5305 is ineligible. Specific activities ineligible under the Texas Community Development Block Grant Program are:

- 1. construction of buildings and facilities used for the general conduct of government (e.g. city halls, courthouses, etc.);
- 2. new housing construction, except as last resort housing under 49 CFR Part 24 or affordable housing through eligible subrecipients in accordance with 24 CFR 570.204;
- 3. the financing of political activities;
- 4. purchases of construction equipment (except in limited circumstances under the STEP Program);
- 5. income payments, such as housing allowances; and
- 6. most operation and maintenance expenses (including smoke testing, televising/videotaping line work, or any other investigative method to determine the overall scope and location of the project work activities)

The Texas Capital Fund (TCF) will not accept applications in support of public or private prisons, racetracks and projects that address job creation/retention through a government supported facility. The Texas Capital Fund Program may be used to financially assist/facilitate the relocation of a business when certain requirements, as defined in the application guidelines, are met.

E. PRIMARY BENEFICIARIES

The primary beneficiaries of the Texas Community Development Block Grant Program are low to moderate income persons as defined under the U.S. Department of Housing and Urban Development (HUD) Section 8 Assisted Housing Program (Section IO2(c)). Low income families are defined as those earning less than 50 percent of the area median family income. Moderate income families are defined as those earning less than 80 percent of the area median family income. The area median family can be based on a metropolitan statistical area, a non-metropolitan county, or the statewide non-metropolitan median family income figure.

F. DISPLACEMENT OF PERSONS ASSISTED

Applicant localities must certify that they will minimize the displacement of persons as a result of activities assisted with Texas Community Development Block Grant Program grant funds.

II. ALLOCATION OF CDBG FUNDS

91.320(d) and (f)

A. AVAILABLE FUND CATEGORIES

Assistance is available in six funding categories and two pilot programs under the Texas Community Development Block Grant Program as indicated below:

Funds:

- 1. Community Development Fund
- 2. Texas Capital Fund
- 3. Colonia Fund
 - 3a. Colonia Planning and Construction Fund
 - 3b. Colonia Economically Distressed Areas Program Legislative Set-Aside
 - 3c. Colonia Self-Help Centers Legislative Set-Aside
 - 3d. Colonias to Cities Initiative Program
- 4. Planning and Capacity Building Fund
- 5. Disaster Relief/Urgent Need Fund
- 6. Tx CDBG STEP Fund

PILOT PROGRAMS:

RENEWABLE ENERGY DEMONSTRATION PILOT PROGRAM COMMUNITY FACILITIES FUND

B. DESCRIPTION OF FUNDS

1. Community Development Fund

This fund is available on a biennial basis for funding from program years 2011 and 2012 through a 2011 annual competition in each of the 24 State planning regions. Applications received by the 2011 program year application deadline are selected to receive grant awards from the 2011 and 2012 program year allocations. The scoring of the applications is shared between TDRA and the 24 Regional Review Committees (RRC), with the RRC having the predominate percentage of the total possible score.

Regional Priority Set-asides: Housing and Non-Border Colonia projects - Each Regional Review Committee (RRC) is encouraged to allocate a percentage or amount of its Community Development

Fund allocation to housing projects and, for RRCs in eligible areas, non-border colonia projects proposed in and for that region. Under a set-aside, the highest ranked applications for a housing or non-border colonia activity, regardless of the position in the overall ranking, would be selected to the extent permitted by the housing or non-border colonia set-aside level. If the region allocates a percentage of its funds to housing and/or non-border colonia activities and applications conforming to the maximum and minimum amounts are not received to use the entire set-asides, the remaining funds may be used for other eligible activities. (Under a housing and/or non-border colonia set-aside process, a community would not be able to receive an award for both a housing or non-border colonia activity and an award for another Community Development activity during the biennial process. Housing projects/activities must conform to eligibility requirements in 42 U.S.C Section 5305 and applicable HUD regulations.)

The Tx CDBG encourages the use of funds not only to improve existing locations but to provide facilities in other areas to accommodate residential opportunities that will benefit low and moderate income persons. Applicants are encouraged to provide for infrastructure and housing activities that will improve opportunities for low and moderate income persons. When considering projects and designing projects, applicants must continue to consider affirmatively furthering fair housing, which includes providing basic infrastructure, such as water, sewer, and roads that benefit residential housing and other housing activities.

Funds for projects under the Community Development Fund are allocated among the 24 State planning regions based on the following:

REGIONAL ALLOCATION METHOD

The original CD formula is used to allocate 40 percent of the annual State CDBG allocation; and the HUD formula is used to allocate 21.71 percent of the annual State CDBG allocation.

Original CD formula (40%) factors:

a.	Non-Entitlement Population	30%
b.	Number of Persons in Poverty	25%
C.	Percentage of Poverty Persons	25%
d.	Number of Unemployed Persons	10%
e.	Percentage of Unemployed Persons	10%

To the extent possible, the information used to calculate the regional allocations through these factors will be based on the eligible nonentitlement applicants within each region. The population and poverty information used is from the current available decennial census data. The unemployment information used is the current available annual average information.

HUD formula (21.71%) - the formula is the same methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs. The HUD factors, percentages, and methodology are specified in 42 U.S.C. 5306(d). The Tx CDBG will use available data to calculate the allocations to each region.

Using the HUD methodology, the allocation for each region shall be the greater of an amount that bears the same ratio to the allocation for all 24 regions available as either:

(A) the average of the ratios between:

 the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time - 25% weight);

- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted two times - 50% weight); and
- the extent of housing overcrowding in the nonentitlement areas in that region and the extent of housing overcrowding in the nonentitlement areas of all 24 regions (counted one time - 25% weight);

OR

(B) the average of the ratios between:

- the age of housing in the nonentitlement areas in that region and the age of housing in the nonentitlement areas in all 24 regions (counted two and one half times 50% weight);
- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted one and one half times 30% weight); and
- the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time 20% weight).

The Tx CDBG will continue to involve the non-entitlement communities and the public in a review of the regional allocation formula through public hearings, meetings of the TDRA board, Task Forces, and input from the State Community Development Review Committee, Regional Councils of Governments, local and state government officials, and other interested parties.

Some regions in the State have a small number of eligible applicants and these regions may receive regional allocations large enough to allow each eligible applicant in that region to apply for an equal share of the regional allocations. The share available to each eligible applicant in the region may amount to an equal share based on the number of eligible applicants and the 2011 and 2012 regional allocations for that region. Or the share available to each eligible applicant in the region may be based on an allocation formula used by the region to allocate the funds available through the 2011 and 2012 regional allocations for the region. Each applicant in one of these regions must meet all state and federal eligibility requirements including but not limited to Tx CDBG applicant threshold requirements, federal requirements for eligible activities, and federal requirements that each activity in an application meet one of the three national program objectives. Applicants in these regions are scored by the Regional Review Committees and the Tx CDBG staff in accordance with the established Community Development Fund selection criteria. The total score received by each applicant in these regions determines if the applicant receives funding from the 2011 regional allocation or 2012 regional allocation. Depending on the State of Texas' CDBG allocations for the 2011 and 2012 program years, there could be a large variance between the 2011 and 2012 regional allocations. If the 2012 regional allocation for one of these regions decreases significantly from the 2011 regional allocation, then the total scores received by applicants in these regions could in fact prevent some of the applicants from receiving funds from the 2012 regional allocation.

A significant increase or decrease to the State's 2012 Program Year CDBG allocation would result in corresponding increases or decreases to the current Program Year Community Development Fund allocation and correspondingly higher or lower regional allocations.

Non-border colonia projects – available to eligible county applicants for projects in severely distressed unincorporated areas located farther than 150 miles from the Texas-Mexico border and non-entitlement counties, or portions of counties, within 150 miles of the Texas-Mexico border that are not eligible for the Colonia Fund because they are located in a standard metropolitan statistical area that has a population exceeding 1,000,000, as specified the Cranston-Gonzalez National Affordable Housing Act. Non-border colonia areas would be an identifiable unincorporated community that is determined to be colonia-like on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990).

Applicants must demonstrate they are adequately addressing water supply and water conservation issues (in particular contingency plans to address drought-related water supply issues), as described in the application guidance.

Applications requesting funds for projects other than water and sewer must include a description of how the applicant's water and sewer needs would be met and the source of funding that would be used to meet these needs.

2. Texas Capital Fund

This economic development funding is used for projects that will create or retain permanent employment opportunities, primarily for low to moderate income persons, and for county economic and management development activities. Responsibility for this fund is contracted to the Texas Department of Agriculture through an interagency agreement. The funds may be used to provide financial assistance for eligible activities as cited in 42 U.S.C Section 5305, including the following activities.

- a. Infrastructure improvements to assist a for-profit entity or a non-profit entity.
- b. Acquisition of real property or to acquire, construct, reconstruct, or rehabilitate public facilities to assist a for-profit entity.
- c. Infrastructure improvements to assist Texas Main Street Program designated municipalities.
- d. Downtown Revitalization Program that is designed to foster and stimulate economic development in downtown areas by providing financial assistance for public improvements to non-entitlement cities. This program encourages the elimination of slum and blighted areas by targeting the renovation and/or construction of sidewalks, lighting, drainage and other infrastructure improvements in downtown areas. Communities eligible for the Texas Main Street Program are not eligible for the Downtown Revitalization Program.
- e. County economic and management development activities as approved by TDRA. Not more than five percent (5%) of the Texas Capital Fund allocation may be used for these activities. Section 487.352I of the Texas Government Code requires TDRA to "allocate not more than five percent of the funds allocated to the Department of Agriculture under the Texas Capital Fund to be used for county economic and management development." TDRA will review activities proposed for this assistance and determine if the activities are consistent with the federal law governing the CDBG program.

- f. Assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that:
 - (1) creates or retains jobs for low- and moderate-income persons;
 - (2) prevents or eliminates slums or blight;
 - (3) meets urgent needs;
 - (4) creates or retains businesses owned by community residents;
 - (5) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or
 - (6) provides technical assistance to promote any of the activities under subparagraphs (1) through (5).

The Texas Capital Fund program will require repayment for Real Estate and Infrastructure projects, as follows:

- a. Real Estate Development (including improvements to the business site) projects require full repayment with no interest accruing; and
- b. Infrastructure Program (awards for infrastructure or railroad improvements on private property require full repayment with no interest accruing).

3. Colonia Fund

This fund is available to eligible county applicants for projects in severely distressed unincorporated areas which meet the definition as a "colonia" under this fund. Scoring of all the selection criteria for Colonia Fund applications is completed by Tx CDBG staff. The term "colonia" means any identifiable unincorporated community that is within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000; and that is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990). Except for fund categories where additional restrictions apply, a county can only submit applications on behalf of eligible colonia areas located within 150 miles of the Texas-Mexico border region, except that any county that is part of a standard metropolitan statistical area with a population exceeding 1,000,000 is not eligible under this fund.

3a. Colonia Planning and Construction Fund

The allocation is available on a biennial basis for funding from program years 2011 and 2012 through a 2011 annual competition. Applications received by the 2011 program year application deadline are eligible to receive grant awards from the 2011 and 2012 program year allocations. Funding priority shall be given to Tx CDBG applications from localities that have been funded through the Texas Water Development Board Economically Distressed Areas Program (TWDB EDAP) where the Tx CDBG project will provide assistance to colonia residents that cannot afford the cost of service lines, service

connections, and plumbing improvements associated with access to the TWDB EDAP-funded water or sewer system.

An eligible county applicant may submit one (1) application for the following eligible construction activities:

- (1) <u>Assessments for Public Improvements</u> The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low- and moderate-income to recover the capital cost for a public improvement.
- (2) <u>Other Improvements</u> Other activities eligible under 42 U.S.C Section 5305 designed to meet the needs of colonia residents.

A colonia construction application must include an assessment of the effect of the Model Subdivision Rules established pursuant to §16.343 of the Water Code and enforcement actions throughout the county and provide the colonia identification number for the colonias that would receive the project benefit.

Colonia Planning Component

A portion of the funds will be allocated to two separate biennial competitions for applications that include planning activities targeted to selected colonia areas – (Colonia Area Planning activities), and for applications that include countywide comprehensive planning activities (Colonia Comprehensive Planning activities). Applications received by the 2011 program year application deadline are eligible to receive a grant award from the 2011 and 2012 program year allocations.

In order to qualify for the Colonia Area Planning activities, the county applicant must have a Colonia Comprehensive Plan in place that prioritizes problems and colonias for future action. The targeted colonia must be included in the Colonia Comprehensive Plan.

A Colonia Planning activities application must receive a minimum score for the Project Design selection factor of at least 70 percent of the maximum number of points allowable under this factor to be considered for funding.

(1) Colonia Area Planning Activities

An eligible county may submit an application for eligible planning activities that are targeted to one or more colonia areas. Eligible activities include:

- Payment of the cost of planning community development (including water and sewage facilities) and housing activities;
- Costs for the provision of information and technical assistance to residents of the area in which
 the activities are located and to appropriate nonprofit organizations and public agencies acting
 on behalf of the residents;
- Costs for preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans, and
- For any colonia in close proximity to a city, a plan that if implemented could lead to annexation of the colonia by the city.

(2) Colonia Comprehensive Planning Activities

To be eligible for these funds, a county must be located within 150 miles of the Texas-Mexico border. The applicant's countywide comprehensive plan will provide a general assessment of the colonias in the county, but will include enough detail for accurate profiles of the county's colonia areas. The prepared comprehensive plan must include the following information and general planning elements:

- Verification of the number of dwellings, number of lots, number of occupied lots, and the number of persons residing in each county colonia
- Mapping of the locations of each county colonia
- Demographic and economic information on colonia residents
- The physical environment in each colonia including land use and conditions, soil types, and flood prone areas
- An inventory of the existing infrastructure (water, sewer, streets, drainage) in each colonia and the infrastructure needs in each colonia including projected infrastructure costs
- The condition of the existing housing stock in each colonia and projected housing costs
- A ranking system for colonias that will enable counties to prioritize colonia improvements rationally and systematically plan and implement short-range and long-range strategies to address colonia needs
- Goals and Objectives
- Five-year capital improvement program
- An assessment of the effect of the Model Subdivision Rules established pursuant to §16.343 of the Water Code and enforcement actions throughout the county
- For any colonia in close proximity to a city, a plan that if implemented could lead to annexation
 of the colonia by the city

Colonia Planning Component funds may be used for planning purposes under the Colonias to Cities Initiative.

3b. Colonia Economically Distressed Areas Program (CEDAP) Legislative Set-aside

The allocation is distributed on an as-needed basis. Eligible applicants are counties, and nonentitlement cities located in those counties, that are eligible under the Tx CDBG Colonia Fund, including meeting the geographic requirements, and Texas Water Development Board's Economically Distressed Areas Program (TWDB EDAP). Eligible projects shall be located in unincorporated colonias; in colonias located in eligible nonentitlement cities that annexed the colonia and the application for improvements in the colonia is submitted within five (5) years from the effective date of the annexation; or in colonias located in eligible nonentitlement cities where the city is in the process of annexing the colonia where the improvements are to be made.

Eligible applicants may submit an application that will provide assistance to colonia residents that cannot afford the cost of service lines, service connections, and plumbing improvements associated with being connected to a TWDB EDAP-funded water and sewer system improvement project. An application cannot be submitted until the construction of the TWDB EDAP-funded water or sewer system begins.

Eligible program costs include water distribution lines and sewer collection lines providing connection to water and sewer lines installed through the Texas Water Development Board's Economically Distressed Areas Program (when approved by the Tx CDBG), taps and meters (when approved by the Tx CDBG), yard service lines, service connections, plumbing improvements, and connection fees, and other eligible

approved costs associated with connecting an income-eligible family's housing unit to the TWDB improvements.

An applicant may not have an existing CEDAP contract open in excess of 48 months and still be eligible for a new CEDAP award. (In accordance with program rule, an applicant may submit one application within a program year.)

If there are an insufficient number of TWDB EDAP projects ready for Colonia Economically Distressed Areas Program (CEDAP) funding, the CEDAP funds may be transferred as appropriate.

3c. Colonia Self-Help Centers Legislative Set-aside

In accordance with Subchapter Z, Chapter 2306, Government Code, and Title 10, Texas Administrative Code, Part 1, Chapter 3, TDHCA has established self-help centers in Cameron County, El Paso County, Hidalgo County, Starr County, and Webb County. If deemed necessary and appropriate, TDHCA may establish self-help centers in other counties (self-help centers have been established in Maverick County and Val Verde County) as long as the site is located in a county that is designated as an economically distressed area under the Texas Water Development Board Economically Distressed Areas Program (EDAP), the county is eligible to receive EDAP funds, and the colonias served by the center are located within 150 miles of the Texas-Mexico border.

The geographic area served by each self-help center is determined by TDHCA. Five (5) colonias located in each self-help center service area are designated to receive concentrated attention from the center. Each self-help center sets a goal to improve the living conditions of the residents located in the colonias designated for concentrated attention within a two-year period set under the contract terms. TDHCA has the authority to make changes to the colonias designated for this concentrated attention.

The TDHCA grant contract for each self-help center must be executed with the county where the self-help center is located. TDHCA will enter into a Texas Community Development Block Grant Program contract with each affected county. Each county enters into a subcontract with a non-profit community action agency, a public housing authority, or a non-profit organization.

A Colonia Residents Advisory Committee was established and not fewer than five persons who are residents of colonias were selected from the candidates submitted by local nonprofit organizations and the commissioners' court of a county where a self-help center is located. One committee member shall be appointed to represent each of the counties in which a self-help center is located. Each committee member must be a resident of a colonia located in the county the member represents but may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a contract through the Texas Community Development Block Grant Program. The Advisory Committee shall advise TDHCA regarding:

- (1) the needs of colonia residents;
- (2) appropriate and effective programs that are proposed or are operated through the centers; and
- (3) activities that may be undertaken through the centers to better serve the needs of colonia residents.

The purpose of each center is to assist low income and very low income individuals and families living in colonias located in the center's designated service area to finance, refinance, construct, improve or maintain a safe, suitable home in the designated service area or in another suitable area. Each self-help center may serve low income and very low income individuals and families by:

- (1) providing assistance in obtaining loans or grants to build a home;
- (2) teaching construction skills necessary to repair or build a home;
- (3) providing model home plans;
- (4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;
- (5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets and utilities;
- (6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;
- (7) providing credit and debt counseling related to home purchase and finance;
- (8) applying for grants and loans to provide housing and other needed community improvements;
- (9) providing other eligible services that the self-help center, with TDHCA approval, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;
- (10) providing assistance in obtaining loans or grants to enable an individual or family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract;
- (11) monthly programs to educate individuals and families on their rights and responsibilities as property owners; and
- (12) providing access to computers, the internet, and computer training.

A self-help center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.

For any award made on or after September 1, 2005, any political subdivision that receives community development block grant program money targeted toward street improvement projects in eligible colonia areas must allocate not less than five percent but not more than 15 percent of the total amount of street improvement money to providing financial assistance to colonias within the political subdivision to enable the installation of adequate street lighting in those colonias if street lighting is absent or needed.

3d. Colonias to Cities Initiative

If there are an insufficient number of TWDB EDAP projects ready for Colonia Economically Distressed Areas Program (CEDAP) funding, the CEDAP funds may be transferred to the Colonias to Cities Initiative. This initiative will provide funding for basic infrastructure considered necessary for a colonia area to be annexed by an adjoining city. Priority would be for colonias that have received prior Tx CDBG funding. Both the county and city must submit a multi-jurisdictional pre-application for the project that includes a resolution from each jurisdiction. The city's resolution must include a firm commitment to annex the

colonia upon completion of the project. Multi-jurisdictional applications from the county and city would be accepted by invitation only after a thorough review of the pre-applications. Failure to annex the colonia may result in a requirement to repay the CDBG funding to Tx CDBG. The maximum amount provided would be \$500,000. (The Colonia Construction component scoring would be used to prioritize funding if needed. The Tx CDBG may establish other criteria in the application guidelines.)

In addition, the initiative may involve a planning component that would use the Colonia Area Planning activities guidelines.

4. Planning And Capacity Building Fund

This fund is available on a biennial basis to assist eligible cities and counties in conducting planning activities that assess local needs, develop strategies to address local needs, build or improve local capacity, or that include other needed planning elements (including telecommunications and broadband needs). All planning projects awarded under this fund must include a section in the final planning document that addresses drought-related water supply contingency plans and water conservation plans. Applications received by the 2011 program year application deadline are eligible to receive grant awards through a Statewide competition for funding from the 2011 and 2012 program year allocations.

A significant increase or decrease to the State's 2012 CDBG allocation may result in corresponding increases or decreases to the 2012 Planning and Capacity Building Fund allocations.

5. Disaster Relief/Urgent Need Fund

Disaster Relief assistance is available through this fund as needed for eligible activities in relief of disaster situations where either the Governor has proclaimed a state disaster declaration or the President has issued a federal disaster declaration. Tx CDBG may prioritize throughout the program year the use of Disaster Relief assistance funds based on the type of assistance or activity under consideration and may allocate funding throughout the program year based on assistance categories. Priority for the use of these Tx CDBG funds is for repair and restoration activities to meet basic human needs, such as water and sewer facilities, housing, and roads.

Urgent Need assistance is contingent upon the availability of funds for activities that will restore water or sewer infrastructure whose sudden failure has resulted in death, illness, injury, or pose an imminent threat to life or health within the affected applicant's jurisdiction. The infrastructure failure must not be the result of a lack of maintenance and must be unforeseeable. As an initial step, Tx CDBG undertakes an assessment of whether the situation is reasonably considered unforeseeable. An application for Urgent Need assistance will not be accepted by the Tx CDBG until discussions between the potential applicant and representatives of the Tx CDBG, the Texas Commission on Environmental Quality (TCEQ), and the Texas Water Development Board (TWDB) have taken place. Through these discussions, a determination shall be made whether the situation meets Tx CDBG Urgent Need threshold criteria; whether shared financing is possible; whether financing for the necessary improvements is, or is not, available from the TWDB; or that the potential applicant does, or does not, qualify for TWDB assistance. If Tx CDBG funds are still available, a potential applicant that meets these requirements will be invited to submit an application for Urgent Need funds.

To qualify for Disaster Relief funds:

- The situation addressed by the applicant must be both unanticipated and beyond the control of the local government.
- The problem being addressed must be of recent origin. For Disaster Relief assistance, this means that the application for assistance must be submitted no later than 12 months from the date of the Presidential or Governor's declaration.
- Under Disaster Relief, funds will not be provided under FEMA's Hazard Mitigation Grant Program
 for buyout projects unless Tx CDBG receives satisfactory evidence that the property to be
 purchased was not constructed or purchased by the current owner after the property site
 location was officially mapped and included in a designated flood plain area.
- Each applicant for these funds must demonstrate that adequate local funds are not available, i.e., the entity has less than six months of unencumbered general operations funds available in its balance as evidenced by the last available audit required by state statute, or funds from other state or federal sources are not available to completely address the problem.
- Tx CDBG will consider whether funds under an existing Tx CDBG contract are available to be reallocated to address the situation.
- The distribution of these funds will be coordinated with other state agencies.

To qualify for Urgent Need funds:

- The situation addressed by the applicant must not be related to a proclaimed state disaster declaration or a federal disaster declaration.
- The situation addressed by the applicant must be both unanticipated and beyond the control of the local government (e.g., not for facilities or equipment beyond their normal, useful life span).
- The problem being addressed must be of recent origin. For Urgent Need assistance, this means
 that the situation first occurred or was first discovered no more than 30 days prior to the date
 that the potential applicant provides a written request to the Tx CDBG for Urgent Need
 assistance. The Urgent Need Fund will not fund projects to address a situation that has been
 known for more than 30 days or should have been known would occur based on the applicant's
 existing system facilities.
- Each applicant for these funds must demonstrate that local funds or funds from other state or federal sources are not available to completely address the problem.
- The distribution of these funds will be coordinated with other state agencies.
- The infrastructure failure cannot have resulted from a lack of maintenance.
- Urgent Need funds cannot be used to restore infrastructure that has been cited previously for failure to meet minimum state standards.
- The infrastructure failure cannot have been caused by operator error.
- The infrastructure requested by the applicant cannot include back-up or redundant systems.
- Tx CDBG will consider whether funds under an existing Tx CDBG contract are available to be reallocated to address the situation.
- The Urgent Need Fund will not finance temporary solutions to the problem or circumstance.

Construction on an Urgent Need fund project must begin within ninety (90) days from the start date of the Tx CDBG contract. The Tx CDBG reserves the right to deobligate the funds under an Urgent Need Fund contract if the grantee fails to meet this requirement.

Each applicant for Urgent Need funds must provide matching funds. If the applicant's 2000 Census population is equal to or fewer than 1,500 persons, the applicant must provide matching funds equal to 10 percent of the Tx CDBG funds requested. If the applicant's 2000 Census population is over 1,500 persons, the applicant must provide matching funds equal to 20 percent of the Tx CDBG funds requested. For county applications where the beneficiaries of the water or sewer improvements are

located in unincorporated areas, the population category for matching funds is based on the number of project beneficiaries.

6. Tx CDBG STEP Fund

Funds will be available for grants on a competitive award basis to cities and counties to provide grant assistance to cities and communities recognizing the need and willingness to solve water and sewer problems through the Texas Small Towns Environment Program (STEP) self-help techniques. The program will accept applications two times a year and utilize a competitive process to evaluate, score and award these projects.

Cities and counties receiving 2011 and 2012 Community Development Fund grant awards for applications that did not include water, sewer, or housing activities are not eligible to receive a 2011 STEP Fund grant award. However, the Tx CDBG will give consideration to a city's or county's request to transfer funds (that are not financing basic human needs activities such as water, sewer, or housing activities) under a 2011 or 2012 Community Development Fund grant award to finance water and sewer activities that will be addressed through self-help.

The Texas STEP approach to solving water and sewer needs recognizes affordability factors related to the construction and operations/maintenance of the necessary water or sewer improvements and then initiates a local focus of control based on the capacity and readiness of the community's residents to solve the problem through self-help. By utilizing the community's own resources (human, material and financial), the necessary water or sewer construction costs, engineering costs, and related administration costs can be reduced significantly from the cost for the installation of the same improvements through conventional construction methods.

Tx CDBG staff will provide guidance, assistance, and support to community leaders and residents willing to use self-help to solve their water and sewer problems.

Eligible Activities

For the Tx CDBG STEP Fund eligible activities are limited to:

- the installation of facilities to provide first-time water or sewer service
- the installation of water or sewer system improvements
- ancillary repairs related to the installation of water and sewer systems or improvements
- the acquisition of real property related to the installation of water and sewer systems or improvements (easements, rights of way, etc.)
- sewer or water taps and water meters
- water or sewer yard service lines (for low and moderate income persons)
- water or sewer house service connections (for low and moderate income persons)
- plumbing improvements associated with providing water or sewer service to a housing unit
- water or sewer connection fees (for low and moderate income persons)
- rental of equipment for installation of water or sewer
- reasonable associated administrative costs
- reasonable associated engineering services costs

Ineligible Activities

 any activity not described in the preceding ELIGIBLE ACTIVITIES section is ineligible under the Tx CDBG STEP Fund unless the activity is approved by the Texas Community Development Block Grant Program

 temporary solutions, such as emergency inter-connects that are not used on an on-going basis for supply or treatment and back-ups not required by the regulations of the Texas Commission on Environmental Quality.

The Tx CDBG will not reimburse for force account work for construction activities on the STEP project.

Funding Cycle

Applications are accepted two times a year for Texas STEP Funding as long as funds are available. Funds will be divided among the two application periods. After all projects are ranked, only those that can be fully funded will be awarded a grant. There will be no marginally funded grant awards.

The Tx CDBG will not accept an application for STEP Fund assistance until Tx CDBG staff and representatives of the potential applicant have evaluated the self-help process and Tx CDBG staff determine that self-help is a feasible method for completion of the water or sewer project, the community is committed to self-help as the means to address the problem, and the community is ready and has the capacity to begin and complete a self-help project. If it is determined that the community meets all of the STEP criteria then an invitation to apply for funds will be extended to the community and the application may be submitted.

Threshold Criteria

The self-help response to water and sewer needs may not be appropriate in every community. In most cases, the decision by a community to utilize self-help to obtain needed water and sewer facilities is based on the community's realization that it cannot afford even a "no frills" water or sewer system based on the initial construction costs and the operations/maintenance costs (including debt service costs) for water or sewer facilities installed through conventional financing and construction methods.

The following are threshold requirements for the Texas STEP framework. Without all these elements the project will not be considered under the Texas STEP fund:

- 1) one or more sparkplugs (preferably three)—local leaders willing to both lead and sustain the effort;
- 2) readiness—local perception of the problem and the willingness to take action to solve it;
- 3) capacity— manpower including some skills required to solve the problem and operate applicable construction equipment;
- 4) 40% Savings off of retail price; and
- 5) must be performed predominately by community volunteer workers.

To be eligible for additional STEP awards, an applicant must have demonstrated to Tx CDBG management that its existing STEP contracts are currently being implemented on schedule in accordance with the applicable contracts and in accordance with any Tx CDBG-approved allowances.

Upon completion of the project, the award recipient will be required to certify that work was performed predominately by community volunteer workers and a minimum of 40 percent savings off of retail prices was maintained (or the savings percentage specified in the application if greater).

Some of the key points staff will review for these thresholds include but are not limited to the following:

1) one or more sparkplugs (preferably three)—local leaders willing to both lead and sustain the effort; Leaders that have been identified and agreed on by the community:

- at least two of the three sparkplugs must be residents and not local officials (local officials may serve as sparkplugs)
- one should be detailed enough to maintain the paperwork needed for the project
- one should have some knowledge or skills to lead the self-help effort
- And one can have a combination of these skills or just be the motivator and problem solver of the group

These are not absolutes but the best scenario for any project.

- 2) readiness—local perception of the problem and the willingness to take action to solve it:
 - a strong local perception of the problem
 - community perception that local implementation is the best and maybe only solution
 - · community has confidence that they can do it adequately
 - · community has no strong competing priority
 - local government is supportive and understands the urgency
 - public and private willingness to pay additional costs if needed (fees, hook-ups for churches, other)
 - · effort and attention have already been given to local assessment of the problem
 - enthusiastic, capable support by the community from the county or regional field staff of the regulatory agency
- 3) capacity—manpower including some skills required to solve the problem:
 - Skilled workers within the community (heavy equipment operation, pipe laying, electrician, plumber, engineer, water operator, construction skills)
 - List of Volunteers by task
 - Possible equipment in community (not a requirement)
 - Letters stating support from local businesses in form of donation of supplies or manpower
 - Letter from service provider supporting project and agreeing to provide service
 - CPA Letter documenting that the applying locality has financial and management capacity to compete project
- 4) 40% Savings off of retail price.

Documentation of the 40% savings off of the retail price:

- Two engineering break-outs of cost, one that shows the retail construction cost and another that shows the self-help cost and demonstrates the 40% savings
- Back-up documents of material quotes, pledges of equipment
- List of Volunteers by task
- Determination of appropriate technology and feasibility of project. (letter from engineer)

Pilot Programs:

Renewable Energy Demonstration Pilot Program (Using Deobligated and/or Program Income)

The Tx CDBG will develop a renewable energy pilot program funded solely through deobligated funds / program income for demonstration projects that employ renewable energy for at least 20% of the total energy requirements, (excluding the purchase of energy from the electric grid that was produced with renewable energy).

The priority will be for projects that are connected with providing public facilities to meet basic human needs such as water or waste water. It is anticipated that the projects funded would meet the National Objective of benefiting a "target area" where at least 51 percent of the residents are low and moderate

income persons, although the project would be allowed to qualify under other National Objective alternatives. The maximum amount of the project would be \$500,000 and the minimum would be \$50,000. The program may directly award additional funds to an existing contract as necessary for a complete and successful project.

The projects will be selected on the following basis (which are assigned points under Section IV(C)(6) of this Action Plan):

- (A) Type of Project: Primarily used in conjunction with providing public facilities to meet basic human needs such as water or waste water and/or benefit to low/moderate-income persons.
- (B) Innovative Technology/Methods A project that would demonstrate the application of innovative technology and/or methods.
- (C) Duplication in Other Rural Areas A project that could have widespread application (although it would not need to be applicable in every portion of the State.)
- (D) Long-term Cost/Benefit and Texas Renewable Energy Goals Projects that demonstrate long term cost/benefit analysis including benefits to the human environment and consistency with Texas renewable energy goals.
- (E) Partnership/Collaboration Projects that have a demonstrated partnership and collaboration with other entities focusing on promoting renewable energy including universities, funding agencies, associations, or businesses.
- (F) Leveraging projects with committed funds from other entities including funding agencies, local governments, or businesses percent of portion of total project receiving Tx CDBG funds is leveraged with other funds.
- (G) Location in Rural Areas Projects that benefit cities with populations under 10,000 or counties under 100,000.

Community Facility Fund

Purpose: The purpose of this community enhancement program is to provide one project to benefit a community in each of the 24 Councils of Governments (COG) regions over the PY 2011/2012 period and beyond if necessary based on available funding. This program is designed to sustain the smallest of the rural communities within Texas. The project must be a community facility project that would have the potential to benefit all citizens with the jurisdiction. It must not involve providing basic infrastructure nor be a recreational project, as determined by Tx CDBG staff. The project may include connections to existing infrastructure. (A community center could hold recreational activities or events within the facility.) The community facilities must provide a benefit that will enhance the overall quality of life in the rural community. (While the project to be funded may not be considered a recreational project, the design may provide for an incidental amount of recreational facilities that would be constructed using other sources of funding in another future phase. The initial phase funded under this program may not include construction of any recreational facilities.)

Amount available for each COG region and each award: \$250,000. If a city has as part of its application a resolution in support of the project from the county where it is located, the maximum application amount, and amount available to the region, will be \$300,000. (A county that meets the LMI percentage requirement that is submitting an application on its own behalf may receive up to \$300,000.) The Tx CDBG staff will select at random the initial regions that may apply in PY 2011. The

remaining regions would be the eligible applicants in PY 2012 and subsequent program years, if necessary based on available funding.

Source of funding: Funding will be provided from deobligated funds, program income, or other external sources.

Eligibility requirements: The applicant must meet the Low and Moderate Income (LMI) national objective for its entire jurisdiction (at least 51 percent LMI). The Tx CDBG may establish other national objective criteria. Additional requirements may be specified in the application. The applicant must demonstrate that it has the financial resources to sustain the operation and maintenance of the facility.

Pre-application: The applicant must submit a pre-application for initial eligibility determination. Application will be by invitation to those entities that meet the pre-application eligibility requirements. Additional details and requirements may be established in the pre-application and application.

C. ALLOCATION OF AVAILABLE FUNDS BY FUND CATEGORY

The U.S. Department of Housing and Urban Development has not yet announced the State's 2012 program year CDBG allocation. The State's 2012 allocation could be lower than the 2011 allocation of \$66,604,562.

The amount available for Tx CDBG assistance will be the 2012 State CDBG allocation amount plus an estimated \$2,500,000 in program income. Funds will be allocated according to the following percentages of the State's 2012 allocation upon the execution of the grant agreement with HUD:

,	0 0	
FUND	2011	AMOUNT
FUND	PERCENT	AVAILABLE
Community Development Fund	61.71 ¹	
Texas Capital Fund (TCF)	14.51	
Program Income from TCF		\$2,000,0004
Colonia Fund		
Colonia Planning and Construction Fund	7.00	
Colonia EDAP Legislative Set-aside	3.005	
Colonia Self-Help Centers Legislative Set-aside	2.50	
Planning And Capacity Building Fund	1.0	
Disaster Relief/Urgent Need Fund		
Disaster Relief	4.10	
Urgent Need	02	
Tx CDBG STEP Fund	3.03	
Administration	2.69	
Administration - \$100,000	0.15	
Technical Assistance	0.31	
Pilot Programs (Deobligated Funds/ Program Income):		
Renewable Energy Demonstration Pilot Program	0 3	
Communities Facilities Fund		
Other Program Income:		\$500,000
		1

Note: The percentages shown above are based on the State's actual 2011 allocation percentages. Changes to the above percentages may occur if the State's 2012 CDBG allocation is different than the 2011 allocation of \$66,604,562.

Deobligated funds/program income notes:

- Allocation to each region based on Section II (B)
- Deobligated funds and/or program income sufficient to replenish to \$1,000,000 is made available for the Urgent Need Fund on the first day of PY 2012. Based on a Tx CDBG Program determination of respective demand for financial assistance under the Urgent Need and Disaster Relief portions of the Disaster Relief/Urgent Need Fund, Urgent Need funds may be used for Disaster Relief projects.
- Deobligated funds and/or program income of \$500,000 is made available on the first day of PY 2012. The amounts for these fund categories may be adjusted during PY 2012 as needed.
- Used based on Section II (C)(a).
- May be transferred for the other projects benefitting Colonias if there are an insufficient number of EDAP-eligible projects ready for CEDAP connection funding.
- Deobligated funds and/or program income up to \$500,000 sufficient to provide for the timely expenditure initiative are made available on the first day of the Program Year.

Summary of Activities That Utilize 1% Technical Assistance Funding

Timely Expenditure Initiative - Pilot Program for the Community Development Fund

As a pilot program, the Tx CDBG will establish a program that provides an opportunity for the reimbursement of additional demonstrated costs incurred to complete the project activities earlier than the regular contract implementation schedule based on all of the following criteria.

At the 12-month point in the contract, the grant recipient must email Tx CDBG a certification statement informing Tx CDBG whether it has started construction on any contract activity. This certification statement must arrive prior to the end of the 12th month from the original contract start date;

All construction funded with Tx CDBG funds must be completed and 90 percent of the Tx CDBG budget must be requested from Tx CDBG for eligible costs with acceptable supporting documentation not later than 60 days earlier than the original contract end date;

The Tx CDBG will consider reimbursement of up to one percent (1%) of the Tx CDBG funds budgeted for construction and acquisition/relocation for additional demonstrated costs incurred to complete the project activities 60 days earlier than the original contract end date;

The opportunity to receive any additional reimbursement under this program will automatically end without any further action being necessary by either party to the Tx CDBG contract and it will no longer be possible to be considered regardless of circumstances for reimbursement of any additional costs under this program after a date 60 days prior to the end of the original contract period;

These funds cannot replace local funds already provided for activity delivery costs or local administration:

The reimbursement is contingent on available Tx CDBG funds at the time; and

Tx CDBG may use either annual allocation funds, deobligated funds, or program income to fund these additional costs incurred.

Examples of eligible costs include: additional contacts made with other entities involved in the Tx CDBG contract activities, additional monitoring of the status of the Tx CDBG-funded activities; attendance at additional meetings directly related to the Tx CDBG-funded activities, and other additional activity delivery costs.

Technical Assistance Performed Through the Community Development Program

The Texas Community Development Block Grant Program will conduct numerous on-site technical assistance visits funded with the one percent technical assistance (TA) set-aside approved by HUD. These visits will be conducted throughout the year when the Tx CDBG staff recognizes that assistance is needed at the local level or when assistance is requested by the grantees.

Tx CDBG Community Development staff, including TDRA field office staff, will visit localities that are preliminarily recommended for funding to verify information provided in the applications, to view the project sites, to distribute Project Implementation Manuals, and to provide technical assistance regarding the initial Tx CDBG project implementation procedures.

Other technical assistance visits will be conducted with TA funds for special cases dealing with investigations, compliance issues, and to help contractor localities comply with all program requirements.

The TA funds are utilized for a portion of staff salaries which allows Tx CDBG staff to provide greater one-on-one technical assistance to the small communities throughout the contract period.

The Texas Department of Agriculture is using technical assistance funds for on-site technical assistance on the Texas Capital Fund program.

The Texas Department of Housing and Community Affairs is using technical assistance funds for on-site technical assistance on the Colonia Self-Help Centers program.

The Tx CDBG is utilizing the technical assistance funds to introduce, facilitate, and provide community access to the Texas Small Towns Environment Program (Texas STEP) which targets water and wastewater needs. Staff visits localities that are interested in utilizing the Texas STEP method of self-help and provides technical assistance on the development of a financial framework, managing a self-help project and building capacity within a community through self-help.

The Tx CDBG may utilize the technical assistance funds to support Tx CDBG activities related to TDRA's disaster relief efforts. State efforts for response to disasters and the mitigation of the consequences of disasters have required that TDRA dedicate considerable resources for disaster recovery efforts.

In 2012, the Tx CDBG will use a portion of the technical assistance to provide outreach information regarding the CDBG program to local officials of non-entitlement cities and counties. The technical assistance will include information on the application process, program administration, and to improve their capacity to implement a CDBG program.

The technical assistance funds will also be used by each of the 24 State Planning Regions to provide non-project specific technical assistance to cities and counties that are eligible for Tx CDBG funds in each region.

The technical assistance funds may be used to support the operations of the border colonia technical assistance field offices.

The technical assistance funds may be used to support the operations of TDRA's technical assistance field offices in West Texas, South Texas (two offices), Central Texas, and East Texas and other TDRA Community Development-related field office activities.

Deobligated Funds, Unobligated Funds, and Program Income

(a) Deobligated funds, unobligated funds and program income generated by Texas Capital Fund projects shall be retained for expenditure in accordance with the Consolidated Plan. Program income derived from Texas Capital Fund projects will be used by the Tx CDBG for eligible Texas Community Development Block Grant Program activities in accordance with the Consolidated Plan.

Any deobligated funds, unobligated funds, program income, and unused funds from this year's allocation or from previous years' allocations derived from any Texas Community Development Block Grant Program Fund, including program income recovered from Texas Capital Fund local revolving loan funds, and any reallocated funds which HUD has recaptured from Small Cities may be redistributed among the established 2012 program year fund categories, for otherwise eligible projects. The selection of eligible projects to receive such funds is approved by the Executive Director and the TDRA Board on a priority needs basis with eligible disaster relief and urgent need projects as the highest priority, followed by, established priority uses within existing fund categories or programs, any awards necessary to resolve appeals under fund categories covered by Texas Administrative Code at 10 T.A.C., Part 6, Chapter 255.1(g), TCF projects, special needs projects, projects in colonias, housing activities, and other projects as determined by the Executive Director of TDRA. Other purposes or initiatives may be established as a priority use of such funds within existing fund categories or programs by the TDRA Board.

If a portion of the State's 2012 Community Development Block Grant allocation is rescinded by the federal government, or if the State's 2012 allocation differs significantly from the State's 2011 allocation, the Tx CDBG may make corresponding changes within the fund allocation percentages as required.

(b) Re-distribution of Funds Recaptured from Withdrawn Awards. Should the applicant fail to substantiate or maintain the claims and statements made in the application upon which the award is based, including failure to maintain compliance with application thresholds in Section III, F.(1) through

- F.(4), within a period ending 90 days after the date of the Tx CDBG's award letter to the applicant, the award will be immediately withdrawn by the Tx CDBG (excluding the colonia self-help center awards). Should the applicant fail to execute the Tx CDBG's award contract (excluding Texas Capital Fund and colonia self-help center contracts) within 60 days from the date of the letter transmitting the award contract to the applicant, the award will be withdrawn by the Tx CDBG. For an award that is withdrawn from an application, the Tx CDBG follows different procedures for the use of those recaptured funds depending on the fund category where the award is withdrawn.
- (1) Funds recaptured under the Community Development Fund from the withdrawal of an award made from the first year of the biennial funding are offered to the next highest ranked applicant from that region that was not recommended to receive an award from the first year regional allocation. Funds recaptured under the Community Development Fund from the withdrawal of an award made from the second year of the biennial funding are offered to the next highest ranked applicant from that region that was not recommended to receive full funding (the applicant recommended to receive marginal funding) from the second year regional allocation. Any funds remaining from the second year regional allocation after full funding is accepted by the second year marginal applicant are offered to the next highest ranked applicant from the region as long as the amount of funds still available exceeds the minimum Community Development Fund grant amount. Any funds remaining from the second year regional allocation that are not accepted by an applicant from the region or that are not offered to an applicant from the region may be used for other Tx CDBG fund categories and, if unallocated to another fund, are then subject to the procedures described in paragraph (a) of this section.
- (2) For the Community Development Fund, if there are no remaining unfunded eligible applications in the region from the same biennial application period to receive the withdrawn funding, then the withdrawn funds may be used for other Tx CDBG fund categories and, if unallocated to another fund, are considered as deobligated funds, subject to the procedures described in paragraph (a) of this section.
- (3) Funds recaptured under the Planning and Capacity Building Fund from the withdrawal of an award made from the first year of the biennial funding are offered to the next highest ranked applicant from that Statewide competition that was not recommended to receive an award from the first year allocation. Funds recaptured under the Planning and Capacity Building Fund from the withdrawal of an award made from the second year of the biennial funding are offered to the next highest ranked applicant from that Statewide competition that was not recommended to receive full funding (the applicant recommended to receive marginal funding) from the second year allocation. Any funds remaining from the second year allocation after full funding is accepted by the second year marginal applicant are offered to the next highest ranked applicant from the Statewide competition. Any funds remaining from the second year allocation that are not accepted by an applicant from the Statewide competition or that are not offered to an applicant from the Statewide competition may be used for other Tx CDBG fund categories and, if unallocated to another fund, are then subject to the procedures described in paragraph (a) of this section.
- (4) Funds recaptured under the Colonia Planning and Construction Fund from the withdrawal of an award remain available to potential Colonia Program Fund applicants during that program year to meet the 10 percent colonia set-aside requirement and, if unallocated within the colonia fund, may be used

for other Tx CDBG fund categories. Remaining unallocated funds are then subject to the procedures described in paragraph (a) of this section.

- (5) Funds recaptured under the Colonia Economically Distressed Areas Program Legislative Set-Aside from the withdrawal of an award remain available to potential Colonia Economically Distressed Areas program set-aside applicants during that program year. Any funds remaining from the program year allocation that are not used to fund Colonia Economically Distressed Areas Program set-aside applications within twelve months after the Tx CDBG receives the federal letter of credit would remain available to potential Colonia Program Fund applicants during that program year to meet the 10 percent colonia set-aside requirement and, if unallocated within the colonia fund, may be used for other Tx CDBG fund categories. Remaining unallocated funds are then subject to the procedures described in paragraph (a) of this section.
- (7) Funds recaptured under the program year allocation for the Disaster Relief/Urgent Need Fund from the withdrawal of an award are subject to the procedures described in paragraph (a) of this section.
- (8) Funds recaptured under the Small Towns Environment Program (STEP) Fund from the withdrawal of an award will be made available in the next round of STEP competition following the withdraw date in the same program year. If the withdrawn award had been made in the last of the two competitions in a program year, the funds would go to the next highest scoring applicant in the same STEP competition. If there are no unfunded STEP applicants, then the funds would be available for other Tx CDBG fund categories. Any unallocated STEP funds are subject to the procedures described in paragraph (a) of this section.
- (9) Funds recaptured under the Texas Capital Fund from the withdrawal of an award are subject to the procedures described in paragraph (a) of this section.

D. PROGRAM INCOME

Program income is defined as gross income received by a state, a unit of general local government or a subrecipient of a unit of general local government that was generated from the use of CDBG funds. When program income is generated by an activity that is only partially funded with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. Any remaining program income must be used to establish an approved Revolving Loan Fund (RLF) or returned to the State.

The State may use up to the maximum allowable percentage of the amount recaptured and reportable to HUD each year for administrative expenses under the Texas Community Development Block Grant Program. This amount will be matched by the State on a dollar-for-dollar basis.

Program income includes, but is not limited to, the following:

- Payments of principal and interest on loans using CDBG funds
- Proceeds from the sale of loans made with CDBG funds
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient with CDBG funds

- Gross income from the use, sale, or rental of real property and/or real property improvements owned by the unit of general local government or subrecipient that was constructed or improved with CDBG funds
- Gross income from the use of infrastructure improvements constructed or improved with CDBG funds
- Funds collected through special assessments, impact fees or other additional fees from benefiting businesses, if the special assessments or fees are used to recover all or part of the CDBG portion of public improvements
- Proceeds from the disposition of equipment purchased with CDBG funds
- Interest earned on funds held in an RLF account

1. Texas Capital Fund Program Income

For program income generated through Texas Capital Fund projects, communities that elect to participate in the recapture of program income for use at the local level through a designated Revolving Loan Fund (RLF) will be limited to receiving one Texas Capital Fund contract award per program year. If a community elects not to participate in the recapture of program income, the community may apply for as many Texas Capital Fund awards as it has eligible projects. This determination must be made at the time of the original award and cannot be changed with subsequent awards.

A local government, electing to retain program income at the local level, must have a Revolving Loan Fund Plan (RLFP) approved in writing by the Tx CDBG, prior to committing and expending any program income. The RLFP shall be approved and must be used for economic development in accordance with Title I of the United States Housing and Community Development Act of 1974, as amended. The RLFP must be submitted for approval no later than six (6) months from the commencement date of the contract. Program income generated by the award prior to the Tx CDBG approval of an RLFP must be returned to the State.

Funds retained in the local RLF must be committed within three years of the original Tx CDBG contract programmatic close date. Every award from the RLF must be used to fund the same type of activity, for the same business, from which such income is derived. A local Revolving Loan Fund (RLF) may retain a cash balance not greater than 33 percent of its total cash and outstanding loan balance. If the local government does not comply with the local RLF requirements, all program income retained in the local RLF and any future program income received from the proceeds of the RLF must be returned to the State.

Communities electing to retain program income through an approved RLF are required to monitor and report to the State program income account balances reflecting amounts received and disbursed and the status of outstanding loans or leases. Such report should also include information regarding RLF loans, leases, and commitments made.

If the local government elects not to participate in program income recapture, fails to meet all requirements of this section or requirements identified in Section 6 of its TCF/Tx CDBG contract or an RLFP is not submitted for approval within the first six (6) months from the commencement date of the contract, then all program income must be returned to the State. This section, "Texas Capital Fund Program Income," replaces the Texas Capital Fund Program Income Sections of the Final Statements for program years 1989, 1990, 1991, 1992, 1993, 1994, and 1995 and affects all TCF local revolving

loan funds established by contracts awarded in program years 1989, 1990, 1991, 1992, 1993, 1994, and 1995. The following provisions, however, do not apply: 1) "The RLFP must be submitted for approval no later than six (6) months from the commencement date of the contract. Program income generated by the award prior to Tx CDBG approval of an RLFP must be returned to the State." 2) "...every award from the RLF must be used to fund the same type of activity, for the same business, from which such income is derived." 3) "...contract or an RLFP is not submitted for approval within the first six (6) months from the commencement date of the contract, then all program income must be returned to the state."

2. Program Income Generated Through Housing Activities

For program income generated through housing activities funded through the Housing Fund or Tx CDBG fund categories other than the Texas Capital Fund, a local government, electing to retain program income at the local level, must have a Revolving Loan Fund Plan (RLFP) approved in writing by the Tx CDBG, prior to committing and expending any program income. The RLFP shall be approved and must be used for housing activities principally benefiting low to moderate income persons in accordance with Title I of the United States Housing and Community Development Act of 1974, as amended.

The RLFP must be submitted for approval at least sixty (60) days prior to the termination date of the contract award generating the program income. This requirement shall also apply to 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004 Housing Fund contract awards. Program income generated by the contract award prior to Tx CDBG approval of an RLFP must be returned to the State.

Funds retained in the local RLF must be committed within three years of the original Tx CDBG contract programmatic close date. A local Revolving Loan Fund (RLF) may retain a cash balance not greater than 33 percent of its total cash and outstanding loan balance. If the local government does not comply with the local RLF requirements, all program income retained in the local RLF and any future program income received from the proceeds of the RLF must be returned to the State.

Communities electing to retain program income through an approved RLF are required to monitor and report the amount of program income recaptured to the State with updates concerning the status of outstanding loans or leases on a quarterly basis, including but not limited to payments received and amendments to the original loan or lease agreement, as required by the Tx CDBG.

If the local government elects not to participate in program income recapture or an RLFP is not approved prior to the contract close-out, then all program income must be returned to the Tx CDBG.

III. APPLICATION INFORMATION

A. TYPES AND NUMBER OF APPLICATIONS

The following two types of applications are permitted under the Texas Community Development Block Grant Program:

1. Single Jurisdiction Applications

An eligible applicant may submit one application on its own behalf. When certain situations exist, which will be defined in Tx CDBG application guides, an eligible city may submit an application which benefits

persons residing inside of the extraterritorial jurisdiction of the city, and a county may submit a single jurisdiction application on behalf of a city. The submitting city or county is accountable to the Tx CDBG for financial compliance and program performance. If a city or county submits a single jurisdiction application, or its residents are the beneficiaries of a single jurisdiction application, then the city or county cannot participate in another single jurisdiction or multi-jurisdiction application for the same funding category. Local accountability cannot be assigned to another party.

An application from an eligible city or county for a project that would primarily benefit another city or county that was not meeting the Tx CDBG application threshold requirements would be considered ineligible.

2. Multi-Jurisdiction Applications

Multi-Jurisdiction applications will be accepted from two or more eligible units of general local government where the application clearly demonstrates that the proposed activities will mutually benefit the residents of the city(ies)/county(ies) applying for such funds. One of the participating units of general local government must be designated to act as the authorized applicant for the multi-jurisdiction application and the authorized applicant is accountable to the Tx CDBG for financial compliance and program performance; however, all entities participating in the multi-jurisdiction application will be accountable for application threshold compliance. A multi-jurisdiction application generally cannot be submitted solely on the basis of administrative convenience. Any city or county participating in a multi-jurisdiction application may not submit a single jurisdiction application for the same funding category.

Under the Community Development Fund regional competitions, a multi-jurisdiction application that includes participating units of general local government from more than one State planning region will compete in the regional competition where the majority of the application activity beneficiaries are located.

B. APPLICATION CYCLES

Based on the support from cities and counties for previous biennial funding cycles, applications for the Community Development, Colonia Planning and Construction Fund, and Planning and Capacity Building Fund will be accepted on a biennial basis. The biennial funding cycles for these fund categories will improve the timeliness of the expenditure of CDBG funds and therefore prove more cost effective.

The following table summarizes the proposed frequency of application submission for various application types. The application deadline dates are subject to change:

TYPE OF APPLICATION	SUBMISSION CYCLE	APPLICATION DEADLINE
1. Community Development Fund	Biennial ¹	October, 2010
2. Texas Capital Fund		
Real Estate Program	Continuous	
Infrastructure Program	Continuous	
Main Street Program	Annually	
Downtown Revitalization Program	Annually	

TYPE OF APPLICATION	SUBMISSION CYCLE	APPLICATION DEADLINE
3. Colonia Fund:		
Planning and Construction Fund	Biennial	June 3, 2011
EDAP Set-aside	As-needed	
4. Planning/Capacity Building Fund	Biennial ¹	October 8, 2010
5. Disaster Relief/Urgent Need Fund:		
Disaster Relief	As needed	
Urgent Need2	By notification	
6. Tx CDBG STEP Fund	Two times annually	
Renewable Energy Demonstration Pilot Program	As announced, at least once annually.	
	loast office affiliating.	

The applications submitted for the program year 2011 Community Development Fund and Planning and Capacity Building Fund as part of the 2011/2012 biennial application process will be scored and ranked. Applications will be funded to the extent that allocated 2012 funds are available. Applications submitted for the Colonia Planning and Construction Fund will be scored and ranked. The final 2011 program year rankings under the Community Development Fund, Planning and Capacity Building Fund, Colonia Planning and Construction Fund will be used to determine the 2011 applicants that are selected for funding from the 2012 program year allocations. Only one application may be submitted for the combined 2011 program year and 2012 program year period under the Community Development Fund, Colonia Construction component, Colonia Planning component, and the Planning and Capacity Building Fund.

C. CONTRACT AWARDS

With the qualified exceptions of the Texas Capital Fund, Colonia Fund, and Disaster Relief/Urgent Need Fund, an applicant is eligible to receive only one grant award per fund. Maximum and minimum contract awards for any single project allowable under the Texas Community Development Block Grant Program are:

CONTRACT AWARD

	CONTRACT	CONTRACT
FUND	AWARD	AWARD
	MAXIMUM	MINIMUM
Community Development Fund		
Single Applicant	\$800,000 ¹	\$75,000 ¹
Multi-Jurisdiction Application	\$800,0001	\$75,000 ¹
Texas Capital Fund		
Real Estate Program	\$750,0002	\$50,000
Infrastructure Program	\$750,0002	\$50,000
Main Street Program	\$150,000 ³	\$50,000
Downtown Revitalization Program	\$150,000 ³	\$50,000
Colonia Fund		
Construction Fund Component	\$500,000	\$75,000
EDAP Set-aside	\$500,000	None
Area Planning Component	\$100,0004	None

	CONTRACT	CONTRACT
FUND	AWARD	AWARD
	MAXIMUM	MINIMUM
Comprehensive Planning Component	\$100,0004	None
	Or \$30,000 ⁴	
Planning/Capacity Building Fund	\$55,000	None
Disaster Relief/Urgent Need Fund		
Disaster Relief Fund	\$350,000	\$50,000
Urgent Need Fund	\$250,000	\$25,000
Tx CDBG STEP Fund	\$350,000	None
Renewable Energy Demonstration Pilot	¢500,000	¢50,000
Program	\$500,000	\$50,000

Regional Review Committees are authorized to establish a grant maximum for their respective regions between \$275,000 or an amount equal to 12.5% of its combined 2009 and 2010 allocation, whichever is less, and \$800,000 for a single jurisdiction application and between \$350,000 and \$800,000 for a multi-jurisdiction application. Tx CDBG may grant an exception to the minimum level if funds are distributed among all eligible applicants. In order to ensure there are sufficient funds in the CDBG award to provide a substantial benefit and to provide for construction efficiencies, RRCs should not prioritize application amounts lower than the maximum above or \$200,000, whichever is lower.

The maximum amount for a housing or non-border colonia priority activity application is the same as other Community Development Fund applications in the region.

- The maximum contract award amount allows for administrative costs as outlined in the Texas Capital Fund Application Guidelines. The maximum award amount may be increased to an amount greater than \$750,000, but may not exceed \$1,500,000, if a unit of local government is applying for an award to provide infrastructure or real estate development improvements on behalf of a specific business, and that specific business will create or retain a designated number of jobs at a cost per job level that qualifies for the increased award amount. These increased award amounts above \$750,000 are referred to as "jumbo" awards. The number of jobs, the cost per job, and the maximum percentage of Texas Capital Fund financing of the total project costs that will qualify an application for the increased award amount will be defined in the Texas Administrative Code and the Texas Capital Fund Application Guidelines.
- Texas Capital Funds are specifically reserved for Main Street and the Downtown Revitalization infrastructure activities. The maximum award amount for a Main Street or Downtown Revitalization project is \$150,000.
- The maximum grant award for the Colonia Comprehensive Planning component is set at \$100,000. However, a sliding scale may be used to establish smaller maximum grant amounts based on an amended performance statement or the eligible county's total unincorporated area population. The maximum amount for a county to update its existing Colonia Comprehensive plan is \$30,000.

Amounts shown are maximum funding levels or contract "ceilings," since the Program can fund only the actual, allowable, and reasonable costs of the proposed project, not to exceed these amounts. All grants, except Texas Capital Fund, awarded under the Texas Community Development Block Grant Program are subject to negotiation between TDRA and the applicant regarding the final grant amount.

Texas Capital Fund applications are subject to negotiation between the Texas Department of Agriculture and the applicant regarding the final award amount.

D. PROJECT LENGTH

All funded projects, except the Texas Capital Fund and Colonia Self-Help Centers Fund projects, must be completed within two years from the start date of the contract agreement. STEP contracts for awards made in PY 2012 will continue to be for a twenty-four (24) month term with no automatic extension to 36 months, which is the same as PY 2009 through 2011 STEP awards. The Texas Capital Fund Main Street and Downtown Revitalization program awards will be made for a twenty-four (24) month term. The other Texas Capital Fund programs must be completed within three years from the start date of the contract agreement. Contract end dates for Colonia Self-Help Center contracts may be adjusted to account for each program year award. Waivers through a contract amendment of these requirements for any Tx CDBG contract will only be granted when a waiver request is submitted in writing to TDRA or TDA (for Texas Capital Fund contracts) and TDRA or TDA finds that compelling circumstances exist outside the control of the local government that justify the approval of such a waiver.

E. REVIEW PROCESS

1. Regional Review Committees (RRC) - Composition

There is a Regional Community Development Review Committee in each of the 24 State planning regions. Each committee will be comprised of 12 members appointed at the pleasure of the Governor.

The Regional Review Committees may review and comment on applications to other Tx CDBG fund categories.

2. Texas Capital Fund Review Process

The Texas Capital Fund applications will be reviewed and evaluated by Texas Department of Agriculture staff in accordance with the established selection criteria. Recommendations will be made to the Commissioner of the Texas Department of Agriculture for final award.

3. Clearinghouse Review

Regional review of projects will be consistent with guidelines adopted by the Governor's Office for review and comment under the Texas Review and Comment System and Chapter 391, Texas Local Government Code.

4. Regional Water Plans

Water activities included in Tx CDBG applications must be consistent with Regional Water Plans promulgated in accordance with Section 16.053, Water Code.

F. APPLICANT THRESHOLD AND PAST PERFORMANCE REQUIREMENTS

A city or county must meet the following requirements in order to submit an application or to receive funding through the Texas Community Development Block Grant Program:

- 1. Demonstrate the ability to manage and administer the proposed project, including meeting all proposed benefits outlined in its application, by using the following criteria:
 - a. Provide the roles and responsibilities of local staff designated to administer or work on the proposed project. Also, include a plan of project implementation;
 - b. Indicate intention to use a third-party administrator, if applicable;
 - c. If local staff, along with a third-party administrator, will jointly administer the proposed project, the respective roles and responsibilities of the designated local staff; or
 - d. Tx CDBG management may determine that an applicant has or does not have the capacity to manage and administer the proposed project based on an applicant's prior performance on a Tx CDBG contract.
- 2. Demonstrate the financial management capacity to operate and maintain any improvements made in conjunction with the proposed project, by using the following criteria:
 - Evidence of a financial person on staff, or evidence of intent to contract financial oversight;
 - b. Provide evidence or a statement certifying that financial records for the proposed project will be kept at an officially designated city/county site, accessible by the public, and will be adequately managed on a timely basis using generally accepted accounting principles; and/or
 - c. Tx CDBG management may determine that an applicant has or does not have the financial management capacity to operate and maintain any improvements made in conjunction with the proposed project based on a review of audited financial records, current financial status, or current financial management of a Tx CDBG contract.
- 3. Levy a local property (ad valorem) tax or local sales tax option.
- 4. Demonstrate satisfactory performance on all previously awarded Texas Community Development Block Grant Program contracts, by using the following criteria:
 - Exhibited past responses to audit and monitoring issues (over the most recent 48 months before the application due date) within prescribed times as indicated in TDRA's resolution letter(s);
 - b. Evidence related to past contracts (over the most recent 48 months before the application due date), through close-out monitoring and reporting, that the activity or service was made available to all intended beneficiaries, that low and moderate income persons were provided access to the service, or there has been adequate resolution of issues regarding beneficiaries served.
 - c. No outstanding delinquent response to a written request from Tx CDBG regarding a request for repayment of funds to Tx CDBG; or
 - d. Not more than one outstanding delinquent response to a written request from Tx CDBG regarding compliance issues such as a request for closeout documents or any other required information.
- 5. Resolve any and all outstanding compliance and audit findings on previous and existing Texas Community Development Block Grant Program contracts, by using the following criteria:
 - a. Applicant is actively participating in the resolution of any outstanding audit and/or monitoring issues by responding with substantial progress on outstanding issues within the time specified in the TDRA resolution process.

- 6. Submit any past due audit to TDRA in accordance with Title 10, Chapter 255, Subchapter A, Section 255.1 of the Texas Administrative Code.
 - a. A community with one year's delinquent audit may be eligible to submit an application for funding by the established deadline, but the Tx CDBG may withhold the award or issuance of a contract until it receives a satisfactory audit.
 - The Colonia Self-Help Center Fund and the Disaster Relief/Urgent Need Fund are exempt from the threshold.
 - b. A community with two years of delinquent audits may not apply for additional funding and may not receive a contract award. This applies to all funding categories under the Texas Community Development Block Grant Program.
 - The Colonia Self-Help Center Fund may be exempt from this threshold, since funds for the self-help center funding is included in the program's State budget appropriation. Failure to meet the threshold will be reported to the Texas Department of Housing and Community Affairs for review and recommendation.
 - c. If an audit becomes due after the award date, the Office may withhold the issuance of a contract until it receives a satisfactory audit. If a satisfactory audit is not received by the Office within four months of the audit due date, the Office may withdraw the award and re-allocate the funds in accordance with Section II(C)(b) (excludes the colonia self-help center awards and Texas Capital Fund awards).

7. 12-Month Applicant Threshold Requirement

Obligate at least fifty percent (50%) of the total Tx CDBG funds awarded under an open Tx CDBG contract within twelve (12) months from the start date of the contract or prior to the application deadlines, have complete plans and specifications, and have received all applicable environmental approvals from Tx CDBG covering this obligation. This threshold is applicable to Tx CDBG contracts with an original 24-month contract period.

To meet this threshold, 50% of the Tx CDBG funds must be obligated through executed contracts for administrative services, engineering services, acquisition, construction, materials purchase, etc. Plans and specifications must be completed. The Tx CDBG contract activities do not have to be 50% completed, nor do 50% of the Tx CDBG contract funds have to be expended to meet this threshold.

Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories	Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories
Community Development Fund	Texas Capital Fund
Community Development Supplemental Fund	Colonia Self-Help Centers Fund
	Housing Rehabilitation Fund
Community Development – Recovery (both A & B portions combined)	
Colonia Construction Fund	Housing Infrastructure Fund

Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories	Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories
Colonia Fund Planning	Texas STEP awarded prior to PY 2010
Disaster Relief/Urgent Need Fund	Colonia Economically Distressed Areas
Planning/Capacity Building Fund	Disaster Recovery Initiative
Non-Border Colonia Fund	Young vs. Martinez
Texas STEP (except for STEP contracts awarded prior to PY 2010)	Microenterprise Loan Fund
	Small Business Loan Fund
	Renewable Energy Demonstration Pilot Program

This threshold is not applicable when an applicant meets the eligibility criteria for the Tx CDBG Disaster Relief Fund or for the Renewable Energy Demonstration Pilot Program.

For Community Development-Recovery awards with A & B contracts, both A & B contracts will be considered as though it were one combined contract.

8. 24-Month Applicant Threshold Requirement

Submit to TDRA the Certificate of Expenditures (COE) report showing the expended Tx CDBG funds and a final drawdown for any remaining Tx CDBG funds as required by the latest edition of the Texas Community Development Block Grant Program Project Implementation Manual. Any reserved funds on the COE must be approved in writing by Tx CDBG staff.

For purposes of meeting this threshold "expended" means that the construction and services covered by the Tx CDBG funds are complete and a drawdown for the Tx CDBG funds has been submitted prior to the application deadlines.

This threshold will apply to an open Tx CDBG contract with an original 24-month contract period and to Tx CDBG Contractors that have reached the end of the 24-month period prior to the application deadlines as described below:

Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories	Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories	
Community Development Fund	Texas Capital Fund	
Community Development Supplemental Fund	Colonia Self-Help Centers Fund	
	Housing Rehabilitation Fund	

Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories	Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories
Community Development – Recovery	
(A & B portions combined)	
Colonia Construction Fund	Housing Infrastructure Fund
Colonia Fund Planning	Texas STEP (original 24-month contract, extended to 36-months) awarded prior to PY 2009
Disaster Relief/Urgent Need Fund	Colonia Economically Distressed Areas
Planning/Capacity Building Fund	Disaster Recovery Initiative
Non-Border Colonia Fund	Young vs. Martinez
Texas STEP (except for STEP contracts	Microenterprise Loan Fund
awarded prior to PY 2009)	morocitorprise Learn und
	Small Business Loan Fund
	Renewable Energy Demonstration Pilot Program

This threshold is not applicable when an applicant meets the eligibility criteria for the Tx CDBG Disaster Relief Fund.

9. 36-Month Applicant Threshold Requirement

Submit to TDRA the Certificate of Expenditures (COE) report showing the expended Tx CDBG funds and a final drawdown for any remaining Tx CDBG funds as required by the latest edition of the Texas Community Development Block Grant Program Project Implementation Manual. Any reserved funds on the COE must be approved in writing by Tx CDBG staff.

For purposes of meeting this threshold "expended" means that the construction and services covered by the Tx CDBG funds are complete and a drawdown for the Tx CDBG funds has been submitted prior to the application deadlines.

This threshold is applicable for a previously awarded Tx CDBG contract with an original 36-month contract period or a STEP 24-month contract, extended to 36 months, and to Tx CDBG Contractors that have reached the end of the 36-month period prior to the application deadlines as described on the next page:

Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories	Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories
Texas STEP (original 36-month contract or original 24-month contract extended to 36 months)	Texas Capital Fund (see Texas Capital Fund Section)
	Colonia Self-Help Centers Fund
	Housing Rehabilitation Fund
	Colonia Economically Distressed Areas
	Disaster Recovery Initiative
	Young vs. Martinez
	Microenterprise Loan Fund
	Small Business Loan Fund
	Renewable Energy Demonstration Pilot Program

This threshold is not applicable when an applicant meets the eligibility criteria for the Tx CDBG Disaster Relief Fund.

- 10. Tx CDBG funds cannot be expended in any county that is designated as eligible for the Texas Water Development Board Economically Distressed Areas Program unless the county has adopted and is enforcing the Model Subdivision Rules established pursuant to Section 16.343 of the Water Code.
- 11. Texas Capital Fund contractors must expend all but the reserved audit funds, or other reserved funds that are pre-approved by Texas Department of Agriculture staff, awarded under a Texas Capital Fund contract executed at least 36 months prior to the current program year application deadline and submit to the Texas Department of Agriculture the Certificate of Expenditures required by the most recent edition of the Texas Capital Fund Implementation Manual. Texas Capital Fund contractors intending to submit a new application may not have an existing contract with an award date in excess of 48 months prior to the application deadline date, regardless of extensions granted.
- 12. Based on a pattern of unsatisfactory (a.) performance on previously awarded Texas Community Development Block Grant Program contracts, (b.) management and administration of Tx CDBG contracts, or (c) financial management capacity based on a review of official financial records and audits, TDRA (or TDA, in the case of the Texas Capital Fund applications) may determine that an applicant is ineligible to apply for Tx CDBG funding even though at the application date it meets the threshold and past performance requirements. TDRA (or TDA, in the case of Texas Capital Fund applications) will consider the most recent 48 months before the application due date. Tx CDBG may determine that an applicant would still remain eligible for funding under the Disaster Relief Fund even with a pattern of unsatisfactory performance and/or management capacity as discussed in this paragraph; however; the Tx CDBG must approve the contract administrator for the Disaster

Relief Fund grant. An entity or person may be determined ineligible to administer the new contract if it administered the applicant's Tx CDBG contracts during the most recent 48 months before the application date and for two or more of such contracts it administered the applicant failed to meet its contract requirements, such as failure to submit complete closeouts documents on time.

G. ADMINISTRATION OF TX CDBG CONTRACTS

In order to administer a Tx CDBG contract awarded in PY 2012, the administrator (contracted administrators on behalf of the client community or the city or county staff of self-administering award recipients) must attend, and retain the completion certificate, from the most recent cycle of Tx CDBG Project Implementation Manual workshops. (This requirement excludes Texas Capital Fund and Colonia Self-Help Center Set-aside contracts.) The Tx CDBG contract recipient (city or county) is strongly encouraged to attend the Tx CDBG Project Implementation Workshops even if it anticipates using an outside firm to provide it with contract administration services.

The Tx CDBG is under no obligation to approve any changes in a performance statement of a Tx CDBG contract that would result in a program year score lower than originally used to make the award if the lower score would have initially caused that project to be denied funding. This does not apply to colonia self-help centers or the Texas Capital Fund.

IV. APPLICATION SELECTION CRITERIA

A. GENERAL DESCRIPTION

The scoring criteria used in the Tx CDBG are described in Section C below.

The points awarded under these criteria are combined to rank the projects in descending order. The projects in each fund are selected based on this descending order and the availability of dollars in each fund.

Texas Capital Fund Real Estate Program, and Infrastructure Program projects are evaluated based upon selection criteria that include, but are not limited to:

- (1) Jobs
- (2) Business Emphasis
- (3) Feasibility
- (4) Community Need

Texas Capital Fund Main Street Program and Downtown Revitalization Program projects are evaluated based upon selection criteria that include, but are not limited to:

- (1) Community Profile
- (2) Project Feasibility
- (3) Leverage Ratio
- (4) Aiding in the Elimination of Slum and/or Blight Conditions

Texas Capital Fund applications are reviewed and evaluated by Texas Department of Agriculture staff. Recommendations for all Texas Capital Fund applications will be made to the Commissioner of the Texas Department of Agriculture for final award.

In accordance with Section 2310.403, Government Code, preference will be given to applications from governing bodies of communities designated as defense economic readjustment zones over other eligible applications for Tx CDBG grants and loans if at least fifty percent (50%) of the grant or loan will be expended for the direct benefit of the readjustment zone and the purpose of the grant or loan is to promote Tx CDBG-eligible economic development in the community or for Tx CDBG-eligible construction, improvement, extension, repair, or maintenance of Tx CDBG-eligible public facilities in the community.

Disaster Relief/Urgent Need applications must meet the threshold factors as discussed under the "Description of Funds" section.

Readiness to Proceed Requirements: In order to determine that the project is ready to proceed, the applicant must provide in its application information that:

- a. Identifies the source of matching funds and provides evidence that the applicant has applied for the non-local matching funds, and for local matching funds, evidence that local matching funds would be available.
- b. Provides written evidence of a ratified, legally binding agreement, contingent upon award, between the applicant and the utility that will operate the project for the continual operation of the utility system as proposed in the application. For utility projects that require the applicant or service provider to obtain a Certificate of Convenience and Necessity for the target area proposed in the application, provides written evidence that the Texas Commission on Environmental Quality has received the applicant or service provider's application.
- c. Where applicable, provide a written commitment from service providers, such as the local water or sewer utility, stating that they will provide the intended services to the project area if the project is constructed.

Any applicant's cash match included in the Tx CDBG contract budget may not be obtained from any person or entity that provides contracted professional or construction-related services (other than utility providers) to the applicant to accomplish the purposes described in the Tx CDBG contract, in accordance with 24 CFR Part 570.

B. RESOURCES FOR DESCRIPTIONS OF SELECTION CRITERIA BY FUND CATEGORY

Starting on the next page, the descriptions for the selection criteria for each fund category provide a basic framework of the selection criteria and selection factors used to distribute the funds under each fund category. Additional information on the selection criteria, selection factors and methods used to determine scores for these fund categories is provided in the application guide for each fund category and in the Texas Administrative Code at 10 T.A.C., Part 6, Chapter 255, Subchapter A.

The information currently available for fund categories in the Texas Administrative Code may not yet reflect changes to selection criteria contained in this 2012 Action Plan for the 2012 program year. Any changes to the selection criteria will be published in the Texas Register prior to final adoption.

The Texas Administrative Code can be found on the Texas Secretary of State website at www.sos.state.tx.us. Listed below are the Tx CDBG fund categories that are currently contained in the Texas Administrative Code. Certain Texas Administrative Code sections are retained for previous Fund Categories to govern existing Tx CDBG contracts.

Texas Administrative Code, Title 10 T.A.C., Part 6, Chapter 255, Subchapter A

Section	Section Title
255.1	General Provisions
255.2	Community Development Fund
255.4	Planning/Capacity Building Fund
255.5	Disaster Relief Fund
255.6	Urgent Need Fund
255.7	Texas Capital Fund
255.8	Regional Review Committees
255.9	Colonia Fund
255.11	Small Towns Environment Program Fund
255.17	Renewable Energy Demonstration Pilot Program

C. DESCRIPTION OF SELECTION CRITERIA BY FUND CATEGORY

1. COMMUNITY DEVELOPMENT FUND

a. Regional Review Committee (RRC) Objective Scoring

(1) Responsibilities of the RRC:

Each Regional Review Committee is responsible for determining local project priorities and objective factors for all its scoring components based on public input in accordance with the requirements in this Action Plan.

(2) Maximum RRC Points Possible:

The RRC shall establish the numerical value of the points assigned to each scoring factor and determine the total combined points for all RRC scoring factors.

(3) RRC Selection of the Scoring Factors:

The RRCs are responsible for convening public hearings to discuss and select the objective scoring factors that will be used to score applications at the regional level in accordance with the requirements in this Action Plan. The public must be given an opportunity to comment on the priorities and the scoring criteria considered. The final selection of the scoring factors is the responsibility of each RRC and must be consistent with the requirements in this Action Plan. Each RRC shall develop a Regional Review Committee Guidebook, in the format provided by Tx CDBG staff, to notify eligible applicants of the objective scoring factors and other RRC procedures for the region.

RRCs are encouraged to establish a priority scoring factor that considers the nature and type of the project.

(4) Examples of RRC Objective Scoring Factors:

Examples of objective scoring factors are shown in Appendix A to further clarify the term objective.

The RRC must clearly indicate how responses would be scored under each factor and use data sources that are verifiable to the public. After the RRC's adoption of its scoring factors, the score awarded to a particular application under any RRC scoring factor may not be dependent upon an individual RRC member's judgment or discretion. (This does not preclude collective RRC action that the State Tx CDBG has approved under any appeals process.)

(5) RRC Priority Set-asides:

Housing and Non-Border Colonia projects - Each Regional Review Committee is highly encouraged to allocate a percentage or amount of its Community Development Fund allocation to housing projects and for RRCs in eligible areas, non-border colonia projects, for that region. Under a set-aside, the highest ranked applications for a housing or non-border colonia activity, regardless of the position in the overall ranking, would be selected to the extent permitted by the housing or non-border colonia set-aside level. If the region allocates a percentage of its funds to housing and/or non-border colonia activities and applications conforming to the maximum and minimum amounts are not received to use the entire set-asides, the remaining funds may be used for other eligible activities. (Under a housing and/or non-border colonia set-aside process, a community would not be able to receive an award for both a housing or non-border colonia activity and an award for another Community Development Fund activity during the biennial process. Housing projects/activities must conform to eligibility requirements in 42 U.S.C Section 5305 and applicable HUD regulations.) The RRC must include any set-aside in its Regional Review Committee Guidebook.

(6) RRC Designation of Staff Support:

The RRC shall select one of the following entities to develop the RRC Guidebook, calculate the RRC scores, and provide other administrative RRC support:

- (i) Regional Council of Governments (COG), or
- (ii) Tx CDBG staff or Tx CDBG designee, or
- (iii) A combination of COG and Tx CDBG staff or TX CDBG designee.

The RRC Guidebook should be adopted by the RRC and approved by Tx CDBG staff at least 90 days prior to the application deadline.

The selection of the entity responsible for calculating the RRC scores must be identified in the RRC Guidebook and must define the role of each entity selected. TDRA shall be responsible for reviewing all scores for accuracy and for determining the final ranking of applicants once the RRC and Tx CDBG scores are summed. The RRC is responsible for providing to the public the RRC scores, while the Tx CDBG is responsible for publishing the final ranking of the applications.

(7) Tie-breaker in a region:

If needed in the ranking of applications within a region based on available funds remaining, a tie between multiple applications shall be broken based on the per capita income ranking, with a lower per capita income level ranking higher, followed by a second tie-breaker, if needed, of the highest poverty rate ranking higher, followed by a third tie-breaker, if needed, of the highest annual unemployment rate ranking higher.

- b. State Scoring (Tx CDBG Staff Scoring) Other Considerations Maximum Points 10% of Maximum Possible Score for Each RRC
- (1) Past Selection Maximum Points 2% of Maximum Possible RRC Score for each region are awarded to each 2011/2012 Community Development Fund applicant that did not receive a 2009 or 2010 Community Development Fund, Community Development Fund-Recovery, or Rural Sustainability Fund contract award.
- (2) Past Performance Maximum Points 4% of Maximum Possible RRC Score for each region

An applicant can receive points based on the applicant's past performance on previously awarded Tx CDBG contracts. The applicant's score will be primarily based on our assessment of the applicant's performance on the applicant's most recent Tx CDBG contract that has reached the end of the original contract period stipulated in the contract within the past 4 years (for CD/CDS contracts only the 2005/2006 and 2007/2008 cycle awards will be considered). The Tx CDBG will also assess the applicant's performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant's performance on Tx CDBG contracts up to the application deadline date. The applicant's performance after the application deadline date will not be evaluated in this assessment. (Adjustments may be made for contracts that are engaged in appropriately pursuing due diligence such as bonding remedies or litigation to ensure adequate performance under the Tx CDBG contract.) The evaluation of an applicant's past performance will include the following:

- The applicant's completion of the previous contract activities within the original contract period.
- The applicant's submission of all contract reporting requirements such as Quarterly Progress Reports.
- The applicant's submission of the required close-out documents within the period prescribed for such submission.
- The applicant's timely response to monitoring findings on previous Tx CDBG contracts especially any instances when the monitoring findings included disallowed costs.
- The applicant's timely response to audit findings on previous Tx CDBG contracts.
- The expenditure timeframes on the applicable Tx CDBG contracts.
- (3) All project activities within the application would provide basic infrastructure or housing activities 2% of the Maximum Possible RRC Score for each region. (Basic infrastructure the basic physical shared facilities serving a community's population consisting of water, sewage, roads, and flood drainage. Housing activities as defined in 24 CFR Part 570.)
- (4) Cost per Housing Unit (CPHU) The total amount of Tx CDBG funds requested by the applicant is divided by the total number of housing units benefiting from the application activities to determine the Tx CDBG cost per housing unit. (Use pro rata allocation for multiple activities.) Up to 2% of the Maximum RRC Score for each region.
 - (i) Cost per housing unit is equal to or less than \$8,750 2%.
 - (ii) Cost per housing unit is greater than \$8,750 but equal to or less than \$17,500 1.75%.
 - (iii) Cost per housing unit is greater than \$17,500 but equal to or less than \$26,500 1.25%.

- (iv) Cost per housing unit is greater than \$26,500 but equal to or less than \$35,000 0.5%.
- (v) Cost per housing unit is greater than \$35,000 0%.

(When necessary, a weighted average is used to score applications that include multiple activities with different beneficiaries. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for administration, a percentage of the total Tx CDBG construction and engineering dollars for each activity is calculated. Administration dollars requested is applied pro-rata to these amounts. The percentage of the total Tx CDBG dollars for each activity is then multiplied by the appropriate score and the sum of the calculations determines the score. Related acquisition costs are applied to the associated activity.)

The RRC may not adopt scoring factors that directly negate or offset these State factors.

c. Statutory - Low and Moderate Income (LMI) Persons National Objective - Scoring factor

To assist in fulfilling the CDBG statutory requirement for the percentage of program year awards that must meet the LMI National Objective, applications that meet the LMI National Objective for each activity (51 percent low/moderate-income benefit for each activity within the application) will receive 2% of the Maximum Possible RRC Score for each region.

Further, to ensure the Tx CDBG program meets the statutory LMI National Objective requirement, if the ranking in a region would not result in the award of at least 75 percent of the allocated funds for the LMI national objective, then the Tx CDBG will make awards based on a revised ranking to achieve at least a 75 percentage level for LMI awards for the region. If there are not sufficient applications in the region to achieve the 75 percent LMI national objective level, the amount of funds in a region equal to the shortfall in meeting this requirement will be re-allocated to a pool for other LMI national objective projects. Awards from the pool of remaining LMI applications would be based on the marginal competition selection criteria.

d. Other Tx CDBG State Responsibilities

The State may establish the maximum number of regional scoring factors that may be used in order to improve review and verification efficiency. Similarly, the State may determine that certain regional scoring factors may not be used because the data is not readily available or would require excessive effort to verify the information in a timely manner. To ensure consistency, the State may determine the acceptable data source for a particular regional scoring factor (such as the unemployment rate.)

The State Tx CDBG staff will review each RRC Guidebook to ensure that the scoring procedures are in compliance with 24 CFR 91.320(k)(1)(iv). The regulation states in part that "The statement of method of distribution must provide sufficient information so that units of general local government will be able to understand and comment on it and be able to prepare responsive applications." Tx CDBG staff will also review the scoring factors selected to ensure that all scoring factors are objective. Each RRC must obtain written approval from Tx CDBG staff before implementing the RRC scoring process. As part of the approval process of the RRC Guidebook, the Tx CDBG State staff may edit the scoring factors for consistency with the Action Plan, or provide further details or elaboration on the objective scoring methodology, data sources and other clarifying details without the necessity of a subsequent RRC meeting.

The State Tx CDBG staff may establish:

- (i) a deadline for the RRC to adopt objective factors for all of its scoring components and submit its adopted Guidebook incorporating the objective scoring methodology to the State Tx CDBG staff for approval;
- (ii) an RRC scoring review appeals process in the Guidebook Instructions and/or the Texas Administrative Code.

In the event that an RRC fails to approve an objective scoring methodology to the satisfaction of the Tx CDBG consistent with the requirements in this Action Plan by the established deadline or if the RRC fails to implement the approved methodology, Tx CDBG will establish for the region scoring factors as described in Appendix B for the 2011/2012 application cycle.

Only the State Tx CDBG staff may disqualify an application submitted in a region. The regional scores for RRC factors and the ranking of applications are not considered final until they have been reviewed and approved by the State Tx CDBG staff.

An oversubscription pool may be conducted that would use the scoring criteria specified in the marginal competition section that directly follows this section.

(e) Forward Commitments – Pilot Program:

Forward Commitments to Avoid Application Threshold Issues

As a pilot program under the Community Development Fund, the Tx CDBG may designate conditional commitments, contingent upon receiving future CDBG funds from HUD, to make awards to certain eligible applications within a region using future regional Community Development Fund allocations.

A Regional Review Committee may elect to opt out of this pilot program. If the RRC elects to opt out, forward commitments will not be available to any applicant within the region. Note: if the RRC elects to opt out, projects as described below would not be eligible for awards in that region.

These forward commitments would be made under the following terms and conditions:

- 1. The purpose of approving a commitment is to allow an applicant to provide a source of funding in conjunction with a larger project where the use of these Tx CDBG funds will not occur until several years into the project. It may not be used for other purposes, as determined by Tx CDBG staff. (For example, the commitment would provide funding for the water connections associated with a project to build a new water treatment plant. The Tx CDBG applicant could provide this commitment in its application to the other funding agency to demonstrate supplemental funding for this phase of the water project.)
- 2. The associated project must be ready to proceed within 6 months of receiving the forward commitment, including submission of an application to all other sources of supplemental funding for the complete project. The supplemental funds from other sources that will be used in conjunction with the Tx CDBG funds must be committed and awarded to the applicant within 12 months from the date of the Tx CDBG commitment.
- 3. A maximum of four commitments may be made under this pilot program.

- 4. The Tx CDBG staff will determine eligible applicants within a region that would qualify and be offered this option. In making this decision, Tx CDBG staff will consider, among other things, the anticipated number of months required to before Tx CDBG funds would be expended given the magnitude and nature of the project, the regulatory approvals required, the sources of other funding to be provided to the project, and the ranking within the region. If there are more than four eligible applicants that would qualify, a tiebreaker based on the State score as described in Community Development Fund Marginal Competition would be used to determine the four commitments to be made.
- 5. For the year the commitment is awarded to the recipient through a contract from Tx CDBG, the amount provided for the commitment would be subtracted from the total regional Community Development Fund allocation amount prior to allocation to other eligible applications in the regional Community Development Fund competition.
- 6. Not more than two commitments may be outstanding (without fully executed Tx CDBG contracts) in any given region at any time.
- 7. The Tx CDBG commitment would be considered an award to the applicant in the year it was awarded for purposes of scoring.
- 8. Termination of commitment: The commitment may be terminated if the applicant does not receive the supplemental funding for the project or fails to comply with other commitment requirements.
- 9. Subject to funding availability: All commitments are subject to the Tx CDBG program receiving a sufficient regular annual allocation amount from HUD and consequently the Community Development Fund receiving sufficient funds. The Tx CDBG may use deobligated funds/program income if available and considered appropriate. The commitment does not obligate Tx CDBG or TDRA to use any other source of funds to provide the amount committed.
- 10. Contingency Plan: The applicant must provide Tx CDBG with a contingency plan to outlines the source of replacement funds to complete the project should the Tx CDBG regular annual HUD allocation or deobligated funds/program income diminish to the point that the commitment cannot be funded.

Community Development Fund Marginal Competition

A pooled marginal competition may be conducted for program year 2012 using available funds if the State's 2012 allocation is not decreased significantly from the State's 2011 Community Development allocation.

All applicants whose marginal amount available is under \$75,000 will automatically be considered under this competition.

When the marginal amount left in a regional allocation is equal to or above the Tx CDBG grant minimum of \$75,000, the marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. Alternatively, such marginal applicants may choose to compete under the pooled marginal fund competition for the possibility of full project funding.

This fund consists of all regional marginal amounts of less than \$75,000, any funds remaining from regional allocations where the number of fully funded eligible applicants does not utilize a region's entire allocation and the contribution of marginal amounts larger than \$75,000 from those applicants opting to compete for full funding rather than accept their marginal amount.

The scoring factors used in this competition are the percentage of the State score received to the maximum possible State score in the region, followed by the per capita income ranking, if needed, with a lower per capita income level ranking higher, followed by a second tie-breaker, if needed, of the highest poverty rate ranking higher; both based on a city's incorporated area and a county's total unincorporated area.

2a. TEXAS CAPITAL FUND

Real Estate, And Infrastructure Programs

The selection criteria for the Real Estate, and Infrastructure Programs of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, the following:

- a. Creation or retention of jobs primarily for low to moderate income persons
- b. Creation or retention of jobs primarily in areas of above average unemployment and poverty
- c. Generation of a greater ratio of private investment to Texas Capital Fund investment
- d. Expansion of markets through manufacturing and/or value-added processing
- e. Provision of job opportunities at the lowest possible Texas Capital Fund cost per job
- f. Benefit to areas of the State most in need by considering job impact to community
- g. Assistance for small businesses and Historically Underutilized Businesses
- h. Feasibility of project and ability to create and/or retain jobs

Following the assessment based on the selection criteria described above, projects will be reviewed and evaluated upon the following additional factors: history of the applicant community in the program; strength of business or marketing plan; management experience of the business' principals; and justification of minimum Texas Capital Fund contribution necessary to serve the project.

2b. TEXAS CAPITAL FUND

Main Street Program

The selection criteria for the Main Street Program of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, the following:

- a. Aid in the elimination of slum or blight
- b. The applicant must have been designated by the Texas Historical Commission as a Main Street City
- c. Feasibility of project
- d. Generation of a greater ratio of private investment to Texas Capital Fund investment
- e. Community profile

Following the assessment based on the selection criteria described above, projects will be reviewed and evaluated upon the following additional factors: history of the applicant community in the program; strength of marketing plan; and justification of minimum Texas Capital Fund contribution necessary to serve the project.

2c. TEXAS CAPITAL FUND

Downtown Revitalization Program

The selection criteria for the Downtown Revitalization Program of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, the following:

- a. Aid in the elimination of slum or blight
- b. Feasibility of project
- c. Generation of a greater ratio of private investment to Texas Capital Fund investment
- d. Community profile

Following the assessment based on the selection criteria described above, projects will be reviewed and evaluated upon the following additional factors: strength of marketing plan and justification of minimum Texas Capital Fund contribution necessary to serve the project.

3a.	COLONIA CONSTRUCTION COMPONENT	430 Total Points Maximum
a.	Community Distress – 35 Points (Maximum)	
• Per	centage of persons living in poverty	15 points
Per	Capita Income	10 points
Per	centage of housing units without complete plumbing	5 points
• Une	employment Rate	5 points

b. Benefit To Low/Moderate-Income Persons – 30 Points (Maximum)

A formula is used to determine the percentage of Tx CDBG funds benefiting low to moderate income persons. The percentage of low to moderate income persons benefiting from each construction, acquisition, and engineering activity is multiplied by the Tx CDBG funds requested for each corresponding construction, acquisition, and engineering activity. Those calculations determine the amount of Tx CDBG benefiting low to moderate income person for each of those activities. Then, the funds benefiting low to moderate income persons for each of those activities are added together and divided by the Tx CDBG funds requested minus the Tx CDBG funds requested for administration to determine the percentage of Tx CDBG funds benefiting low to moderate income persons. Points are then awarded in accordance with the following scale;

100% to 90% of Tx CDBG funds benefiting low to moderate income persons	30 points
89.99% to 80% of Tx CDBG funds benefiting low to moderate income persons	25 points
79.99% to 70% of Tx CDBG funds benefiting low to moderate income persons	20 points
69.99% to 60% of Tx CDBG funds benefiting low to moderate income persons	15 points
Below 60% of Tx CDBG funds benefiting low to moderate income persons	5 points

- c. Project Priorities 195 Points (Maximum)
 - Activities (service lines, service connections, and/or plumbing improvements) providing public access to EDAP-funded water or sewer systems
 - First time public Water service activities (including yard service lines)
 First time public Sewer service activities (including yard service lines)
 145 points
 - Installation of approved residential on-site wastewater disposal systems for providing first time service
 145 points
 - Installation of approved residential on-site wastewater disposal systems for failing systems that cause health issues
 140 points

•	Housing Activities	140 points
•	First time Water and/or Sewer service through a privately-owned for-profit utility	135 points
•	Expansion or improvement of existing Water and/or Sewer service	120 points
•	Street Paving and Drainage activities	75 points
•	All Other eligible activities	20 points

A weighted average is used to assign scores to applications that include activities in the different Project Priority scoring levels. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for engineering and administration, a percentage of the total Tx CDBG construction dollars for each activity will be calculated. The percentage of the total Tx CDBG construction dollars for each activity will then be multiplied by the appropriate Project Priorities point level. The sum of these calculations determines the composite Project Priorities score.

d. Project Design – 140 Points (Maximum)

Each application is scored by a committee composed of Tx CDBG staff using the following information submitted in the application to generate scores on the project design factor:

- For projects other than water and waste water, whether the applicant has already met its basic water and waste water needs.
- Whether the project has provided for future funding necessary to sustain the project.
- The severity of need within the colonia area(s) and how the proposed project resolves the identified need. Additional consideration is given to water system improvements addressing the impacts from the current drought conditions in the State.
- The applicant will use Tx CDBG funds to provide water or sewer connections, yard service lines, and/or plumbing improvements associated with providing access for colonia residents to water or sewer systems funded by the Texas Water Development Board Economically Distressed Areas Program (EDAP).
- The applicant's past efforts (with emphasis on the applicant's most recent efforts) to address water, sewer, and housing needs in colonia areas through applications submitted under the Tx CDBG Community Development Fund or through the use of CDBG entitlement funds.
- The Tx CDBG cost per low/moderate income beneficiary.
- Whether the applicant has provided any local matching funds for administrative, engineering, or construction activities.
- If applicable, the projected water and/or sewer rates after completion of the project based on 3,000 gallons, 5,000 gallons and 10,000 gallons of usage.
- The ability of the applicant to utilize the grant funds in a timely manner.
- Whether the applicant has waived the payment of water or sewer service assessments, capital recovery fees, and any other access fees for the low and moderate income project beneficiaries.
- The availability of grant funds to the applicant for project financing from other sources.
- The applicant's past performance on previously awarded Tx CDBG contracts.
- Proximity of project site to entitlement cities or metropolitan statistical areas.

e. Matching Funds – 20 Points (Maximum)

Applicant(s) population equal to or less than 1,500 according to the 2000 Census:

•	Match equal to or greater than 5% of grant request	20 points
•	Match at least 2%, but less than 5% of grant request	10 points
•	Match less than 2% of grant request	0 points

Applicant(s) population equal to or less than 3,000 but over 1,500 according to the 2000 Census:

• Match equal to or greater than 10% of grant request 20 points

Match at least 2.5%, but less than 10% of grant request
Match less than 2.5% of grant request
0 points

Applicant(s) population equal to or less than 5,000 but over 3,000 according to the 2000 Census:

Match equal to or greater than 15% of grant request
 Match at least 3.5%, but less than 15% of grant request
 Match less than 3.5% of grant request
 Dopoints
 O points

Applicant(s) population over 5,000 according to the 2000 Census:

Match equal to or greater than 20% of grant request
 Match at least 5%, but less than 20% of grant request
 Match less than 5% of grant request
 0 points

The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities.

The population category under which multi-jurisdiction applications are scored is based on the combined populations of the applicants according to the 2000 Census.

Applications that include a housing rehabilitation and/or affordable new permanent housing activity for low- and moderate-income persons as a part of a multi-activity application do not have to provide any matching funds for the housing activity. This exception is for housing activities only. The Tx CDBG does not consider sewer or water service lines and connections as housing activities. The Tx CDBG also does not consider on-site wastewater disposal systems as housing activities.

Demolition/clearance and code enforcement, when done in the same target area in conjunction with a housing rehabilitation activity, is counted as part of the housing activity. When demolition/clearance and code enforcement are proposed activities, but are not part of a housing rehabilitation activity, then the demolition/clearance and code enforcement are not considered as housing activities. Any additional activities, other than related housing activities, are scored based on the percentage of match provided for the additional activities.

Past Performance – 10 points (Maximum)

An applicant can receive from ten (10) to zero (0) points based on the applicant's past performance on previously awarded Tx CDBG contracts. The applicant's score will be primarily based on our assessment of the applicant's performance on the applicant's two (2) most recent Tx CDBG contracts that have reached the end of the original contract period stipulated in the contract. The Tx CDBG will also assess the applicant's performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant's performance on Tx CDBG contracts up to the application deadline date. The applicant's performance after the application deadline date will not be evaluated in this assessment. The evaluation of an applicant's past performance will include, but is not necessarily limited to the following:

• The applicant's completion of the previous contract activities within the original contract period.

- The applicant's submission of all contract reporting requirements such as Quarterly Progress Reports, Certificates of Expenditures, and Project Completion Reports.
- The applicant's submission of the required close-out documents within the period prescribed for such submission.
- The applicant's timely response to monitoring findings on previous Tx CDBG contracts especially any instances when the monitoring findings included disallowed costs.
- The applicant's timely response to audit findings on previous Tx CDBG contracts.

Colonia Construction Component Marginal Applicant

The marginal applicant is the applicant whose score is high enough for partial funding of the applicant's original grant request. If the marginal amount available to this applicant is equal to or more than the Colonia Construction Component grant minimum of \$75,000, the marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. In the event that the marginal amount remaining in the Colonia Construction Component allocation is less than \$75,000, then the remaining funds will be used to either fund a Colonia Planning Fund application or will be reallocated to other established Tx CDBG fund categories.

3b. COLONIA ECONOMICALLY DISTRESSED AREAS PROGRAM SET-ASIDE

The allocation is distributed on an as-needed basis to eligible counties, and nonentitlement cities located in those counties, that are eligible under the Tx CDBG Colonia Fund and Texas Water Development Board's Economically Distressed Areas Program (TWDB EDAP). Unutilized funds under this program may be redistributed among the established current program year fund categories, for otherwise eligible projects.

Eligible projects shall be located in unincorporated colonias; in colonias located in eligible nonentitlement cities that annexed the colonia and the application for improvements in the colonia is submitted within five (5) years from the effective date of the annexation; or in colonias located in eligible nonentitlement cities where the city is in the process of annexing the colonia where the improvements are to be made.

Eligible applicants may submit an application that will provide assistance to colonia residents that cannot afford the cost of service lines, service connections, and plumbing improvements associated with being connected to a TWDB EDAP-funded water and sewer system improvement project. An application cannot be submitted until the construction of the TWDB EDAP-funded water or sewer system begins.

Eligible program costs include water distribution lines and sewer collection lines providing connection to water and sewer lines installed through the Texas Water Development Board's Economically Distressed Areas Program (when approved by the Tx CDBG), taps and meters (when approved by the Tx CDBG), yard service lines, service connections, plumbing improvements, and connection fees, and other eligible approved costs associated with connecting an income-eligible family's housing unit to the TWDB improvements.

Tx CDBG staff will evaluate the following factors prior to awarding Colonia Economically Distressed Areas Program funds:

- The proposed use of the Tx CDBG funds including the eligibility of the proposed activities and the
 effective use of the funds to provide water or sewer connections/yard lines to water/sewer systems
 funded through EDAP.
- The ability of the applicant to utilize the grant funds in a timely manner.
- The availability of grant funds to the applicant for project financing from other sources.
- The applicant's past performance on previously awarded Tx CDBG contracts.
- Cost per beneficiary.
- Proximity of project site to entitlement cities or metropolitan statistical areas.

3c. COLONIA AREA PLANNING COMPONENT

340 Total Points Maximum

a. Community Distress – 35 Points (Maximum)

•	Percentage of persons living in poverty	15 points
•	Per Capita Income	10 points
•	Percentage of housing units without complete plumbing	5 points
•	Unemployment Rate	5 points

b. Benefit To Low/Moderate-Income Persons – 30 Points (Maximum)

Points are then awarded based on the low to moderate income percentage for all of the colonia areas where planning activities are located according to the following scale;

100% to 90% of Tx CDBG funds benefiting low to moderate income persons	30 points
89.99% to 80% of Tx CDBG funds benefiting low to moderate income persons	25 points
79.99% to 70% of Tx CDBG funds benefiting low to moderate income persons	20 points
69.99% to 60% of Tx CDBG funds benefiting low to moderate income persons	15 points
Below 60% of Tx CDBG funds benefiting low to moderate income persons	5 points

c. Matching Funds – 20 Points (Maximum)

Applicant(s) population equal to or less than 1,500 according to the 2000 Census:

•	Match equal to or greater than 5% of grant request	20 points
•	Match at least 2%, but less than 5% of grant request	10 points
•	Match less than 2% of grant request	0 points

Applicant(s) population equal to or less than 3,000 but over 1,500 according to the 2000 Census:

•	Match equal to or greater than 10% of grant request	20 points
•	Match at least 2.5%, but less than 10% of grant request	10 points
•	Match less than 2.5% of grant request	0 points

Applicant(s) population equal to or less than 5,000 but over 3,000 according to the 2000 Census:

•	Match equal to or greater than 15% of grant request	20 points
•	Match at least 3.5%, but less than 15% of grant request	10 points
•	Match less than 3.5% of grant request	0 points

Applicant(s) population over 5,000 according to the 2000 Census:

•	Match equal to or greater than 20% of grant request	20 points
•	Match at least 5%, but less than 20% of grant request	10 points
•	Match less than 5% of grant request	0 points

The population category under which county applications are scored is based on the actual number of beneficiaries to be served by the colonia planning activities.

d. Project Design – 255 Points (Maximum)

Each application is scored by a committee composed of Tx CDBG staff using the following information submitted in the application to generate scores on the project design factor:

- The severity of need within the colonia area(s), how clearly the proposed planning effort will remove barriers to the provision of public facilities to the colonia area(s) and result in the development of an implementable strategy to resolve the identified needs.
- The planning activities proposed in the application.
- Whether each proposed planning activity will be conducted on a colonia-wide basis.
- The extent to which any previous planning efforts for colonia area(s) have been accomplished.
- The Tx CDBG cost per low/moderate-income beneficiary.
- The availability of grant funds to the applicant for project financing from other sources.
- The applicant's past performance on previously awarded Tx CDBG contracts.

A Colonia Planning Component application must receive a minimum score for the Project Design selection factor of at least 70 percent of the maximum number of points allowable under this factor to be considered for funding.

Colonia Area Planning Component Marginal Applicant

The marginal applicant is the applicant whose score is high enough for partial funding of the applicant's original grant request. The marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. Any unobligated funds remaining in the Colonia Area Planning allocation will be reallocated to either fund additional Colonia Comprehensive Planning applications, Colonia Construction Component applications, or will be reallocated to other established Tx CDBG fund categories.

3d. COLONIA COMPREHENSIVE PLANNING COMPONENT 200 Total Points Maximum

a. Community Distress – 25 Points (Maximum)

•	Percentage of persons living in poverty	10 points
•	Per Capita Income	5 points
•	Percentage of housing units without complete plumbing	5 points
•	Unemployment Rate	5 points

b. Project Design – 175 Points (Maximum)

Each application will be scored by a committee composed of Tx CDBG staff using the following information submitted in the application to generate scores on the project design factor:

- The severity of need for the comprehensive colonia planning effort and how effectively the proposed comprehensive planning effort will result in a useful assessment of colonia populations, locations, infrastructure conditions, housing conditions, and the development of short-term and long term strategies to resolve the identified needs.
- The extent to which any previous planning efforts for colonia area(s) have been accomplished.
- Whether the applicant has provided any local matching funds for the planning or preliminary engineering activities.
- The applicant's past performance on previously awarded Tx CDBG contracts.
- An applicant that has previously received a Tx CDBG comprehensive planning award would receive lower priority for funding.

A Colonia Planning Component application must receive a minimum score for the Project Design selection factor of at least 70 percent of the maximum number of points allowable under this factor to be considered for funding.

Colonia Comprehensive Planning Component Marginal Applicant

The marginal applicant is the applicant whose score is high enough for partial funding of the applicant's original grant request. The marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. Any unobligated funds remaining in the Colonia Comprehensive Planning allocation will be reallocated to either fund additional Colonia Area Planning Fund applications, Colonia Construction Component applications, or will be reallocated to other established Tx CDBG fund categories.

4. PLANNING AND CAPACITY BUILDING FUND a. Community Distress - 55 Points (Maximum) • Percentage of persons living in poverty • Per Capita Income • Unemployment rate 430 Total Points Maximum 25 points 20 points 10 points

b. Benefit to Low/Moderate Income Persons - 0 Points

Applicants are required to meet the 51% low/moderate income benefit as a threshold requirement, but no score is awarded on this factor.

c. Project Design – 375 Points (Maximum)

(1) Program Priority

50 points

0 points

Applicant chooses its own priorities here with 10 points awarded per priority as provided below.

Base studies (base mapping, housing, land use, population components) are recommended as one selected priority for applicants lacking updated studies unless they have been previously funded by TX CDBG or have been completed using other resources.

An applicant requesting Tx CDBG funds for fewer than five priorities may receive point credit under this factor for planning studies completed within the last 10 years that do not need to be updated. An applicant requesting Tx CDBG funds for a planning study priority that was completed within the past 10 years using Tx CDBG funds would not receive scoring credit under this factor.

Applicants should not request funds to complete a water or sewer study if funds have been awarded within the last two years for these activities or funds are being requested under other Tx CDBG fund categories.

(2) Base Match

- Five percent match required from applicants with population equal to or less than 1,500.
- Ten percent match required from applicants with population over 1,500 but equal to or less than 3,000.
- Fifteen percent match required from applicants with population over 3,000 but equal to or less than 5,000.

• Twenty percent match required from applicants with population over 5,000.

The population will be based on available information in the latest national decennial census.

(3) Areawide Proposals

50 points

Applicants with jurisdiction-wide proposals because the entire jurisdiction is at least 51 percent low/moderate-income qualify for these points. County applicants with identifiable, unincorporated communities may also qualify for these points provided that incorporation activities are underway. Proof of efforts to incorporate is required. County applicants with identifiable water supply corporations may apply to study water needs only and receive these points.

(4) Planning Strategy and Products

275 points

- New applicants receive up to 50 points while previous recipients of planning funds receive either up to 30 or 20 points depending on the level of implementation of previously funded activities.
 Recipients of Tx CDBG planning funds prior to PY 2000 will be considered new applicants for this scoring factor
- Up to 225 points are awarded for the applicant's Proposed Planning Effort based on an evaluation of the following:
 - the extent to which any previous planning efforts have been implemented or accomplished;
 - how clearly the proposed planning effort will resolve community development needs addressed in the application;
 - whether the proposed activities will result in the development of a viable and implementable strategy and be an efficient use of grant funds; and
 - · demonstration of local commitment.

5. Tx CDBG STEP FUND

120 Total Points Maximum

The following is the selection criteria to be used by Tx CDBG staff for the scoring of assessments and applications under the Texas STEP Fund. The maximum score of 120 points is divided among five scoring factors:

a. Project Impact – 60 Points (Maximum)

Activity	Score
First time service	60-40
To address drought	60-40
To address a severe impact to a water system (imminent loss of well	transmission line

60-40
TCEQ relevant documentation or Texas Department of Health Imminent Threat to Health

60-40

Problems due to severe sewer issues that can be addressed through the STEP process (documented)

	10.0000
	60-40
Problems due to severe pressure problems (documented)	50-40
Line replacement (water or sewer) other than for above	40-30
All other proposed water and sewer projects that are not reflected above	30-20

A weighted average will be used to assign scores to applications that include activities in the different Project Impact scoring levels. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for engineering and administration, a percentage of the total Tx CDBG construction

dollars for each activity will be calculated. The percentage of the total Tx CDBG construction dollars for each activity will then be multiplied by the appropriate Project Impact point level. The sum of these calculations will determine the composite Project Impact score.

Factors that are evaluated by the Tx CDBG staff in the assignment of scores within the predetermined scoring ranges for activities include, but are not limited to, the following:

- 1. how the proposed project will resolve the identified need and the severity of the need within the applying jurisdiction; and
- 2. projects designed to bring existing services up to at least the State minimum standards as set by the applicable regulatory agency are generally given additional consideration.
- b. STEP Characteristics, Merits of the Project, and Local Effort 30 points (Maximum)

The Tx CDBG staff will assess the proposal for the following STEP characteristics not scored in other factors:

- 1. degree work will be performed by community volunteer workers, including information provided on the volunteer work to total work;
- 2. local leaders (sparkplugs) willing to both lead and sustain the effort;
- 3. readiness to proceed the local perception of the problem and the willingness to take action to solve it:
- 4. capacity the manpower required for the proposal including skills required to solve the problem and operate applicable construction equipment;
- 5. merits of the projects, including the severity of the need, whether the applicant sought funding from other sources, cost in Tx CDBG dollars requested per beneficiary, etc.; and
- 6. local efforts being made by applicants in utilizing local resources for community development.
- c. Past Participation and Performance 15 Points (Maximum)

An applicant would receive ten (10) points if they do not have a current Texas STEP grant.

An applicant can receive from five (5) to zero (0) points based on the applicant's past performance on previously awarded Tx CDBG contracts. The applicant's score will be primarily based on our assessment of the applicant's performance on the applicant's two (2) most recent Tx CDBG contracts that have reached the end of the original contract period stipulated in the contract. The Tx CDBG will also assess the applicant's performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant's performance on Tx CDBG contracts up to the application deadline date. The applicant's performance after the application deadline date will not be evaluated in this assessment. The evaluation of an applicant's past performance will include, but is not necessarily limited to the following:

- The applicant's completion of the previous contract activities within the original contract period.
- The applicant's submission of all contract reporting requirements such as Quarterly Progress Reports, Certificates of Expenditures, and Project Completion Reports.

- The applicant's submission of the required close-out documents within the period prescribed for such submission.
- The applicant's timely response to monitoring findings on previous Tx CDBG contracts especially any
 instances when the monitoring findings included disallowed costs.
- The applicant's timely response to audit findings on previous Tx CDBG contracts.
- d. Percentage of Savings off of the retail price 10 Points (Maximum)

For STEP, the percentage of savings off of the retail price is considered a form of community match for the project. In STEP, a threshold requirement is a minimum of 40 percent savings off the retail price for construction activities.

For Communities that are equal to or below 1,500 in Population

55% or more Savings	10 points
50% - 54.99% Savings	9 points
45% - 49.99% Savings	7 points
41% - 44.99% Savings	5 points

For Communities that are above 1,500 but equal to or below 3,000 in Population

55% or more Savings	10 points
50% - 54.99% Savings	8 points
45% - 49.99% Savings	6 points
41% - 44.99% Savings	3 points

For Communities that are above 3,000 but equal to or below 5,000 in Population

55% or more Savings	10 points
50% - 54.99% Savings	7 points
45% - 49.99% Savings	5 points
41% - 44.99% Savings	2 points

For Communities that are above 5,000 but equal to or below 10,000 in Population

55% or more Savings	10 points
50% - 54.99% Savings	6 points
45% - 49.99% Savings	3 points
41% - 44.99% Savings	1 points

For Communities that are 10,000 or above in Population

55% or more Savings	10 points
50% - 54.99% Savings	5 points
45% - 49.99% Savings	2 points
41% - 44.99% Savings	0 points

The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for beneficiaries for the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities.

The population category under which multi-jurisdiction applications are scored is based on the combined populations of the applicants according to the 2000 Census.

e. Benefit To Low/Moderate-Income Persons – 5 Points (Maximum)

Applicants are required to meet the 51 percent low/moderate-income benefit for each activity as a threshold requirement. Any project where at least 60 percent of the Tx CDBG funds benefit low/moderate-income persons will receive 5 points.

A project must score at least 75 points overall and 15 points under factor 12(b) to be considered for funding.

6. Renewable Energy Demonstration Pilot Program 70 Total Points Maximum

(A) Type of Project – Primarily used in conjunction with providing public facilities to meet basic human needs such as water or waste water and/or benefit to low/moderate-income persons.

up to 15 points.

- (B) Innovative Technology/Methods A project that would demonstrate the application of innovative technology and/or methods up to 10 points.
- **(C) Duplication in Other Rural Areas** A project that could have widespread application (although it would not need to be applicable in every portion of the State.) up to 10 points
- (D) Long-term Cost/Benefit and Texas Renewable Energy Goals Projects that demonstrate long term cost/benefit analysis including benefits to the human environment and consistency with Texas renewable energy goals.

 up to 10 points
- (E) Partnership/Collaboration Projects that have a demonstrated partnership and collaboration with other entities focusing on promoting renewable energy including universities, funding agencies, associations, or businesses.

 up to 10 points.
- (F) Leveraging projects with committed funds from other entities including funding agencies, local governments, or businesses.

Applicant(s) population equal to or less than 2,500 according to the latest decennial Census:

•	Match equal to or greater than 15% of grant request	10 points
•	Match at least 8% but less than 15% of grant request	5 points
•	Match at least 3%, but less than 8% of grant request	3 points
•	Match at least 2%, but less than 3% of grant request	1 point
•	Match less than 2% of grant request	0 points

Applicant(s) population equal to or less than 5,000 but over 2,500 according to the latest decennial Census:

•	Match equal to or greater than 25% of grant request	10 points
•	Match at least 13% but less than 25% of grant request	5 points
•	Match at least 5%, but less than 13% of grant request	3 points
•	Match at least 3%, but less than 5% of grant request	1 point

• Match less than 3% of grant request

0 points

Applicant(s) population equal to or less than 10,000 but over 5,000 according to the latest decennial Census:

•	Match equal to or greater than 35% of grant request	10 points
•	Match at least 18% but less than 35% of grant request	5 points
•	Match at least 7%, but less than 18% of grant request	3 points
•	Match at least 4%, but less than 7% of grant request	1 point
•	Match less than 4% of grant request	0 points

Applicant(s) population over 10,000 according to the latest decennial Census:

•	Match equal to or greater than 50% of grant request	10 points
•	Match at least 25% but less than 50% of grant request	5 points
•	Match at least 10%, but less than 25% of grant request	3 points
•	Match at least 5%, but less than 10% of grant request	1 point
•	Match less than 5% of grant request	0 points

The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for beneficiaries for the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county.

(G) Location in Rural Areas – Projects that benefit cities with populations under 10,000 or counties under 100,000.

5 points.

Tiebreaker – If needed in the ranking of applications based on available funds, a tie between multiple applications shall be broken based on the score of (D) Long-term Cost/Benefit and Texas Renewable Energy Goals, followed by the per capita income ranking for the entire population of the city or county that applied.

7	COMMUNITY FACILITY FUND	80 Total Points Maximum

Selection factors:

- (1) LMI percentage of the applicant Compare each applicant's low and moderate income percentage to all other applicants in the region. up to 20 points maximum
- (A higher LMI percentage would score higher. The applicant's LMI percentage is divided by the base amount for the entire region and then multiplied by the maximum possible score of 20, provided the product may not exceed 20 points. The base amount is the average (mean) of the LMI of all the applicants in the region multiplied by a factor 1.25.)
- (2) Location in the most rural areas.

maximum of 20 points

- a. Projects that benefit cities with populations equal to or under 1,500 or counties with populations, after excluding metropolitan cities, that are equal to or under 30,000. 20 points.
- b. Projects that benefit cities with populations equal to or under 2,500 (but over 1,500) or counties with populations, after excluding metropolitan cities, that are equal to or under 50,000 (but over 30,000).

18 points.

- c. Projects that benefit cities with populations equal to or less than 5,000 (but over 2,500) or counties with populations, after excluding metropolitan cities, that are equal to or under 75,000 (but over 50,000).

 15 points.
- d. Projects that benefit cities with populations equal to or under 10,000 (but over 5,000) or counties with populations, after excluding metropolitan cities, that are equal to or under 100,000 (but over 75,000).

 10 points.

Populations will be determined by Tx CDBG based on the latest Census or HUD data available.

- (3) No other comparable facilities available. If there are no other comparable facilities, as determined by Tx CDBG staff, within the applicant's jurisdiction.

 20 points
- (4) Leveraging projects with committed funds from other entities including funding agencies, local governments, or businesses.

 20 points.

Applicant(s) population equal to or less than 2,500 according to the latest decennial Census:

Match equal to or greater than 2.5% of grant request

20 points

Applicant(s) population equal to or less than 5,000 but over 2,500 according to the latest decennial Census:

Match equal to or greater than 5% of grant request

20 points

Applicant(s) population equal to or less than 10,000 but over 5,000 according to the latest decennial Census:

Match equal to or greater than 10% of grant request

20 points

Applicant(s) population over 10,000 according to the latest decennial Census:

Match equal to or greater than 15% of grant request

20 points

(5) Tie-breaker in a region:

A tie between multiple applications shall be broken based on the per capita income ranking, with a lower per capita income level ranking higher, followed by a second tie-breaker, if needed, of the highest poverty rate ranking higher, followed by a third tie-breaker, if needed, of the highest annual unemployment rate ranking higher.

V. PERFORMANCE MEASURES - GOALS, OBJECTIVES, OUTCOMES, STRATEGIES, AND OUTPUTS

Tx CDBG Strategic Plan Performance Measures

The Tx CDBG currently has a performance measurement system is place that is part of its strategic plan and the Texas legislative budgeting process. The Tx CDBG has already implemented a performance measurement system that supports the HUD goals as stated in CPD Notice – 03-09, issued September 3, 2003, which "strongly encouraged each CPD formula grantee to develop and use a state or local performance measurement system." In this notice, HUD asked the State CDBG programs, along with all other CDBG grantees, that currently have and use a state or local performance measurement system to

"(1) describe, in their next Consolidated Plan or Annual Action Plan, the method they use to measure the outputs and outcomes of their CPD formula grant programs."

The Tx CDBG has the following Performance Measures system in place for administering and evaluating the success of the CDBG non-entitlement program.

GOALS AND OUTCOMES - For FY 2012

Goal 1: Support Community and Economic Development Housing and Health Projects

Outcome 1: Percent of the Small Communities' Population Benefiting from Projects

Output 1: Number of New Community/Economic Development Contracts Awarded

Output 2: Number of Projected Beneficiaries from New Community/Economic Development Contracts Awarded

Output 3: Number of Programmatic Monitoring Visits Conducted

HUD CDBG Performance Outcome Measurement System

The Tx CDBG has implemented the HUD CDBG Performance Outcome Measurement System, which is a nationwide reporting system based on standardized Objective categories, Outcome categories, and specific Output Indicators.

The outcome performance measurement system has three objectives: (1) Creating Suitable Living Environments, (2) Providing Decent Affordable Housing, and (3) Creating Economic Opportunities. There are also three outcomes under each objective: (1) Availability/Accessibility, (2) Affordability, and (3) Sustainability. Thus, the three objectives, each having three possible outcomes, produce nine possible outcome/objective combinations within which to categorize CDBG grant activities. Specific Output Indicators, many of which Tx CDBG has used in the HUD Integrated Disbursement and Information System reporting system, will be used to provide the quantifiable information used to actually measure the outcome/objective combinations for the funded CDBG projects (such as the number of persons who have new access to water facilities).

VI. OTHER 2012 CDBG PROGRAM GUIDELINES

A. COMMUNITY NEEDS ASSESSMENT

Each applicant for Tx CDBG funds must prepare an assessment of the applicant's housing and community development needs. The needs assessment submitted by an applicant in an application for the Community Development Fund must also include information concerning the applicant's past and future efforts to provide affordable housing opportunities in the applicant's jurisdiction and the applicant's past efforts to provide infrastructure improvements through the issuance of general obligation or revenue bonds.

B. LEVERAGING RESOURCES

Texas Capital Fund

The following matching funds requirements apply under the Real Estate, Infrastructure, Main Street and Downtown Revitalization Program:

- a. The leverage ratio between all funding sources to the Texas Capital Fund (TCF) request may not be less than 1:1 for awards of \$750,000 or less (except for the Main Street and Downtown Revitalization programs which both require 0.1:1, or more match), and 4:1 for awards of \$750,100 to \$1,000,000 and 5.1 for awards of \$1,000,000 to \$1,500,000.
- b. All businesses are required to make financial contributions to the proposed project. A cash injection of a minimum of 2.5% of the total project cost is required. Total equity participation must be no less than 10% of the total project cost. This equity participation may be in the form of cash and/or net equity value in fixed assets utilized within the proposed project. A minimum of a 33% equity injection (of the total projects costs) in the form of cash and/or net equity value in fixed assets is required, if the business has been operating for less than three years and is accessing the Real Estate program.

Over the past five program years the ratio of matching funds to Texas Capital Fund awards is approximately 3.75:1. If this ratio continues for the 2012 program year then the estimated amount of leveraged funds for the 2012 program year is approximately \$45 million.

C. MINORITY HIRING/PARTICIPATION

The Tx CDBG encourages minority employment and participation among all applicants under the Community Development Block Grant Program. All applicants to the Community Development Block Grant Program shall be required to submit information documenting the level of minority participation as part of the application for funding.

D. CITIZEN PARTICIPATION

A grant to a locality under the Texas Community Development Block Grant Program may be awarded only if the locality certifies that it is following a detailed citizen participation plan that provides for and encourages citizen participation at all stages of the community development program. Tx CDBG applicants and funded localities are required to carry out citizen participation in accordance with the Citizen Participation Plan requirements described in Tx CDBG application guides.

APPENDIX A – Examples of Objective Scoring Factors

1. Per Capita Income – 20 points maximum

Compare each applicant's per capita income level to all other applicants in the region.

Method: The base amount for the entire region is divided by the applicant's per capita income level and then multiplied by the maximum possible score of 20, provided the product may not exceed 20 points. The base amount is the average (mean) of the per capita income levels of all the applicants in the region multiplied by a factor 0.75.

Details:

Incorporated City Applications:

For an incorporated city, the data used to score is based on the 2000 decennial Census SF 3 information for the city's entire population.

For a new incorporated city that was not included in the 2000 decennial Census as an incorporated city, the data used to score is based on the 2000 decennial Census information for the entire county unincorporated population.

County Applications:

For a county, the data used to score is based on the 2000 decennial Census SF 3 information for:

the county's entire population (for county-wide benefit activities);

the county's entire unincorporated population (for activities that only benefit persons in unincorporated areas); or

the 2000 decennial census geographic area information specific to the unincorporated areas benefiting from the county's application activities (for activities that only benefit persons in unincorporated areas) (only census tracts, or block numbering areas, and block groups are allowable census geographic areas)

Geographic area information may be substituted only for county applications where the application activities benefit no more than two separate unincorporated target areas. County applications that include application activities for unincorporated areas that are located in more than two county precincts are scored for the entire county unincorporated population or the entire county population.

If a county elects to use census geographic area information that is specific to the unincorporated areas benefiting from the application activities, the county must submit the census geographic area identification number and the associated per capita income amount for each target area.

Multi-Jurisdiction applications - For multi-jurisdiction applications, the data used for scoring is based on a simple average of the per capita income amounts for all of the participating jurisdictions.

Data Source - US Bureau of the Census - 2000 Census - SF 3, Per Capita Income

2. Matching Funds – 60 Points Maximum

Applicant(s) population equal to or less than 1,500 according to the 2000 Census:

Match equal to or greater than 5% of grant request

60 points

•	Match at least 4% but less than 5% of grant request	40 points
•	Match at least 3%, but less than 4% of grant request	20 points
•	Match at least 2%, but less than 3% of grant request	10 points
•	Match less than 2% of grant request	0 points

Applicant(s) population equal to or less than 3,000 but over 1,500 according to the 2000 Census:

•	Match equal to or greater than 10% of grant request	60 points
•	Match at least 7.5% but less than 10% of grant request	40 points
•	Match at least 5%, but less than 7.5% of grant request	20 points
•	Match at least 2.5%, but less than 5% of grant request	10 points
•	Match less than 2.5% of grant request	0 points

Applicant(s) population equal to or less than 5,000 but over 3,000 according to the 2000 Census:

•	Match equal to or greater than 15% of grant request	60 points
•	Match at least 11.5% but less than 15% of grant request	40 points
•	Match at least 7.5%, but less than 11.5% of grant request	20 points
•	Match at least 3.5%, but less than 7.5% of grant request	10 points
•	Match less than 3.5% of grant request	0 points

Applicant(s) population over 5,000 according to the 2000 Census:

•	Match equal to or greater than 20% of grant request	60 points
•	Match at least 15% but less than 20% of grant request	40 points
•	Match at least 10%, but less than 15% of grant request	20 points
•	Match at least 5%, but less than 10% of grant request	10 points
•	Match less than 5% of grant request	0 points

The population category for an incorporated city is based on the city's 2000 Census population. The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for beneficiaries for the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities.

The population category under which multi-jurisdiction applications are scored is based on the combined populations of the applicants according to the 2000 Census.

Multi-Jurisdiction Applications - The population category under which multi-jurisdiction applications will be scored will be based on the combined populations of the participating applicants according to the 2000 census. The guidelines for determining the population category for county applications will also apply to multi-jurisdiction applications when a county or counties are participants in a multi-jurisdiction application.

Data Source - US Bureau of the Census - 2000 Census, SF 3.

3. Project Priorities – 30 Points Maximum

a. Activities providing or improving water or wastewater (including yardlines on residential property) and other affordable housing activities.30 Points

b. Street improvements.

c. All other eligible activities.

5 Points

(When necessary, a weighted-average is used to score to applications that include multiple activities. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for administration, a percentage of the total Tx CDBG construction and engineering dollars for each activity is calculated. Administration dollars requested is applied pro-rata to these amounts. The percentage of the total Tx CDBG dollars for each activity is then multiplied by the appropriate score and the sum of the calculations determines the score. Related acquisition costs are applied to the associated activity.)

APPENDIX B -

Scoring if a RRC for a region fails to approve an objective scoring methodology to the satisfaction of the Tx CDBG consistent with the requirements in this Action Plan by the established deadline or if the RRC fails to implement the approved methodology.

The State Tx CDBG staff will begin with the final RRC scoring factors for the 2009/2010 cycle and adjust them based on the following:

- a. The state may establish the maximum number of regional scoring factors that may be used in order to improve review and verification efficiency and may insert factors to provide a minimum number of factors:
- b. The state may determine that certain regional scoring factors may not be used because the data is not readily available or would require excessive effort to verify the information in a timely manner; and
- c. To ensure consistency, the state may determine the acceptable data source for a particular regional scoring factor.

NON-HOMELESS SPECIAL NEEDS ACTION PLAN: HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Situated within a comprehensive network of HIV care services, the Texas HOPWA Formula program addresses the unmet housing and supportive services needs of persons living with HIV (PSWH) and their families in Texas by providing housing assistance and supportive services to income-eligible individuals. These services are integrated with the larger Ryan White Program both in administration and service deliver, which in turn is integrated into the larger, multi-sectoral system for delivering treatment and care to these clients. The goals of the HOPWA program are to help low-income HIV-positive clients establish or maintain affordable and stable housing, to reduce the risk of homelessness, and to improve access to health care and supportive services. According to the 2009 Annual Texas HIV Surveillance Report, at the end of 2009, 66,126 persons were known to be living with HIV in Texas. This is an increase of 3,167 from 2008, and housing is consistently cited as a service gap in every service area in Texas.

The HOPWA Formula program is administered by the TB/HIV/STD/Viral Hepatitis Unit - HIV/STD Prevention and Care Services Branch of the Department of State Health Services (DSHS) and provides the following services (91.320(d) and (e)):

TENANT-BASED RENTAL ASSISTANCE (TBRA) PROGRAM

The TBRA program provides tenant-based rental assistance to eligible individuals until they are able to secure other affordable and stable housing.

SHORT-TERM RENT, MORTGAGE, AND UTILITIES (STRMU) ASSISTANCE PROGRAM

The STRMU program provides short-term rent, mortgage, and utility payments to eligible individuals for a maximum of 21 weeks of assistance in a 52-week period.

SUPPORTIVE SERVICES PROGRAM

The Supportive Services program provides case management, basic telephone service and assistance to purchase smoke detectors to eligible individuals.

PERMANENT HOUSING PLACEMENT SERVICES (PHP)

The PHP program provides assistance for housing placement costs which may include application fees, related credit checks, and reasonable security deposits necessary to move persons into permanent housing.

ANNUAL PROGRAM GOALS

Based on prior-year performance and current 2011 funding, DSHS estimates that 555 households can be provided with short-term rent, mortgage, and utility payments, 475 households can be provided tenant-based rental assistance; 1,030 can be provided with supportive services and 10 households can be provided permanent housing placement during the 2012 project year.

PROJECT SPONSOR SELECTION PROCESS

DSHS selects seven Administrative Agencies across the State through a combination of competitive Requests for Proposals (RFP) and intergovernmental agency contracts. The Admnistrative Agencies act as an administrative arm for DSHS by administering the HOPWA program locally for a three-year project period. This period is concurrent with the Ryan White Part B grant period, which delivers case management and other supportive services to HOPWA clients.

These Administrative Agencies in turn select HOPWA Project Sponsors through local competitive processes that are open to all grassroots, faith-based, and community-based organizations, and governmental agencies. Each Administrative Agencies contracts with one or more Project Sponsors who directly provide HOPWA services to eligible clients throughout the State's 26 HIV Service Delivery Areas (HSDA). Some Project Sponsors may change during 2011 due to local competitive processes or contract revisions.

PROGRAM BUDGET

DSHS reserves 3% of the total award for administrative and indirect costs, including, personnel, supplies, travel, training/technical assistance, and contractual support for ARIES. Project Sponsors are allowed up to 7% of their allocation for personnel or other administrative costs. The funding allocation is distributed geographically by HSDA and is based on a formula including HIV/AIDS morbidity, poverty level, and population distribution with annual adjustments for project sponsor funding needs.

The 2012 HOPWA Program budget is based on the current 2011-level allocation of \$2,807,104 per plus \$214,109 in estimated unexpended for a total of \$3,021,213. The following are the proposed 2012 allocated amounts:

Line Item	Amount
DSHS administration (3%)	\$84,213 (indirect costs)
Contractual	\$2,937,000
TBRA	\$1,875,631
STRMU	\$446,172
Supportive Services	\$425,734
Permanent Housing Placement	\$3,441
Project Sponsor Administration (not greater than 7%)	\$186,022

GEOGRAPHIC DISTRIBUTION

§91.320(f) and (k)

The funding allocations are geographically distributed across the State to the 26 HSDAs and all 254 Texas counties.

ADMINISTRATIVE AGENCIES AND PROJECT SPONSORS

The following chart summarizes the proposed 2012 HOPWA funding allocation for the seven Administrative Agencies and their 26 Project Sponsors/HSDAs. DSHS distributes funding in excess of the HUD grant award to spend down unobligated balances from previous years. The 2012 funding allocations are estimates based on current 2011 funding levels, program expenditures, and waiting lists. Allocations are subject to revisions based on funding approval and/or contract changes.

Administrative Agency	2012 Proposed Funding Allocation	Project Sponsor/HSDA	2012 Proposed Funding Allocation	
Bexar County Dept. of Community Investment		Alamo Area Resource Center/San Antonio	107,000	
230 N. Pecos, Ste 590	211,000	United Medical Centers/Uvalde	28,000	
San Antonio, TX 78207		Victoria City-County Health Department/Victoria	76,000	
		Community Action, Inc./Austin	Proposed Funding Allocation 107,000 28,000 76,000 37,000 22,000 28,000 70,000 105,000 2,000 57,000 20,000 140,800 444,500 82,000 117,700 116,000	
Brazos Valley Council of		Shannon Supportive Health Services	107,000 28,000 76,000 37,000 22,000 28,000 70,000 105,000 2,000 57,000 7,000 20,000 140,800 444,500	
Governments P.O. Box 4128	262,000	United Way of the Greater Fort Hood Area/Temple-Killeen	28,000	
Bryan, TX 77805-4128		Project Unity/Bryan-College Station	70,000	
		Waco/McLennan County Public Health District/Waco	105,000	
Dallas County HHSD 2377 North Stemmons Frwy.,		Dallas County Health and Human Services -HOPWA Program/Dallas	2,000	
Ste. 600 Dallas, TX 75207-2710	59,000	Your Health Clinic/Sherman- Dennison	57,000	
		AIDS Coalition of Coastal Texas/Galveston	7,000	
Houston Regional Resource	812,000	AIDS Foundation of Houston/Houston	20,000	
Group		Health Horizons/Lufkin	140,800	
500 Lovett Boulevard, Ste. 100 Houston, TX 77006		Special Health Resources for Texas, Inc. Longview/Tyler	444,500	
		Special Health Resources for Texas, Inc. Paris/Texarkana	82,000	
		Triangle AIDS Network/Beaumont- Port Arthur	117,700	
		Panhandle AIDS Service Organization/Amarillo	116,000	
Center	Lubbock Regional MHMR Center P.O. Box 2828 1602 Tenth St. Lubbock, TX 79408-2828 South Plains Community A Sun City Behavioral Health Paso Permian Basin Comm Center/Permian-Basin Community A	Sun City Behavioral Health Center/El Paso	216,000	
1602 Tenth St.		Permian Basin Community Center/Permian-Basin	121,000	
		South Plains Community Action, Inc. (Project CHAMPS)/Lubbock	135,000	

Administrative Agency	2012 Proposed Funding Allocation	Project Sponsor/HSDA	2012 Proposed Funding Allocation
South Texas Development		Coastal Bend AIDS	88,000
Council (STDC) P.O. Box 2187 4812 North Bartlett	824,000		358,000
Laredo, TX 78044-2187		Valley AIDS Council/Brownsville	378,000
Tarrant County Health		AIDS Resources of Rural Texas – Abilene/Abilene	72,000
Department 1101 South Main St., Ste. 2500 Fort Worth, TX 76104-4802	181,000	AIDS Resources of Rural Texas – Weatherford/Fort Worth	43,000
101t Worth, 1X 70104-4802		Wichita Falls Wichita County Health Department/Wichita Falls	66,000
Total	\$2,937,000		\$2,937,000

CLIENT PARTICIPATION

Clients participate in shaping local approaches to meeting housing needs in three ways:

All areas conduct periodic needs assessment of client needs, and assessment of housing needs are included in such assessments. These assessments vary in methodology and depth with which housing needs are explored, which is appropriate given the varying needs for housing assistance in various areas of the State. Additionally, all Ryan White Part A councils in Texas have either completed special assessments of homeless persons or persons at risk for homelessness, or will be completing such assessments within the next year. Assessments in all EMAs are joint Ryan White Part A and Part B assessments.

All planning areas in the State must have ways for community members, including clients, to have input into local priorities, allocations, and plans. All plans include discussions of how best to deliver services to meet the needs identified in assessments, and plans that prioritize expenditures on housing or identify housing needs that would include discussions of how best to meet these needs. Plans are written on three to four year cycles, but reviewed annually.

Finally, clients shape housing services via direct interactions with service providers. Through the intake system, HIV clients are informed about the HOPWA program, assisted with the application, or referred directly to the HOPWA Project Sponsor. Clients' housing needs are also assessed regularly with case managers as circumstances change and as determined by clients' housing plans.

OUTCOME MEASURES

§91.320(c)(3), §91.320(e), §91.320(g)

DSHS HOPWA contractors must address the following outcomes pursuant to the new performance measurement outcome system mandated by HUD:

Annual Action Plan - Planned Project Results

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Outcomes and Objectives	Performance Indicators	Expected Number	Activity Description
DH-2	# of households served	475	TBRA housing assistance
DH-2	# of households served	555	STRMU housing assistance
DH-2	# of households served	1,030	Supportive Services (restricted to case mgt., smoke detectors, and phone service)
DH-1	# of households served	10	Permanent Housing Placement (security deposits, application fees, credit checks)
Key	Availability/Accessibility	Affordability	Sustainability
Decent Housing	DH-1	DH-2	DH-3

HOPWA Homeless and Special Needs Goals

ANNUAL AFFORDABLE HOUSING GOALS	Expected Annual Number of Units To Be Completed
Homeless households	10
Non-homeless households	1,030
Special needs households	10

OTHER ACTIONS

The actions listed below are Other Actions taken by the Departments to meet the requirements of §91.320(j). Other Actions include Meeting Underserved Needs; Fostering and Maintaining Affordable Housing; Lead-Based Paint Hazard Mitigation; Reducing Poverty-Level Households; Developing Institutional Structure; Coordination of Housing and Services; and Addressing Public Housing Authorities Needs.

MEETING UNDERSERVED NEEDS

§91.320(j)

Given the large need for affordable housing and the limited supply of funding, one major obstacle is the lack of sufficient funding to meet underserved housing needs in Texas. When compared to the demographic characteristics of Texas, there is a shortage of affordable housing stock and funding sources to assist in the development and maintenance of affordable housing.

The limited supply of affordable housing is especially troublesome for persons with disabilities, who face numerous obstacles to obtaining community-based residential housing, Many persons with disabilities, particularly those receiving Supplemental Security Income (SSI), live in households below 30% AMFI, which makes finding housing that is affordable to their income level a challenge. Additionally, many persons with disabilities need housing accessibility modifications, such as ramps, no-step entrances, grab bars, lowered countertops, and roll-in showers, to be able to live independently.

Another obstacle to affordable housing can be difficulty obtaining a clear title for low-income homeowners. Clear titles are required for homeowners to meet program eligibility requirements and protect TDHCA's investment in affordable housing. Homeowners in need of housing repair or contract-for-deed conversions often have difficulty obtaining a clear title. Titles may not be in the homeowners' name because of divorce or widowing, in which case the ex-spouse is also on the title. Titles with liens are a common occurrence when converting contract-for-deeds into traditional mortgages.

To address underserved needs, TDHCA closely monitors affordable housing trends and issues as well as conducting its own research. TDHCA makes adjustments to address community input gathered through roundtable discussions and public hearings held throughout the State. To illustrate this point, for the 2012-2013 Biennium Plan, the Housing Trust Fund is financing the Amy Young Barrier Removal Program, which provides accessibility modifications necessary for households with disabilities as a result of public input at a roundtable. TDHCA efforts, combined with public outreach and education, are part of TDHCA's commitment to overcome obstacles to affordable housing.

HOME AND ESGP ADDRESS UNDERSERVED NEEDS

The HOME Program provides grant funds, deferred forgivable loans and repayable loans to Units of General Local Government, nonprofit and for-profit organizations, Community Housing Development Organizations (CHDOs), and Public Housing Authorities (PHAs). These funds are primarily used to foster and maintain affordable housing by providing rental assistance, rehabilitation, or reconstruction of owner-occupied housing units, down payment and closing cost assistance with or without accessibility modifications for the acquisition of affordable single family housing, single family housing development,

Meeting Underserved Needs

and funding for rental housing development including the preservation of existing affordable or subsidized rental housing.

HOME funds may also be used in conjunction with the Housing Tax Credit Program to construct or rehabilitate affordable rental housing.

ESGP funds are utilized to provide transitional housing. However, funds are awarded based on the requests for funding and the majority of funds are utilized by awardees to provide emergency shelter. These funds meet the needs of local homeless populations. Awardees have limited federal funds available to support the operations and maintenance of shelter facilities. ESGP funds have the flexibility to be utilized for up to 100% of the award for maintenance and operations costs of a shelter.

CDBG Addresses Underserved Needs

Tx CDBG encourages affordable housing projects using several methods in the allocation of CDBG funds to the eligible communities that can participate in its programs, including favorable State scoring and regional prerogative to prioritize funding for housing infrastructure and rehabilitation. Each region is encouraged to set aside a percentage of the regional allocation for housing improvement projects, and housing applications are scored as high priority projects at the State level. Housing projects continue to be funded through the Colonia Self-Help Centers as well.

In addition, CDBG funding provides a cost savings for housing when CDBG funds are used to provide first-time water and wastewater services by installing water and sewer yardlines and paying impact and connection fees for qualifying residents. For PY 2012, the Tx CDBG will make funds available through five different grant categories to provide water or sewer services on private property, with the vast majority being low and moderate income households.

The most commonly cited obstacle to meeting the underserved community development needs of Texas cities (aside from inadequate funding) is the limited administrative capacity of the small rural towns and counties the CDBG program serves. Tx CDBG staff offers technical assistance to communities to promote successful CDBG projects.

CDBG funding also helps cities and counties study affordable housing conditions. The plans produced through a Tx CDBG planning contracts provide both valuable data concerning a city's or county's affordable housing stock and planning tools for expanding their affordable housing. In PY 2012, Tx CDBG will make funds available for planning through the Planning and Capacity Building Fund and the Colonia Planning and Construction Fund.

The Colonia Self-Help Centers continue to address affordable housing needs in border counties by assisting qualifying colonia residents to finance, refinance, construct, improve or maintain a safe, suitable home in suitable areas.

Another obstacle to meeting underserved needs applies to colonias projects. There have been cases when a county applies to provide water service to an area, but more than one water supply corporation or city may have a Certificate of Convenience and Necessity (CCN) in that territory (CCNs have been issued which have overlapping territories). In these cases, a dispute over which water supply corporation/city has the right to serve the territory (and therefore collect the revenues) may arise. A public hearing process may be necessary to resolve this issue, which can then delay projects for

Meeting Underserved Needs

months. Tx CDBG will continue to work with regulatory agencies as appropriate to resolve issues in project areas in a timely manner.

HOPWA ADDRESSES UNDERSERVED NEEDS

The Texas HOPWA program continues to meet the needs of underserved populations in several ways.

As assessed regularly by Ryan White needs assessments in all HSDAs, housing needs are high among people living with HIV. The Texas HOPWA program meets the needs of this underserved population throughout the State by providing essential housing and utilities assistance as part of a comprehensive medical and supportive services system. As a result, people living with HIV and their families are able to maintain safe and affordable housing, reduce their risk of homelessness, and access medical care and supportive services.

In addition, DSHS is continuing to update funding allocations to address the changing needs of local communities and to maximize and target HOPWA funding to HSDAs that are in greatest need. DSHS will consider a variety of factors including but not exclusive to HIV/AIDS morbidity, poverty level, housing costs and needs, homelessness data, program waitlists, and program expenditures.

FOSTERING AND MAINTAINING AFFORDABLE HOUSING

§91.320(j)

The Departments provide funds for non-profit and for-profit organizations and units of local government to develop and maintain affordable housing. Funds include grants, low-interest loans, low income housing tax credits, and mortgage revenue bonds.

The Departments coordinate funding of rehabilitation or development of affordable housing with the Housing Tax Credit (HTC) program in accordance with the Qualified Allocation Plan (QAP). In addition, credits awarded through the HTC program can be layered with awarded funds from the HOME or Housing Trust Fund multifamily programs. When more than one source of funds is used in an affordable housing project, the State is able to ensure affordability to low-income renters beyond the rent and occupancy restrictions imposed by U.S. Department of Treasury's Internal Revenue Service that set the requirements of the HTC program.

HOME ADDRESSES AFFORDABLE HOUSING

The HOME Program provides grant funds, deferred forgivable loans, and repayable loans to units of local government, nonprofit and for-profit organizations, community housing development organizations (CHDOs), and public housing authorities (PHAs). These funds are primarily used to foster and maintain affordable housing by providing rental assistance, rehabilitation, or reconstruction of owner-occupied housing units with or without refinancing, down payment and closing cost assistance with optional rehabilitation for the acquisition of affordable single family housing, single family development and funding for rental housing preservation of existing affordable or subsidized developments.

ESGP Addresses Affordable Housing

While TDHCA encourages the use of ESGP funds to provide affordable transitional housing, the majority of funds are utilized to provide emergency shelter. Fostering affordable housing is not an initiative for which TDHCA provides funding or that TDHCA monitors for the ESGP Program.

CDBG Addresses Affordable Housing

Tx CDBG encourages affordable housing projects using several methods. First, it provides for a scoring preference under the largest fund category. Each of the 24 regions is encouraged to set aside a percentage of the regional allocation for housing improvement projects. The Community Development Fund and Colonia Fund provide for housing rehabilitation to improve affordable housing.

In addition, CDBG funding provides a cost savings that leads to affordable housing when CDBG funds are used to provide first-time water and wastewater services by installing water and sewer yardlines and paying impact and connection fees for qualifying residents. For PY 2012, the Tx CDBG will make funds available through five different grant categories to provide water or sewer services on private property, with the vast majority being low and moderate income households.

CDBG funding also helps cities and counties study affordable housing conditions. The plans produced through a Tx CDBG planning contracts provide both valuable data concerning a city's or county's affordable housing stock and planning tools for expanding their affordable housing. In PY 2012, Tx

Affordable Housing

CDBG will make funds available for planning through the Planning and Capacity Building Fund and the Colonia Planning and Construction Fund.

The Colonia Self-Help Centers continue to address affordable housing needs in border counties by assisting qualifying colonia residents to finance, refinance, construct, improve or maintain a safe, suitable home in suitable areas.

HOPWA ADDRESSES AFFORDABLE HOUSING

HOPWA addresses affordable housing by providing rental assistance for people living with HIV and their families. Low-income people living with HIV often struggle to make their house payments because of high costs for medical care and medications or loss of employment. HOPWA makes housing costs more affordable for those PLWHA who are income eligible so they can maintain their housing and adhere to their medical treatment.

LEAD-BASED PAINT HAZARD MITIGATION

§91.320(j)

HUD's final regulations for Title X (24. CFR.105) calls for a three-pronged approach to target conditions that pose a hazard to households: (1) notification of occupants about the existence of hazards so they can take proper precautions, (2) identification of lead-based paint hazards before a child can be poisoned and, (3) control of these lead-based paint hazards in order to limit exposure to residents. While TDHCA monitors its properties for compliance with these regulations, at the State level, the Texas Department of State Health Services (DSHS) has been charged with oversight of the Texas Environmental Lead Reduction Rules (TELRR). These rules cover areas of lead-based paint activities in target housing (housing constructed prior to 1978) and child-occupied facilities, including the training and certification of persons conducting lead inspections, risk assessments, abatements, and project design. For all projects receiving over \$25,000 in federal assistance, contractors need to follow inspections and abatements standards overseen by DSHS. By following these standards, the State is increasing the access to housing without lead-based paint hazards. The adherence to inspection and abatement standards is related to the extent of lead-based paint in that a majority of the housing in need of rehabilitation is likely housing built before 1978.

HOME ADDRESSES LEAD-BASED PAINT

The HOME Program requires lead screening in housing built before 1978 for all HOME eligible activities and in accordance with 24 CFR Part 92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. The HOME Program increases the awareness of the hazards of lead-based paint by requiring screening for TBRA, homebuyer assistance and homeowner rehabilitation. Furthermore, single-family and multifamily development activities in HOME increase the access to lead-based-paint-free housing through the construction of new housing. The HOME Program requires an environmental site assessment and the abatement of lead-based paint if the structure being rehabilitated was constructed prior to 1978. There is significant training, technical assistance, and oversight of this requirement on each contract funded under the HOME Program.

ESGP ADDRESSES LEAD-BASED PAINT

For ESGP, TDHCA requires subrecipients to evaluate and reduce lead-based paint hazards for conversion, renovation, or rehabilitation projects funded with ESGP funds, and tracks work in these efforts as required by Chapter 58 of the Environmental Protection Act. During the annual contract implementation training, the Department will provide ESGP subrecipients with information related to lead-based paint regulations and the Department's requirements related to such. The Department will require ESGP funded subrecipients to determine if a housing unit was built prior to 1978, for households seeking ESGP funded rent or rent deposit assistance whose household has a family member(s) 6 year of age or younger. If the housing unit is built prior to 1978, the ESGP subrecipient will notify the household of the hazards of lead-based paint.

ESGP subrecipients utilizing ESGP funds for renovation, rehabilitation or conversion must comply with the Lead Based Paint Poisoning and Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992. Through renovation, rehabilitation or conversion, ESGP increases access to shelter without lead-based paint hazards. TDHCA evaluates and reduces lead-based hazards for

Lead-Based Paint

conversion, renovation, or rehabilitation projects funded with ESGP funds and tracks work in these efforts in the ESGP Program as required by Chapter 58 of the Environmental Protection Act.

CDBG Addresses Lead-Based Paint

The Tx CDBG encourages the reduction of lead-based hazards through favorable scoring under its Community Development Funds for the replacement of lead fixtures and other lead hazards that are an imminent public health threat. The Tx CDBG program encourages regional priority set-asides for housing projects such as housing rehabilitation. Under the set-aside, the highest ranked applications for a housing activity, regardless of the position in the overall ranking, would be selected to the extent available regional funding permits. These housing rehabilitation projects lead to access to housing without lead hazards. This regional prioritization is related to the extent of lead hazards and the identified need within the region. In addition, lead-based paint mitigation is a common activity eligible under housing rehabilitation that is funded under the Colonia Planning and Construction Fund and Community Development Funds. Each contract awarded requires the sub-grantee to conform to Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and procedures established by the Tx CDBG in response to the Act.

In accordance with CDBG State regulations and the Lead-Based Paint Poisoning Prevention Act, Tx CDBG has adopted a policy to eliminate as far as practicable the hazards of lead poisoning due to the presence of lead-based paint in any existing housing assisted under the CDBG. In addition, this policy prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance. Abatement procedures should be included in the housing rehabilitation contract guidelines for each project and must appear in the approved work write-up documentation for all homes built prior to 1978 that will be rehabilitated, as outlined in the Housing Rehabilitation Manual.

HOPWA ADDRESSES LEAD-BASED PAINT

EPA requires that Project Sponsors give all HOPWA clients utilizing homes built before 1978 the pamphlet entitled, "Protect Your Family from Lead in Your Home" during the intake process. The client's case record must include documentation that a copy of the pamphlet was given to the client.

For each HOPWA household, the case manager must certify the following:

If the structure was built prior to 1978, and there is a child under the age of six who will reside in the property, and the property has a defective paint surface inside or outside the structure, the property cannot be approved until the defective surface is repaired by at least scraping and painting the surface with two coats of non-lead based paint. Defective paint surface means: applicable surface on which paint is cracking, scaling, chipping, peeling or loose. If a child under age six residing in the HOPWA-assisted property has an Elevated Blood Lead Level, paint surfaces must be tested for lead-based paint. If lead is found present, the surface must be abated in accordance with 24 CFR Part 35.

REDUCING POVERTY-LEVEL HOUSEHOLDS

§91.320(j)

TDRA, TDHCA, and DSHS have an important role in addressing Texas poverty. These agencies seek to reduce the number of Texans living in poverty, thereby providing a better future for all Texans. This means trying to provide long-term solutions to the problems facing people in poverty and targeting resources to those with the greatest need.

HOME AND ESG ADDRESS POVERTY-LEVEL HOUSEHOLDS

Through the HOME Tenant-Based Rental Assistance Program, TDHCA assists households with rental subsidy and security and utility deposit assistance for a period not to exceed 24 months. As a condition to receiving rental assistance, households must participate in a self-sufficiency program, which can include job training, GED classes, or drug dependency classes. The HOME Program enables households to receive rental assistance while participating in programs that will enable them to improve employment options and increase their economic independence and self-sufficiency. Additionally, the Department allocates funding toward the rehabilitation and construction of affordable rental housing, incentivizing units to assist very low income households and assists very low income households along the international border of Texas and Mexico by promoting the conversion of contract for deed arrangements to traditional mortgages. The ESG Program funds activities that provide shelter and essential services for homeless persons, as well as intervention services for persons threatened with homelessness. Essential services for homeless persons include medical and psychological counseling, employment counseling, substance abuse treatment, transportation, and other services. While TDHCA supports the use of ESGP funds to help ESGP clients lift themselves above the poverty line, it is not a specific initiative for which TDHCA earmarks ESGP funding or that TDHCA monitors for the ESGP Program.

For individuals threatened with homelessness, homelessness prevention funds can be used for short-term subsidies to defray rent and utility arrearages for households receiving late notices, security deposits, and payments to prevent foreclosure.

CDBG Addresses Poverty-Level Households

A substantial majority, 91%, of Tx CDBG funds are obligated to cities and counties under the funding competitions meeting the national objective to "principally benefit low and moderate income persons." Tx CDBG encourages the funding of communities with a high percentage of persons in poverty through its application scoring. The CDBG projects under this national objective are required to serve 51 percent low to moderate income persons; however, for PY2012, the scoring portion of the largest fund category, the Community Development Fund, provides for points only if it meets the national objective of benefiting low and moderate income persons. In addition, the CDBG allocation formula used to distribute Community Development funds among regions includes a variable for poverty. The percentage of persons in poverty for each region is factored into the allocation formula in order to target funding toward the greatest need.

The CDBG economic development funds have been instrumental in creating infrastructure and jobs. By creating and retaining jobs through assistance to businesses and then providing lower income people

Poverty-Level Households

access to these jobs, Tx CDBG can be a very effective anti-poverty tool. This potential will be further maximized by providing jobs that offer workplace training and education, fringe benefits, opportunities for promotion, and services such as child care. In addition, programs that improve infrastructure affords the opportunity to upgrade existing substandard housing (such as in the colonias) and build new affordable housing where none could exist before.

HOPWA ADDRESSES POVERTY-LEVEL HOUSEHOLDS

The DSHS HOPWA Program serves HIV positive persons based on income eligibility criteria of no more than 80 percent of the area median income with adjustments for family and household size, as determined by HUD income limits. With varying poverty levels and housing needs in each HSDA across the State, some Project Sponsors may set stricter local income limits to maximize and target HOPWA resources to those with very low-income or poverty-level income. While many of the HOPWA clients assisted may be at poverty-level, this is not a requirement under 24 CFR 574.3.

DEVELOPING INSTITUTIONAL STRUCTURE

§91.320(j)

TDRA, TDHCA, and DSHS are primarily pass-through funding agencies and distribute federal funds to local entities that in turn provide assistance to households. Because of this, the agencies work with many housing and community development partners, including consumer groups, community based organizations, neighborhood associations, community development corporations, councils of governments, community housing development organizations, community action agencies, real estate developers, social service providers, local lenders, investor-owned electric utilities, local government, nonprofits, faith-based organizations, property managers, state and local elected officials, and other state and federal agencies.

HOME AND ESG ADDRESS INSTITUTIONAL STRUCTURE

The HOME Program encourages partnerships in order to improve the provision of affordable housing. Organizations receiving Homebuyer Assistance funds are required to provide homebuyer education classes to households directly, or coordinate with a local organization that will provide the education. In addition, organizations receiving Tenant-Based Rental Assistance funds must provide self-sufficiency services directly, or coordinate with a local organization that will provide the services. Finally, partnerships with Community Housing Development Organizations and non profit and private-sector organizations facilitate the development of quality rental housing development and assist in the rehabilitation of owner-occupied housing.

TDHCA encourages ESGP subrecipients to coordinate services with housing and other service agencies. Collaborative applications funded with ESGP funds are required to coordinate services and to provide services as part of a local continuum of care. TDHCA reviews ESGP subrecipients' coordination efforts during on-site and desk monitoring.

CDBG Addresses Institutional Structure

CDBG funds are awarded to non-entitlement units of general local government thereby providing these communities with financial resources to respond to its community development needs. Such may include planning; constructing community facilities, infrastructure, and housing; and implementing economic development initiatives. Each applicant to the CDBG fund is required throughout its citizen participation process to inform local housing organizations of its intention to apply for CDBG funding through the CDBG and invite their input into the project selection process.

Tx CDBG continues to coordinate with the Texas Department of Housing and Community Affairs, the Texas Department of Agriculture, the Texas Water Development Board, Annual State Agency Meeting on Rural Issues, and the 24 Regional Councils of Governments to further its mission and target beneficiaries of CDBG funds through programs such as the Colonia Self-Help Centers, the Colonia Economically Distressed Areas Program, the Housing Tax Credit Program, and the Texas Capital Fund.

Institutional Structure

HOPWA ADDRESSES INSTITUTIONAL STRUCTURE

DSHS contracts with seven Administrative Agencies, which contract directly with the Project Sponsors serving all 26 HSDAs in the State to administer the HOPWA program under DSHS oversight. The Administrative Agencies also administer the delivery of a range of other HIV health and social services, including the Ryan White grant and State HIV Services funds. This structure ensures the coordination of all agencies serving people with HIV, avoids duplication, saves dollars, and provides the best possible coordination of services for people with HIV in each local community. HOPWA program information is made available to all HIV service agencies in the HSDA and a referral network is established for potential clients. DSHS HOPWA clients are linked through their case managers to a comprehensive network of medical care and supportive services for persons living with HIV and their families, consisting of 64 local providers across the State. HOPWA Project Sponsors collaborate locally with these providers to ensure that clients receive the services they need to begin treatment and remain in care. Additionally, Project Sponsors collaborate with local housing authorities in their areas to assure that HOPWA clients are referred to the housing programs and services that best fit their needs and circumstances. Most notable is collaboration of Project Sponsors with local Housing Choice Voucher programs.

Coordination of Housing and Services

COORDINATION OF HOUSING AND SERVICES

§91.320(j)

The State agencies are primarily funding entities whose chief function is to distribute program funds to local conduit providers that include units of local government, nonprofit and for profit organizations, community-based organizations, private sector organizations, real estate developers and local lenders. Because the agencies do not fund individuals directly, coordination with outside entities is key to the success of its programs.

There are many benefits to these partnerships. Risk and commitment are shared. The principle of reciprocity requires that local communities demonstrate an awareness of their needs and a willingness to participate actively in solving problems, therefore local communities play an active role in tailoring the project to their needs. Partners are able to concentrate specifically on their area of expertise. Finally, a greater variety of resources insure a well targeted more affordable product.

FAIR HOUSING COORDINATION

TDHCA works to ensure that the housing programs it administers benefit individuals without regard to race, color, religion, sex, disability, familial status or national origin through education and outreach, as well as compliance monitoring. TDHCA put together a webpage intended to provide fair housing information and resources useful to a variety of audiences. TDHCA has also developed training and informational brochures focused on specific fair housing issues for dissemination at events TDHCA attends. Complaints involving all forms of housing discrimination are forwarded to the Texas Workforce Commission Human Rights Division, which oversees the Texas Fair Housing Act and works directly with HUD in the enforcement of fair housing laws. TDHCA also coordinates its fair housing efforts with HUD and other state entities including the Texas Department of Agriculture, the General Land Office, and the Texas Department of Health and Human Services, as well as with all TDHCA stakeholders.

PERSONS WITH DISABILITIES COORDINATION

The Promoting Independence Advisory Committee (PIAC) assists the Health and Human Services Commission in creating the State's response to the Olmstead decision through the biannual Promoting Independence Plan. This Plan highlights the State's efforts to assist individuals who are desirous of community placement, appropriate for community placement as determined by the State's treatment professionals and do not constitute a fundamental alteration in the State's services. TDHCA participates in PIAC meetings and is a member of the Housing subcommittee.

TDHCA has found that directly involving program beneficiary representatives, community advocates and potential applicants for funding in the process of crafting its policies and rules is extremely helpful. This process is often done through a working group format. The working groups provide an opportunity for staff to interact with various program stakeholders in a more informal environment than that provided by the formal public comment process. TDHCA has actively maintained a Disability Advisory Workgroup which provides ongoing guidance to the Executive Director on how TDHCA's programs can most effectively serve persons with disabilities.

The Texas State Legislature has created a Housing and Health Services Coordination Council, with the purpose of increasing State efforts to expand service-enriched housing through increased coordination

Coordination of Housing and Services

of housing and health services. This Council has conducted research and identified funding opportunities to create service-enriched housing for persons with disabilities and seniors. More information about the Housing and Health Services Coordination Council can be found on page 12.

PERSONS WITH HIV/AIDS COORDINATION

DSHS addresses the housing needs of HIV/AIDS patients through HOPWA. In Texas, HOPWA funds provide emergency housing assistance, which funds short-term rent, mortgage and utility payments to prevent homelessness; and tenant-based rental assistance, which enables low-income individuals to pay rent and utilities until there is no longer a need. In addition to the DSHS Statewide program, the cities of Austin, Dallas, Fort Worth, Houston and San Antonio receive HOPWA funds directly from HUD.

The Housing Tax Credit (HTC) Program addresses the needs of people with HIV/AIDS. According to the 2011 Housing Tax Credit Program Qualified Allocation Plan (QAP), HTC offers additional points during the award process for developments that propose to set aside 5% percent of the units for persons with special needs, such as people with HIV/AIDS.

HOMELESS POPULATIONS COORDINATION

The first phase of TDHCA's Housing Support Continuum outlined in the Institutional Structure of Agencies section is (1) Poverty and Homelessness Prevention which includes the Community Services Block Grant Program, the Comprehensive Energy Assistance Program and the Emergency Shelter Grant/Emergency Solutions Grant Program, all programs that address or prevent homelessness.

While the HTC Program is well-known and primarily used for the construction, acquisition and/or rehabilitation of new, existing, at-risk and rural rental housing, the HTC Program can also be used to develop transitional housing and permanent supportive housing for homeless populations. Furthermore, according to the 2011 Housing Tax Credit Program QAP, HTC offers additional points within the scoring criteria for developments that propose to set aside 5 percent of the units for persons with special needs, such as people who are homeless.

In addition, the Housing Trust Fund may develop or rehabilitate transitional housing and permanent supportive housing for homeless populations. While acquisition, rehabilitation and new construction are eligible activities under the program's Rule, this activity may not occur each year.

TDHCA also collaborates with the Texas Homeless Network (THN) to build the capacity of homeless coalitions across the State of Texas, enabling them to become more effective in the communities they serve. The Department provided funds to THN through the Community Services Block Grant to support technical assistance workshops for the HUD Continuum of Care homeless application. The purpose of the workshops was to assist communities in creating a network of services to the homeless population.

Texas Interagency Council for the Homeless

The Texas Interagency Council for the Homeless was created in 1989 to coordinate the State's homeless resources and services. This Council consists of representatives from all State agencies that serve the homeless. It receives no funding and has no full-time staff, but receives clerical and advisory support from TDHCA. This Council holds public hearings in various parts of the State to gather information useful to its members in administering programs. The Texas Interagency Council for the Homeless' major mandates include:

Coordination of Housing and Services

- o evaluating and helping coordinate the delivery of services for the homeless in Texas;
- o increasing the flow of information among service providers and appropriate authorities;
- providing technical assistance to TDHCA in assessing the need for housing for people with special needs;
- developing, in coordination with TDHCA and the Health and Human Services Commission, a strategic plan to address the needs of the homeless; and
- o maintaining a central resource and information center for the homeless.

HOUSING AND TRANSPORTATION

Because housing and transportation are usually the two highest percentages of a household's budget, TDHCA and the Texas Department of Transportation (Tx DOT) are taking steps to coordinate affordable housing and public transportation. Staffs of both Departments plan to continue meet to determine how best to link providers of affordable housing and public transportation.

ADDRESSING PUBLIC HOUSING AUTHORITIES NEEDS

§91.320(j)

To address PHA needs, TDHCA has designated PHAs as eligible entities for its programs, such as the Housing Tax Credit (HTC) Program, HOME Program and ESG Program. PHAs have successfully administered HTC funds to rehabilitate or develop affordable rental housing.

TDHCA has worked to promote programs that will repair substandard housing and develop additional affordable housing units. TDHCA has developed a relationship with the Texas Housing Association and the Texas chapter of the National Association of Housing and Redevelopment Officials (NAHRO), which represent the public housing authorities of Texas. Furthermore, PHAs staff members are members of the same workgroups as TDHCA, such as the Rural Housing Workgroup, fostering a connection.

TDHCA also has contact with PHAs when PHAs request certifications of consistency with the State's Consolidated Plan. As required by 24 CFR §903.15, in 1999, TDHCA, started a certification process to ensure that the annual plans submitted by PHAs in an area without a local Consolidated Plan are consistent with the State of Texas's Consolidated Plan.

TDHCA believes that the future success of Public Housing Authorities (PHAs) will center on ingenuity in program design, emphasis on resident participation towards economic self-sufficiency, and partnerships with other organizations to address the needs of this population. While TDHCA does not have any direct or indirect jurisdiction over the management or operations of public housing authorities, it is important to maintain a relationship with these service providers.

HOME ADDRESSES PHA NEEDS

Because PHAs are eligible applicants under the HOME Program, TDHCA provides notices of funding availability to all PHAs in the State. At HOME application workshops, application processes are discussed in detail, including those related to homebuyer assistance. Furthermore, staff of PHAs, especially those receiving HOME funds and those with Section 8 Homeownership programs, are targeted by TDHCA's Texas Statewide Homebuyer Education Program for training to provide homebuyer education opportunities and self-sufficiency tools for PHA residents.

In addition to PHAs that have received HOME funds to provide homebuyer assistance in their areas, PHAs have also received HOME tenant-based rental assistance funds, enabling them to provide additional households with rental assistance and services to increase self-sufficiency.

ESG ADDRESSES PHA NEEDS

PHA residents are eligible to receive assistance and services from ESG grantees. Fostering public housing resident initiatives is not an initiative for which TDHCA provides funding or that TDHCA tracks for the ESGP Program.

CDBG ADDRESSES PHA NEEDS

Litigation concerning CDBG funding and public housing authorities, known as Young v. Martinez, focused attention and funds on these areas in the past. The State provided three funding set-asides to address Court-ordered activities under the Final Order and Decree for the litigation, obligating a total of \$13,664,753.18 for 62 Young v. Martinez Fund projects in PHA areas. Although the litigation has been

Public Housing Authorities

settled, Tx CDBG continues to serve public housing areas through other funding categories as residents of PHAs qualify as low to moderate income beneficiaries for CDBG projects.

HOPWA ADDRESSES PHA NEEDS

The HOPWA program administered by DSHS does not provide public housing assistance. However, Project Sponsors coordinate closely with local housing authorities for client referrals and to address local housing issues.

PUBLIC HOUSING AUTHORITIES RESIDENT INITIATIVES

The Texas Department of Housing and Community Affairs believes that the future success of PHAs will center on ingenuity in program design, emphasis on resident participation towards economic self-sufficiency, and partnerships with other organizations to address the needs of this population. While TDHCA does not have any direct or indirect jurisdiction over the management or operations of public housing authorities, it is important to maintain a relationship with these service providers.

HOME ADDRESSES PUBLIC HOUSING RESIDENT INITIATIVES

Because PHAs are eligible applicants under the HOME Program, TDHCA provides notification of published notices of funding availability to all PHAs in the State. At HOME application workshops, application processes are discussed in detail, including those related to HBA. In addition to PHAs that have received HOME funds to provide homebuyer assistance in their areas, PHAs have also received HOME Tenant-Based Rental Assistance funds, enabling them to provide additional households with rental assistance and services to increase self-sufficiency.

ESGP ADDRESSES PUBLIC HOUSING RESIDENT INITIATIVES

Fostering public housing resident initiatives is not an initiative for which TDHCA provides funding or that TDHCA tracks for the ESGP Program.

CDBG Addresses Public Housing Resident Initiatives

While CDBG does not have a specific fund for PHA residents, it does promote through its Section 3 efforts the use of residents for CDBG-funded projects.

A Tx CDBG grant recipient must take steps to follow its adopted Section 3 policy and document those efforts. It must include its Section 3 Policy and Equal Opportunity Guidelines for Construction Contractors in any bid packets for contracts on Tx CDBG projects.

For any new employment, training, or contracting opportunities created during the expenditure of Tx CDBG funding, the Tx CDBG grant recipient and their contractors or subcontractors as applicable must take the following actions "to the greatest extent feasible":

- Notify Section 3 Residents in writing about training and employment opportunities generated by the Tx CDBG-funded project;
- Notify potential contractors completing work on Section 3 covered projects of their responsibilities in writing;

Public Housing Authorities

- Incorporate the Section 3 clause into all solicitations and contracts greater than \$100,000, as well as all subcontracts of those contracts;
- Facilitate the training and employment of Section 3 Residents;
- Refrain from entering into contracts with contractors that are in violation with the Section 3 regulations (if the Grant Recipient has been notified of such violations); and
- Document actions taken to comply with Section 3.

HOPWA ADDRESSES PUBLIC HOUSING RESIDENT INITIATIVES

The HOPWA program administered by DSHS does not provide public housing assistance. However, Project Sponsors coordinate closely with local public housing authorities for client referrals and to address local housing issues.

HOUSING RESOURCE CENTER BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action to approve a policy to guide TDHCA in serving persons with Limited English Proficiency (LEP).

RECOMMENDED ACTION

Approve a policy regarding timely meaningful access to TDHCA's programs for persons with LEP.

WHEREAS, Title VI of the 1964 Civil Rights Act prohibits discrimination based on national origin;

WHEREAS, Executive Order 13166 provided an interpretation of Title VI which required recipients of federal funds to provide meaningful access to persons with limited English proficiency (LEP) in order to eliminate discrimination based on a person's native language from his or her national origin;

FURTHER RESOLVED, the attached policy will be used by TDHCA to determine how to identify and serve LEP persons.

BACKGROUND

Title VI of the 1964 Civil Rights Act prohibits discrimination based on national origin. In 2000, Executive Order 13166 provided an interpretation of Title VI which required recipients of federal funds to provide meaningful access to (LEP) persons in order to eliminate discrimination based on a person's native language from his or her national origin. TDHCA will adopt policy for compliance standards that are recommended to help ensure its programs and activities provided in English are meaningfully accessible to individuals with LEP.

The following policy outlines the responsibilities of TDHCA and its subrecipients and contractors in relation to Title VI. TDHCA commits to conduct an assessment to determine the extent of its obligation to provide LEP services. Federal guidance requires a Four-Factor Analysis which analyzes (1) the number or proportion of LEP persons served or encountered in the eligible service population; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity or service provided by the program; and (4) the resources available and costs to the recipient. TDHCA also commits to develop, maintain, and periodically update a Language Access Plan (LAP). TDHCA will also train staff, subrecipients, and contractors and inform LEP persons about policies and procedures regarding the LAP.

Attachment A: Limited English Proficiency Policy

Purpose

To ensure that the Texas Department of Housing and Community Affairs (TDHCA) or (Department) fulfills its responsibilities to provide timely meaningful access to its programs, services, and activities to persons with limited English proficiency (LEP).

Legal Basis and Guidelines

TDHCA is mandated under the following federal and state laws and guidelines to provide timely meaningful access to programs, services, and activities to persons with LEP.

- Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.)
- Americans with Disabilities Act of 1990 (ADA), as amended (42 U.S.C. 12101 et seq.)
- Executive Order 11063, as amended by Executive Order 12259, and 24 CFR Part 107,
 "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"
- Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency"
- Equal Credit Opportunity Act, as amended (15 U.S.C. 1691 et seq.)
- U.S. Department of Energy Title VI regulations (10 CFR Part 1040.11) and policy guidance
- U.S. Department of Health and Human Services regulations Title VI regulations (45 CFR Part 80) and policy guidance
- U.S. Department of Housing and Community Development Title VI regulations (24 CFR Part 1) and policy guidance
- U.S. Department of the Treasury Title VI regulations and policy guidance (29 CFR Part 1606)
- Texas Government Code 2054.116, Spanish Language Content on Agency Web Sites
- Texas Civil Practice and Remedies Code, Chapter 106
- Texas Administrative Code, Title 1. Administration, Part 10. Department of Information Resources, Chapter 202. Information Security Standards, Section 206.52 (1 T.A.C. 206.52)

Background

In accordance with Title VI of the Civil Rights Act of 1964, as amended, and Executive Order 13166, TDHCA will, as a recipient of federal funds, provide meaningful access to persons with limited English proficiency (LEP) in order to eliminate discrimination based on a person's native language from his or her national origin. This guidance sets forth the compliance standards that are recommended to help ensure the programs and activities provided in English are accessible to persons with LEP.

Responsibilities

TDHCA is committed to providing meaningful access to programs, services, and activities for persons with LEP. TDHCA, its subrecipients, and contractors must ensure that the language assistance provided results in accurate and effective communication between the organization and persons with LEP. TDHCA in fulfilling its obligations will:

Conduct an assessment to determine the extent of its obligation to provide LEP services. The assessment will consider the following factors: (1) the number or proportion of persons with LEP eligible to be served or likely to be encountered by the program or Department; (2) the frequency with which persons with LEP come in contact with the program or Department; (3) the nature and importance of the program, activity, or service provided by the program or Department to people's lives; and (4) the resources available to the program or Department, in relation to the costs of LEP services.

Develop, maintain, and periodically update written plans ("Language Services Plan") on language services assistance for LEP Persons, for use by employees, subrecipients, and contractors serving the public. The plan will serve as a means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. The plan will have a citizen participation component. The plan will include, but is not limited to:

- Methods for identifying persons with LEP who need language services.
- Methods for meeting oral interpretation and written translation needs of persons with LEP.
- Methods for informing persons with LEP that language services assistance is available free of charge.
- Methods for ensuring Spanish-speaking persons of LEP have meaningful access to state agency information on-line.
- Methods for training staff, subrecipients, and contractors on their responsibilities to ensure meaningful access for persons with LEP.
- Methods for monitoring the effectiveness of the language services being provided and establishing a procedure for LEP individuals to provide feedback.

Inquiries

Inquiries regarding the content of this policy can be directed to Elizabeth Yevich, Director, Housing Resource Center, at (512) 463 - 7961, or by e-mail at elizabeth.yevich@tdhca.state.tx.us.

MULTIFAMILY FINANCE DIVISION BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action regarding Housing Tax Credit Amendments.

RECOMMENDED ACTION

WHEREAS, the tax credit award relating to Housing Tax Credit 04464, Pepper Tree Apartments was awarded based on certain premises, including construction of 250 senior units on 14.964 acres in Houston; and

WHEREAS, that development owner is seeking approval to reduce the development site from 14.964 acres to 14.085 acres; and

RESOLVED, that staff's recommendation regarding the approval of the amendment relating to Application #04464, Pepper Tree Apartments be and hereby is approved as presented to this meeting.

BACKGROUND

§2306.6712, Texas Government Code, indicates that the Board should determine the disposition of a requested amendment if the amendment is a "material alteration," would materially alter the development in a negative manner or would have adversely affected the selection of the application in the application round. The statute identifies certain changes as material alterations and the requests presented below include material alterations.

<u>Summary of Request:</u> The owner is requesting approval to reduce the development site from 14.964 acres approved at application to 14.085 acres as built. The loss of 0.879 acres decreases the development site by 5.8%. The 5.8% reduction subsequently increases site density by the same percentage. The owner stated the development site was decreased when 0.879 acres was dedicated to the City of Houston in 2006. The Department approved an ownership transfer in 2008 in which the original General Partner withdrew. The dedication to the City of Houston should have been addressed by the previous General Partner, and it has fallen to the current General Partner to ensure compliance with Department rules. The current General Partner, Columbia Housing SLP Corporation, has affirmed that the City of Houston did not provide any financial compensation for the taking of the land.

Pursuant to §49.13(b) of the 2011 Qualified Allocation Plan "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... The Board must vote on whether to approve an 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...would materially alter the Development in a negative manner...Material alteration of a Development includes, but is not limited to...A modification of the residential density of the Development of at least 5%...." Therefore, an amendment to the application is necessary.

Owner: Pepper Tree Manor, Ltd.

General Partner: Columbia Housing SLP Corporation Artisan/American Corporation (AAC) Developer:

Principals/Interested Parties: Jack Doyle, PNC Real Estate Syndicator: PNC Multifamily Capital Construction Lender: Washington Mutual Bank Permanent Lender:

Other Funding: N/A

City/County: Houston, Harris County

Set-Aside: N/A Type of Area: Urban Region:

Type of Development: New Construction

Population Served: Seniors Units: 250 2004 Tax Credit Allocation: \$642,993

Allocation per HTC Unit: \$2,572 credits per unit

Prior Board Actions: 11/2004 – Approved award of Tax Credits Bond

Washington Mutual Bank

REA Findings: The Underwriter's analysis indicates that the requested change does

> not negatively impact the underwriting of the transaction. No change to the credit recommendation is recommended prior to the

finalization of the cost certification review process.

PNC Real Estate Columbia Housing SLP Corporation 500 W. Jefferson Street Louisville, KY 40202

June 13, 2011

ELECTRONICALLY DELIVERED

Mr. Valentin DeLeon Mutlifamily Housing Specialist TDHCA 221 East 11th Street Austin, TX 78701

RE: Pepper Tree 8609 and Amendment to Declaration of Restrictive Covenants ("LURA") regarding acreage and to amend Tax Credit Application

Dear Mr. DeLeon:

As current General Partner, please allow this to serve as our revised formal request to amend the LURA and Tax Credit Application for Pepper Tree Manor, Ltd. Please disregard all prior letter requests.

First, a change needs to be made to amend the acreage specified in the Declaration of Restrictive Covenants ("LURA") from "11.382 acres" to "14.085 acres" consistent with the as-built survey for the property that you have on file. This request arises because of the way the LURA was originally executed, to make the LURA consistent with the development, and for issuance of 8609s.

Second, a change needs to be made to amend the Tax Credit Application revising the total acreage to "14.085 acres". This is necessary because the tract of land the contains the access road to the project and consisting of 0.8790 acres was dedicated to the City of Houston in 2006.

We also understand and request that any fees be waived by virtue of the fiscal issues that this property continues to have.

Please advise as to the timeline and acceptance of this amendment to the LURA.

Sincerely,

Jack Doyle/ Vice President

Xc: Rosalio Banuelos

PEPPER TREE MANOR, LTD.

5325 Katy Freeway, Suite One Houston, Texas 77007 (713) 626-1400 FAX: (713) 626-1098

November 12, 2004

Mr. Jim Anderson Texas Department of Housing and Community Affairs 507 Sabine, Suite 400 Austin, Texas 78711-3941

Re: Request for Information to Complete Underwriting of 4% Housing Tax Credit Application #04464, Pepper Tree Manor, Ltd. in Houston

Dear Mr. Anderson:

- 1. \(\sum_{\text{Name}} \): The name of the development is Pepper Tree Manor.
- 2. <u>Site Size</u>: The correct size of the site is 14.964 acres. The title commitment has been updated to reflect the correct size.
 - The reserve 2.313 acres and the retention area 1.821 acres shown on the site plan ARE included in the 14.964 acres.
 - The intended use of the reserve area: remaining vacant
 - The 200' by 319' section at the southwest corner is not included in the site.
- Operating Expenses: We ran our overall budget after reviewing the operations in total with our property manager and the independent appraiser who performs reviews for many of the lenders in the affordable housing industry. We are approximately \$20,000 higher on our insurance budget than your database and \$30,000 higher than the IREM number. Our insurance agent agreed that our estimate was high but we feel that any costs savings in this category may be used in other areas of the budget. If we move that budget cushion to the payroll budget, then we are in-line with your expectations in this area. Our administrative budget is less than your expectations by \$20,000 to \$30,000. We feel that our budget is sufficient because the ongoing costs for trustee and issuer fees are included in our financing rate. We feel that our overall budget of \$3,822 should be sufficient to manage this property.
- 4. <u>Management Fee</u>: Our property manager has agreed to manage this property for a 4% must pay fee and an additional 1% fee after debt service has been met. We

modeled our operations to reflect the 4% fee with cash flow to pay the remaining 1%. Currently, our pro forma using a 7.5% vacancy will generate sufficient income to pay the additional 1%. Our arrangement can be confirmed by contacting Barry Kahn at Investors Management Group at 713-871-0063 since we have not documented this arrangement as of the date of this response.

- 5. Water Heating/Utility Allowance: A central boiler system will be used for the 198 units that are in the main four-story buildings. The 52 single-story units will not utilize this system. Our attached schedules reflect the rents and utility allowances for the units under this building plan.
- 6. "Other" Construction Cost: This line item has been moved to "Elevators" and "Appliances".
- 7. <u>Debt Service</u>: We have revised schedules to include the loan terms for a \$10,609,000 bond facility priced at 5.8% (current rates with bond cost load are currently slightly lower but we wanted to allow for market movement) with an amortizing period of 30 years. Our model reflects an annual loan payment of \$746,984.
- 8. Anticipated Closing Date: Our projected close date for the land purchase and partnership closing is January 12, 2005.

 Amendment NLT = 12/24/24
- 9. <u>Parking Spaces</u>: City code requires ¾ parking space per resident plus employee parking. We have planned for 192 spaces (250 units x ¾ = 188 plus 4 for employees). See attached revised Exhibit 3.A.5.
- 10. Adjacent Railroad: The railroad line is active. Please see attached noise study.

Thank you for your attention to the above and please call if you have additional questions.

Sincerely,

H. Elizabeth Young

MULTIFAMILY FINANCE DIVISION BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action regarding Housing Tax Credit Amendments.

RECOMMENDED ACTION

WHEREAS, the tax credit award relating to Housing Tax Credit 09312, Villas at El Dorado was awarded based on certain premises, including construction of 158 senior units on 21.2 acres in Houston; and

WHEREAS, that development owner is seeking approval to reduce the development site from 21.2 acres to 18 acres; and

RESOLVED, that staff's recommendation regarding the approval of the amendment relating to Application #09312, Villas at El Dorado be and hereby is approved as presented to this meeting.

BACKGROUND

§2306.6712, Texas Government Code, indicates that the Board should determine the disposition of a requested amendment if the amendment is a "material alteration," would materially alter the development in a negative manner or would have adversely affected the selection of the application in the application round. The statute identifies certain changes as material alterations and the requests presented below include material alterations.

<u>Summary of Request:</u> The owner is requesting approval to reduce the development site from 21.2 acres approved at application to 17.9 acres, which reduces the total development site by 15.6%. The 15.6% reduction subsequently increases site density by the same percentage. The owner stated the development site was decreased by .2 acres when the site was platted by the City of Houston. The owner is requesting Board approval to sell the remaining 3.1 acres which had been originally proposed as open green space.

The owner proposes to use the proceeds from the sale to provide additional amenities at no cost to tenants. The amenities include an illuminated, half-mile, walking/jogging path around the detention pond, gazebo, picnic tables, benches, covered canopies and barbeque grills at the pool area, a dog park, horseshoe pit, vegetable garden, and an entry fountain for the signage. Staff confirmed the 3.3 acres in question had been originally contemplated as open green space beyond the detention pond.

The owner anticipates the sale of the land will generate \$165,000 and the aforementioned amenities have been estimated at \$160,000, leaving a \$5,000 contingency reserve for any cost overruns. Staff determined the original integrity of the development remains intact, and the tenants stand to gain from the additional amenities proposed. More importantly, the loss of the unimproved green space will not negatively affect tenants.

Pursuant to §49.13(b) of the 2011 Qualified Allocation Plan "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... The Board must vote on whether to approve an 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...would materially alter the Development in a negative manner...Material alteration of a Development includes, but is not limited to...An increase or decrease in the site acreage of greater than 10% from the original site under control and proposed in the Application..."

Therefore, an amendment to the application is necessary.

Owner: KGR Villas at El Dorado Apartments, L.P.
General Partner: KGR Villas at El Dorado Development, LLC
Developer: KGR Villas at El Dorado Developers, L.L.C.

Principals/Interested Parties: Ken Brinkley
Syndicator: Bank of America
Construction Lender: Bank of America
Permanent Lender: Bank of America

Other Funding: N/A

City/County: Houston, Harris County

Set-Aside: N/A
Type of Area: Urban
Region: 6

Type of Development: New Construction

Population Served: Seniors Units: 159

2009 Tax Credit Allocation: \$1,995,181

Allocation per HTC Unit: \$12,548 credits per unit

Prior Board Actions: 08/2009 – Approved award of Tax Credits

REA Findings: The proposed changes will not have a negative impact on the

underwriting of the transaction.

KGR VILLAS AT EL DORADO APARTMENTS, L.P.

1500 N POST OAK ROAD, SUITE 190 HOUSTON, TEXAS 77055 PHONE: (713) 334-5514 FAX: (866) 741-0496

July 7, 2011

By Federal Express

Mr. Tim Irvine Texas Department of Housing and Community Affairs 221 East 11th Austin, TX 78701

RE: Villas at El Dorado Apartments

TDHCA File No: 09312 Amendment Request

Dear Mr. Irvine:

This letter requests an Amendment to the 9% Housing Tax Credit Application for Villas at El Dorado Apartments ("the Project") that was submitted in 2009. Originally, the application stated that the tract acreage for the Villas at El Dorado Apartments would be approximately 21.2 acres. The Project is currently under construction and we wish to petition for Board approval of an amendment to our application that decreases the site acreage to approximately 18 acres, pursuant to §49.13(b) of the 2011 Housing Tax Credit Program Qualified Allocation Plan ("the QAP"). Enclosed is a check in the amount of \$2,500.00 for this amendment request.

Villas at El Dorado Apartments is a new affordable apartment community being built for the elderly. It will have 159 units, of which 45.2% will be reserved for elderly families who earn less than 50% AMI, with the remaining 54.8% of the units restricted to elderly families earning less than 60% AMI. Twelve of these units are also specially designed to house persons with disabilities. In addition, the complex will have a clubhouse with a senior activity and business center, a pool, a fitness center, and a picnic area that will collectively enhance the health and social well-being of our aging residents.

The original Project site was about 21.2 acres and was purchased out of a privately owned tract of land that was roughly 43.6 acres. However, due to the widening of El Dorado Boulevard, as required by the City of Houston, the acreage was reduced to about 20.9 acres when the site was platted. This decrease in acreage reduced the site by only .2 acres, as is typical during the platting process. This minimal decrease in acreage was not a "material alteration" under §49.13(b) that required TDHCA approval.

However, the change in acreage that we are petitioning the Board to approve at this time is for a decrease of about 3± acres and affects about 14% of the Project's property, thus Board

Villas at El Dorado Apartments Application Amendment Request Page 2

Approval is required. The residential density of the community will also change from approximately 7.6 units/acre to about 8.8 units/acre. While the density increase is more than the 5% "material change" threshold required to have Board Approval under §49.13(b), it is still well under normal density figures for urban multi-family complexes. Recently, the opportunity has arisen to sell the unused green space along the Northwest boundary line of the Project site behind the detention pond, and we would like to accept the offer. Although that portion of the land is unused, the Project is still absorbing the costs of maintenance and taxes associated with owning it. In accordance with the QAP, we are respectfully requesting the Board approve, without penalty or loss of Points, an amendment to our 2009 HTC Application so as to reflect the site acreage as 17.9 acres. Further, we will need to have a partial release of the LURA as it relates to the 3± acres. The land will be used to build 30 market-priced residential units for seniors, and the proceeds of the sale will be used to add amenities that will further enhance the community.

In consideration of the Board's approval of our request, we note that all of the proceeds of the sale of the 3± acres will be used to add amenities that will further enhance the community. The area to be sold is unused green space located behind our detention pond. This small parcel of land was never planned for any use other than detention pond facilities. When we initially purchased the land, the seller was only willing to sell the entire 21.2-acre tract, and would not consider selling us less to accommodate our site plans. At that time, we were not sure what kind of capacity would be needed for the detention pond and we believed the acreage was appropriate. Once the capacity for the detention pond was determined, we decided we would leave the area behind the detention pond as unused green space. The opportunity to sell the unused green space behind the detention pond was not contemplated or foreseeable at the time of application, but now that it has arisen, we would like to accept the offer. If approved, the land on which the tenant buildings will be located will not change from what was presented in the original Application, as the land contemplated to be sold is unused green space behind the detention pond. Furthermore, the site reduction will not have a negative impact on any tenants. In fact, the proceeds that will be received from the transaction will benefit the residents of our community by enhancing the aesthetics and providing recreational sites that will encourage outdoor activities and exercise.

A recent appraisal, completed on April 8, 2011, valued the land at \$165,000. Our intention is to sell the land for the fair market value as reflected in the Appraisal and, if approved by the Board, use the proceeds to build additional amenities for the elderly residents at Villas at El Dorado Apartments. The recreational and aesthetic amenities the proceeds would be used for include the following: building a ½ mile concrete or crushed granite walking trail around the detention area; installing pole lights along this walking trail; constructing a gazebo; adding site furnishings including picnic tables and benches; erecting an entry fountain with project signage; installing covered canopies and barbeque grills around the pool area; and building a dog park, horse shoe pit, and vegetable garden area for the Project's residents. These enhancements are estimated to cost about \$160,000, leaving a small amount of the proceeds left over as a contingency reserve to cover any additional related costs.

In summary, the site reduction will have a positive impact on the Project's residents because the proceeds from the sale of the unused space will be used to increase the number of amenities at the tenants' disposal and enhance the aesthetics of the community. In addition, the decrease in Villas at El Dorado Apartments Application Amendment Request Page 3

acreage will not result in further concentration of affordable housing because the residential buildings will not be affected. Because the residential units will still be completed as planned, and all the specifications with regards to tenant services and building layouts will remain unchanged, there should be no penalty or loss of points associated with this amendment request. We sincerely believe that because of the additional amenities to our low-income elderly residents that will result from the sale of the unused land, the Board's approval of our amendment request will be in the best interests of our residents.

For all the reasons set forth above, we request that this amendment be approved without penalty or loss of points. If you need any additional information, please do not hesitate to call me.

Thank you,

Gary Brinkley

Manager of KGR Villas at El Dorado

Development, L.L.C., the GP

An Bil

cc:

Tom Gouris Robbye Meyer Raquel Morales

THIS ITEM HAS BEEN PULLED FROM THE AGENDA

MULTIFAMILY FINANCE DIVISION

BOARD REPORT ITEM September 15, 2011

Presentation of the Status of Housing Tax Credit Exchange Program and Portfolio

REPORT ITEM

Staff is pleased to report that as of September 2, 2011, \$521,934,389.75 (87.85%) of the total \$594,091,928.00 HTC Exchange program funds have been disbursed. As of this same date, 768 draws have been reviewed and approved for the Exchange program. This is an average of approximately nine draws per Exchange transaction and \$6.7m distributed weekly (see Exhibit A). Of the eighty-nine Exchange transactions, seventeen are fully funded, sixty-six are 50% or more funded and six are between 49-22% funded. The Exchange program has an October 10, 2011 final draw request deadline. It is anticipated that almost all of the transactions will meet this deadline. It is very important that this deadline be upheld due to the nature of the draw process and the reliance upon external entities for the processing of funds.

Of the transactions that we know will not meet the deadline, staff is working to ensure the final draws for those transactions are submitted and reviewed on or before November 30, 2011. Due to the extensive review and electronic funding processes (internal and external to TDHCA), it is imperative that draw requests are submitted timely. If funds are not fully disbursed by the US Treasury Department's December 31, 2011 deadline, the funds will not be available. See Exhibit B for additional Exchange program deadlines.

As a requirement of the Exchange Program, if a development draws developer fees from Exchange, twenty-five percent of the total non-deferred fees are to be held back until the submission and acceptance of the cost certification. As part of the final draw submission requirements, the cost certification must be submitted and accepted by the Department prior to the October 10, 2011 deadline. Once a cost certification has been submitted to the Department, a "Cost Certification Conditional Acceptance Notice" is issued by the Department. The Development Owners are to submit this notification with the final draw request as substantiation that the cost certification has been provided. As of September 7, 2011 there have been twenty-four cost certifications submitted. There have been seventeen Cost Certification deadline extension requests, of which seven have requested a fourth quarter submission date.

If a development is drawing developer fees from Exchange and cannot meet the deadline, the Department has allowed for the lender to hold the funds until such time that the Cost Certification Conditional Acceptance Notice is received. By having the lenders agree to hold the funds, this ensures that the Exchange funds are fully drawn and provides additional assurances

that the development will be completed by the required deadlines. If the deadlines are not met, or if there is an event of default, recapture, or if ultimately a transaction is over sourced, the funds will be returned to the Department and then returned to the US Treasury Department.

In an effort to ensure each transaction has the ability to draw all funds by the deadline, staff is dedicated to working with each development owner to modify their budgets as necessary. Staff has spent significant time working with the developers and their lenders to modify the budgets in a manner that is acceptable to the lenders and meets the development's needs. This flexibility allows for the development owners to fully fund the transaction and lessens the risk of having to return funds to the US Treasury Department.

There are currently twenty-seven deals that are 100% complete, sixty-two deals that are between 90-100%, twenty-six deals that are between 51-89% complete and one deal is 43% complete. Of the sixty-two deals that are between 90-100%, ten have closed out the final inspection, thirty-seven are currently in the inspection process and fifteen have not requested a final inspection. See Exhibit C for additional details.

The Asset Management group and the Exchange Administrator work in conjunction to actively manage the portfolio of assets. Attached is the Exchange Program Watchlist (Exhibit D). There are currently nineteen transactions on the Watchlist. Staff is working with each of the development owners to ensure that the transactions are completed and funded by the US Treasury deadlines.

Staff will continue to report the status of the Exchange program application to the Board on a monthly basis and advising the Board of any issues that need Board resolution.

Exhibit A

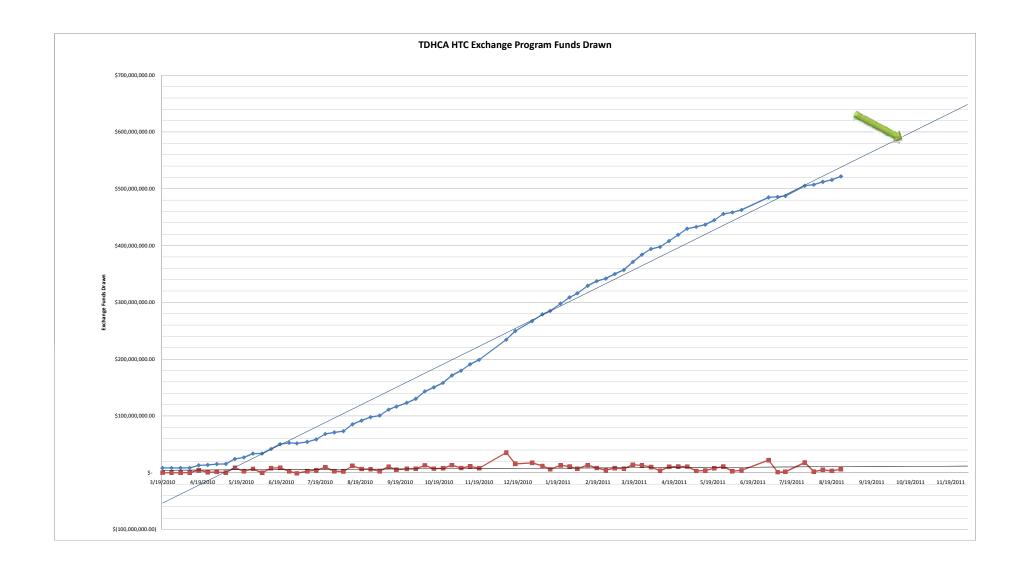


Exhibit B

TDHCA Exchange Program Deadlines

Placed In Service:	TDHCA Deadline
2007/2008 deals that closed prior to March 31, 2010:	March 31, 2011
2007/2008 deals that closed between April 1, 2010 and May 31, 2010:	July 31, 2011
2007/2008 deals that closed between June 1, 2010 and December 1, 2010:	August 31, 2011
All 2009 deals:	December 31, 2011
Submission of Final Draw Documentation:	
60 business days prior to the expiration of the program:	October 10, 2011
Submission of Cost Certification:	
	Variable - No later than
If NOT drawing Developer Fees from Exchange: 60 days after Construction Completion, but no later than January 12, 2012 (US Treasury Deadline).	January 12, 2012
If drawing Developer Fees from Exchange:	October 10, 2011
NOTE: Cost Certifications MUST be submitted and accepted PRIOR to the release of any Developer Fee Hold Back Funds (the 25% hold back amount).	
If Developer Fees are being drawn from Exchange, Cost Certifications must be submitted prior to October 10, 2011.	
The only exception to this requirement is if the construction lender is holding the 25% and will continue to hold the funds until acceptance of the Cost Certification by the	
Department. A letter from the construction lender attesting to said is required to be submitted prior to the release of funds.	
Submission of Project Amendment Requests Requiring Board Approval:	October 1, 2011
Expenditure of ALL Exchange Funds:	December 31, 2011

IMPORTANT NOTE:

Due to the significant number of Exchange transactions and potential for administrative delays, it is HIGHLY recommended that all Exchange draws be submitted as soon as possible, but no later than the October 10, 2011 deadline.

Exhibit C

Exchange Construction Progress - 2009 Deals

9/1/2011 - Percent Complete Based on Third Party Reports

Number of deals between 0 & 35%	0			
Number of deals between 40% & 50%				
Number of deals between 51% & 75%	18			
Number of deals between 76% & 89%	8 62			
Number of deals between 90% & 100%				
Total		89		
# of 100% Complete Deals		27		
Total XCHG Funds Committed (HCS)	\$	594,091,928		
Total XCHG Funds Drawn (HCS)	\$	\$ 522,053,018		
Percentage of XCHG Funds Drawn		88%		
Number of Cost Certification files in process:	24			
Number of Final Inspections Closed		10		
Number of Final Inspection In-Process	37			
Number of Unrequested Final Inspections	15			
Number of deals between 90% & 100%		62		

Exhibit D

TDHCA EXCHANGE PORTFOLIO WATCHLIST as of 9/1/2011

XCHG #	Project Name	Concerns	Total Fu	nds Committed	Total	Funds Drawn	% of XCHG Funds Drawn	3rd Party % Complete
09903	West End Baptist Manor Apartments	Completion Date - Dec '11	\$	3,198,456	\$	2,107,874	66%	66%
09901	Las Palmas Garden Apartments	Completion Date - Dec '11	\$	6,223,846	\$	4,104,270	66%	72%
09370	Riverplace Apartments	Completion Date - Dec '11	\$	1,771,277	\$	959,567	54%	43%
09369	Heritage Square Apartments	Completion Date - Nov '11	\$	1,347,972	\$	470,421	35%	51%
09353	Hyatt Manor I & II	Completion Date - Nov '11	\$	2,551,331	\$	983,234	39%	65%
09916	Mid-Towne Apts	Completion Date - Oct '11	\$	2,549,514	\$	1,476,976	58%	67%
09992	Northgate & Rhomberg Apts	Completion Date - Oct '11	\$	2,712,282	\$	1,205,897	44%	69%
09917	Alta Vista Apts (I & II)	Completion Date - Sept '11	\$	2,936,283	\$	2,048,142	70%	74%
09367	Longbridge Apartments	Completion Date - Oct '11	\$	1,694,696	\$	854,987	50%	75%
09350	Tremont Apts	Completion Date - Dec '11	\$	10,224,660	\$	5,085,634	50%	68%
09936	Lake View Apartment Homes	Completion Date - Dec '11	\$	12,169,238	\$	8,858,838	73%	73%
09978	Floral Gardens	Completion Date - Dec '11	\$	11,786,975	\$	8,393,675	71%	70%
09995	Village Place Apartments	Completion Date - Oct '11	\$	1,747,030	\$	908,645	52%	65%
09998	Prairie Village Apts	Completion Date - Oct '11	\$	1,279,003	\$	277,981	22%	60%
09997	Autumn Villas	Completion Date - Sept '11	\$	903,082	\$	278,188	31%	60%
09955	Oakwood Apartments	Issues with HOME funds draws	\$	2,123,128	\$	1,572,166	74%	96%
09996	Whispering Oaks Apartments	Issues with HOME funds draws	\$	1,386,205	\$	861,158	62%	98%
09919	Premier on Woodfair	Completion Date - est. Nov '11	\$	10,781,101	\$	8,518,395	79%	87%
09913	Villas on Raiford	Completion Date - Nov '11	\$	10,542,031	\$	9,304,152	88%	89%

MULTIFAMILY FINANCE DIVISION BOARD ACTION REQUEST September 15, 2011

Presentation, Discussion and Possible Approval of ownership transfer prior to the issuance of Form(s) 8609 for Mission Del Rio #04488, San Antonio

Requested Action

WHEREAS, the tax credit award relating to Tax Exempt Bond 04488, Mission del Rio, was awarded by the Board based on certain premises, and

WHEREAS, a change of ownership transfer for the removal of the existing general partner and the admission of a new general partner into the Partnership has been requested in order to allow the issuance of IRS Forms 8609 prior to October 15, 2011; therefore

It is hereby,

RESOLVED, that the Board approve the requested ownership transfer conditioned upon the Department's previous participation and financial review.

Background

Mission Del Rio is a 180-unit multifamily development located in San Antonio, Texas. The owner previously requested and received approval for an amendment to the application at the May 2011 TDHCA Board meeting. Currently, the limited partners for Mission Del Rio, Centerline Capital Group, have taken action to remove the existing general partner, Agape del Rio Phase I, Inc. and replace with the proposed general partner, HCS Mission del Rio GP, LLC. It should be noted that the Department has not previously approved the admission of Agape del Rio Phase I, Inc. as the general partner for this development.

The sole member of HCS Mission del Rio GP, LLC is Housing and Community Services, Inc., a Texas non-profit corporation and 501(c)(3) exempt organization and, as such, the property will maintain its ad valorem tax exemption. As of the date of this Board Action Request, the Department has not performed a full previous participation and financial review for the proposed general partner. Therefore, staff recommends approval of the requested transfer subject to these reviews.

HOME PROGRAM DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action to Ratify HOME Program Reservation System Participants approved by the Acting Director.

RECOMMENDED ACTION

RESOLVED, that 5 HOME Program Reservation System Participants, City of Sundown and City of Texarkana, City of Fairfield, Community Resource Group, Inc., and City of Chandler, are hereby ratified and approved as presented to this meeting.

BACKGROUND

On September 9, 2010 the Board approved the HOME Program Rule at 10 TAC Chapter 53 and it was published in the Texas Register on September 24, 2010. The adopted rule includes provisions for a new allocation method for eligible Applicants to access HOME funds through a Reservation System.

On May 5, 2011 the Board approved the 2011 HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA) and subsequently published the NOFA in the Texas Register on May 27, 2011. The NOFA announced the availability of approximately \$10,000,000 in funding from the HOME Investment Partnerships Program (HOME) for single family housing programs under a Reservation System. The NOFA expires on June 30, 2012.

The 5 Reservation System Participants (RSP) recommended for ratification by the Board have completed the application review process and were approved by the Acting Director. Following is a chart reflecting the program activities in which each RSP has elected to participate.

RSP Agreement Number	RSP Administrator Name	HOME Program Activity
2010-0082	City of Texarkana	Homeowner Rehabilitation Assistance
2010-0094	City of Sundown	Homeowner Rehabilitation Assistance
2010-0131	City of Fairfield	Homeowner Rehabilitation Assistance
2011-0004	Community Resource	Homebuyer Assistance
	Group, Inc.	
2011-0005	City of Chandler	Homeowner Rehabilitation Assistance

The RSP approvals being presented for ratification are currently being reviewed by the Compliance and Asset Oversight Division for issues of material non-compliance, unresolved audit findings, or questioned or disallowed costs. After clearance is received, the RSP Agreements will be sent to the RSP for execution.

HOME PROGRAM DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action regarding the 2010 Single Family Development (SFD) Program Award Recommendation.

RECOMMENDED ACTION

WHEREAS, approve as presented the HOME Program Award Recommendation from the 2010 Single Family Development (SFD) Program Notice of Funding Availability (NOFA), involving the award of one (1) application totaling \$681,600 in project funds and \$50,000 in Community Housing Development Organization (CHDO) operating funds, which will result in assistance for eight (8) low-income households.

RESOLVED, that the award of contracts to Architecture for Charity of Texas, Inc, totaling \$681,600 in project funds and \$50,000 in CHDO operating funds, resulting in assistance for eight (8) low-income households, are hereby approved in the form presented to this meeting.

BACKGROUND

In May 2010, the Texas Department of Housing and Community Affairs (TDHCA) Board approved the 2010 Single Family Development (SFD) Program Notice of Funding Availability (NOFA), setting aside \$3,024,189 for the development of affordable single family housing. Funds made available under this NOFA were not subject to the Regional Allocation Formula. Funding was restricted to applications submitted by Community Housing Development Organizations (CHDOs). The application acceptance period ended December 3, 2010.

Two applications requesting a total of \$1,397,622 were received. One application for single family development was received from DM Ministries Community Development Corporation, which was withdrawn on March 24, 2011. The second application was submitted by Architecture for Charity of Texas, Inc. and is for funding of a new development in the City of Los Fresnos, located in Cameron County. Funding will be utilized to provide new construction of affordable single family housing, as well as for down payment assistance in the form of deferred forgivable loans and mortgage financing to individual homebuyers purchasing homes constructed or rehabilitated with program funds.

The recommended application successfully completed program, compliance, and previous participation reviews. No Material Noncompliance or outstanding issues of noncompliance were identified. Finally, the applicant has completed TDHCA's CHDO certification review process.

If the application is approved, \$2,342,589 in funds will remain unused. Staff is recommending approval of a 2011 Single Family Development NOFA under a separate action item today which

will utilize the above-noted balance and additional funds from the Department's balance of funds available for programming.

The Application and Award Recommendations Log is attached.

2010 Single Family Development Program - Application and Award Recommendations Log

Application Acceptance Period: 5/12/2010 to 12/3/2010 TOTAL NOFA Amount: \$3,024,189

Арр		Region	Date Applicant Received	Service Area	Urban / Rural	Units	equested eject Funds	Recommended Project Funds	CHDO Operating Request	CHDO Operating Recommended	Status	Notes
10590	0	5	12/3/2010 DM Ministries Community Development Corporation	Angelina County	Rural	5	\$ 719,122		\$ 50,000		Withdrawn	
10591	1	11	12/3/2010 Architecture for Charity of Texas, Inc.	Cameron County	Urban	8	\$ 678,500	\$ 681,600	\$ 102,960	\$ 50,000	Pending Award	

Total Applications: 2 Total Units/Funds: 13 \$ 1,397,622 \$ 681,600 \$ 152,960 \$ 50,000

HOME PROGRAM DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the 2011 HOME Multifamily Development (MFD) Program Notice of Funding Availability (NOFA)

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs executed the Program Year 2011 Funding Approval and HOME Investment Partnerships Agreement with the U.S. Department of Housing and Urban Development on July 20, 2011 with a Congressional Release Date of June 29, 2011 in the amount of \$39,180,788.

RESOLVED, the Acting Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish the 2011 HOME Multifamily Development (MFD) Program Notice of Funding Availability in the *Texas Register* in the form presented to this meeting and in connection therewith to make such nonsubstantive technical corrections as they or any of them may deem necessary or advisable to effectuate the foregoing, and

FURTHER RESOLVED, that the 2010 HOME Multifamily Development Program NOFA is hereby discontinued effective as of the date the 2011 HOME Multifamily Development Program NOFA is published in the *Texas Register*.

BACKGROUND

In 2010, The Board approved total HOME Rental Housing Development funding of \$22,027,136. At present, remaining funds of \$4,695,298 exist to be rolled forward for Community Housing Development Organizations (CHDO) and Persons With Disabilities (PWD) Set-Asides. All of the General Set-Aside funds were fully utilized and at the July 28, 2011 Board meeting, the Board approved the use of \$7,824,404 in deobligated and/or existing and anticipated program income available for reprogramming at that time.

The Department has executed its 2011 Grant Agreement with HUD; therefore, 2011 funding in an amount of \$11,377,118 is now available to be programmed for various multifamily uses in accordance with the 2011 Consolidated Plan One-Year Action Plan (OYAP) approved by HUD. Staff anticipates demand for multifamily funds will continue to be high, and recommends a total of \$22,038,066 (inclusive of the 2010 deobligated and remaining balances, program income, deobligations and the 2011 allocation) be made available under this MFD NOFA. The initial allocation will provide approximately \$10,000,000 available under the Community Housing Development Organization (CHDO) Set-Aside, approximately \$1,538,066 available under the

Persons with Disabilities (PWD) Set-Aside, and approximately \$10,500,000 available under the General Set-Aside.

MULTIFAMILY DEVELOPMENT (M	FD) NOFA	MULTIFAMILY DEVELOPMENT (MFD) NOFA						
0.100								
CHDO								
Remaining from 2010 CHDO NOFA		\$4,122,882						
2011 CHDO Set Aside Amount (15% of allocation)	_	\$5,877,118						
	Subtotal	\$10,000,000						
PWD								
2011 PWD Set Aside		\$500,000						
2010 NOFA Remaining Amount		\$179,691						
Deobligated PWD PJ Funding	_	\$858,375						
	Subtotal	\$1,538,066						
General								
2011 General MF Set Aside		\$5,000,000						
Program Income (as it becomes available)		\$2,000,000						
Deobligated CHDO		\$2,107,275						
Remaining from 2010 CHDO NOFA		\$392,725						
Deobligated Funds	_	\$1,000,000						
	Subtotal	\$10,500,000						
	TOTAL	\$22,038,066						

All of the funding made available under the NOFA is subject to the Regional Allocation Formula (RAF) until 5:00pm, Tuesday, November 1, 2011, except for funds designated under the PWD Set-Aside. Only funds under the PWD Set-Aside are available for use in HUD Participating Jurisdictions in accordance with \$2306.111 of Texas Government Code. The RAF Tables are not included in the NOFA but will be available on the Department's website, as stated in the NOFA.

The availability and use of these funds are subject to the Department's HOME Program Rule (10 TAC Chapter 53), the federal regulations governing the HOME Program (24 CFR Part 92), and the Department's Real Estate Analysis Rules and Guidelines (10 TAC §§1.32-1.37). An open application cycle will be used to process applications received in response to this NOFA.

The proposed NOFA is attached behind this action item.



Texas Department of Housing and Community Affairs HOME Investment Partnerships Program

Multifamily Development Program Notice of Funding Availability (NOFA)

1) Summary. The Texas Department of Housing and Community Affairs ("the Department") announces the availability of up to \$22,038,066 in funding from the HOME Investment Partnerships Program for the development of affordable multifamily rental housing for lowincome Texans. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 ("HOME Rules") in effect at the time Application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306 of the Texas Government Code. Other Federal regulations may also apply such as, but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §§85.36 and 84.42 for conflict of interest and 24 CFR Part 5, Subpart A for fair housing. **HUD-funded** assistance connected to construction, rehab, demolition, or other public construction must comply with Section 3, a HUD requirement (24 CFR 135): HUD funds invested in housing and community development activities include among their purposes to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to Section 3 residents and Section 3 business concerns. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

2) Allocation of HOME Funds.

- a) These funds are made available through the Department's allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). These HOME funds have been programmed for Multifamily Development activities involving acquisition or refinance and new construction or acquisition or refinance and rehabilitation of affordable housing. The funds made available under this NOFA are subject to the following set-asides.
 - i) **CHDO Set-Aside.** Approximately \$10,000,000 in funds are set-aside to eligible Community Housing Development Organizations (CHDOs) meeting the requirements of 10 TAC §53.90 and this NOFA. Funds under the CHDO Set-Aside are subject to the Regional Allocation Formula (RAF).

- ii) **Persons with Disabilities Set-Aside.** Approximately \$1,538,066 in funds are set-aside to fund Applications proposing all of their HOME units to be restricted for persons with disabilities and are subject to the Department's Integrated Housing Rule at 10 TAC §1.15. Funds requested and awarded under this set-aside may be located in any area of the state including within other Participating Jurisdictions. Funds requested and awarded under this set-aside are subject to a \$500,000 per Application funding limit. Funds under the Persons with Disabilities Set-Aside are not subject to the Regional Allocation Formula (RAF).
- iii) **General Set-Aside.** Approximately \$10,500,000 in funds shall be available to all other Applications proposing Multifamily Development that meet the requirements of this NOFA, the HOME Program Rule, and the Federal HOME regulations. Of the funds available under the General Set-Aside, \$5,000,000 is made available from the 2011 allocation, \$2,000,000 in projected program income, as available, in accordance with the 2011 Consolidated Plan One-Year Action Plan (OYAP), \$2,107,275 in deobligated CHDO funds, \$392,725 remaining from the 2010 CHDO NOFA, and \$1,000,000 in deobligated funds. Funds under the General Set-Aside are subject to the Regional Allocation Formula (RAF). An Applicant may have only one active Application at a time and may only apply under one set-aside at a time. Additionally, the following processes will be followed for the review and award of Applications:
 - (1) Once all funds from the CHDO Set-Aside have been awarded, all pending Applications remaining in this set-aside will be considered for funds under the General Set-Aside;
 - (2) Once all funds from the Persons with Disabilities Set-Aside have been awarded, pending Applications under this set-aside must reapply to be considered under the General or other set-asides due to the different statutory and NOFA requirements for these Applications; and
 - (3) The Department may complete the CHDO Certification process for Applications that originally applied under the CHDO Set-Aside but receiving funds from the General Set-Aside in order to meet the Department's future obligations to award funds for CHDO activities.
- b) This NOFA will be conducted as an open Application cycle and funding will be available on a first-come, first-served basis. Applications for funds under the CHDO or General Set-Asides, submitted prior to 5:00 p.m. on November 1, 2011 are subject to the Regional Allocation Formula (RAF). The RAF tables for each set-aside can be accessed at www.tdhca.state.tx.us. Funds under the Persons with Disabilities Set-Aside are not subject to regional allocation.
- c) Based on the availability of funds, Applications for the statewide open Application cycle will be accepted until 5:00 p.m. April 30, 2012. Project funds awards are limited to no more than \$2,000,000 per Application except for Applications receiving funds from the Persons with Disabilities set-aside as provided in §(2)(a)(ii) of this NOFA.
- d) Each CHDO that is awarded HOME funds may also be eligible to receive a grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee

- education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies.
- e) Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$15,000 per unit in direct hard costs, unless the property is also being financed by the United States Department of Agriculture's Rural Development program.

3) Eligible and Prohibited Activities.

- a) Prohibited activities include those at 24 CFR §92.214 and 10 TAC Chapter 53.
- b) Multifamily Development funds will not be eligible for use in a Participating Jurisdiction (PJ) except for Applications receiving funds under the Persons with Disabilities Set-Aside.
- 4) Site and Development Restrictions. In addition to the requirements in 10 TAC Chapters 53 and 60, Developments must meet the requirements at 10 TAC §50.6 of the Qualified Allocation Plan and Rules apply, except for subsections (d), (f), (g), (h), and (k).
- 5) **Public Notification Requirements.** Applicants must request at least fourteen (14) days prior to submission of an Application and submit with the Application a list of Neighborhood Organizations on record with the county and state in accordance with 10 TAC \$50.9(h)(8)(A)(i). The Department shall publicly notify all individuals and entities required by \$2306.1114 of Texas Government Code.
- 6) Application and Threshold Criteria. An Application must be compliant with the Threshold requirements in 10 TAC §§53.24 and 53.80 and the Threshold Criteria listed in this section at the time of Application submission unless specifically indicated otherwise. In addition, an Application must be consistent with the Program and Administrative requirements in 10 TAC Chapter 53.
 - a) **Affirmative Marketing.** Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act and the Department's Compliance Rules at 10 TAC §60.112(d). Applicants will be required to use HUD form 935.2a to meet these requirements.
 - b) **Application Certifications.** All Applicants will be required to certify to compliance with the following:
 - i) Davis-Bacon Act (24 CFR §92.354);
 - ii) Environmental standards (24 CFR Parts 50 & 58);
 - iii) Uniform Relocation Act (49 CFR Part 24);
 - iv) Section 3 of the Housing and Urban Development Act of 1968 (CFR §135);
 - v) Lead Safe Housing Rule (24 CFR Part 35);
 - vi) Other certifications may be required as specifically stated in the ASPM current at the time of Application; and

- vii) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).
- c) **CHDO Certification.** Requirements under this subsection must only be met for Applications considered for an award of funds from the CHDO Set-Aside. CHDO Certification will be awarded in accordance with the rules and procedures as set forth by 10 TAC §53.90, Community Housing Development Organization (CHDO) Certification.
 - i) CHDO Certification Applications must be submitted with each application for Single Family Development funds.
 - ii) CHDO Certification Applications must meet the requirements of 10 TAC §53.90 at the time of Application submission.
- 7) **Tie Breaker Factors.** In the event that two or more Applications receive the same priority based upon the provisions of §10 of this NOFA in any given Set-Aside category and are both practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive a preference in consideration for an awarded of funds.
 - a) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.
 - b) The Application with the least amount of HOME funds per HOME restricted unit will win this second tier tie breaker.

8) Application Submission

- a) All Applications submitted under this NOFA must be received on or before **5:00 p.m. Monday, April 30, 2012.** The Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published in the Texas Register until the deadline date. For questions regarding this NOFA, please contact Christian Noll of the HOME Division at (512) 305-9375 or via e-mail at HOME@tdhca.state.tx.us.
- b) If an Application is submitted to the Department that requests funds from two separate housing finance programs, the Application will be handled in accordance with the guidelines for each housing program. The Applicant is responsible for adhering to the deadlines and requirements of both programs.
- c) All Applications must be submitted, and provide all documentation, as described in this NOFA and associated Application materials.
- d) Applicants must submit the Application materials as detailed in the ASPM in effect at the time the Application is submitted. All scanned copies must be scanned in accordance

with the guidance provided in the ASPM in effect at the time the Application is submitted.

- e) The Application consists of several parts as described in the ASPM. A complete Application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete Applications or improperly compiled Applications will not be accepted. Applicants must submit the Application materials as detailed in the ASPM in effect at the time the Application is submitted.
- f) Third Party Reports. Applications that have not submitted third party reports due to a later deadline under the housing tax credit program may be held as incomplete Applications until the housing tax credit deadline for submission of third party reports. Such Applications will not be considered complete Applications and shall not be assigned a "Received Date" until the third party reports are received.
- g) If a Development has an existing Housing Tax Credit allocation or HOME contract with the Department and construction on the development has not begun, an abbreviated Application for a HOME award or for an increase in the existing HOME award can be submitted under this NOFA. If additional funds are sought, such an Application may also request that the terms for the additional HOME funds also apply for the funds in an existing HOME Contract. The entire amount of HOME funds received from the Department may not exceed the maximum award per development as reflected in this NOFA for the respective set-aside. An Application qualifying for the abbreviated Application process may be considered by staff to have already met the threshold requirements in §§(8) and (9)(a) of this NOFA without additional review unless staff determines additional documentation is required in accordance with §(13)(h) of this NOFA.
- h) The requirements of the abbreviated Application will be reflected in the Application Submission Procedures Manual (ASPM). In addition to the Application requirements in the ASPM, staff may use discretion to determine if additional information that is typically required in the full Application (including third party reports) is necessary or prudent in order to review for compliance with state or federal rules or due to changes in the market since last reviewed by the Department. Full Application and an amendment may be required for any Application that includes changes to the previous Board approved Application beyond those that are directly related to the development costs, financing structure or additional HOME program related requirements or that affect an existing allocation of Housing Tax Credits.
- i) All Application materials including manuals, NOFAs, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.

- j) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$500.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. An Application fee is not required for Applications submitted pursuant to §(13)(g) of this NOFA and that have an existing HOME Contract with the Department. The Application fee is not a reimbursable cost under the HOME Program.
- k) This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.
- 1) Applications must be sent via overnight delivery to:

HOME Program Division
Texas Department of Housing and Community Affairs
Attn: Christian Noll
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

HOME Program Division
Texas Department of Housing and Community Affairs
Attn: Christian Noll
Post Office Box 13941
Austin, TX 78711-3941

2011 HOME Multifamily Development Program Regional Allocation Formula

Table 1. CHDO Set-Aside Regional Allocation

Allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and

urban distribution within each region

	Place for Geographical	Regional Funding	Regional Funding	Rural Funding	Rural Funding	Urban Funding	Urban Funding
Region	Reference	Amount	%	Amount	%	Amount	%
1	Lubbock	\$725,986	7.3%	\$725,928	100.0%	\$58	0.0%
2	Abilene	\$568,607	5.7%	\$556,087	97.8%	\$12,520	2.2%
3	Dallas/Fort Worth	\$1,284,745	12.8%	\$488,432	38.0%	\$796,313	62.0%
4	Tyler	\$1,193,563	11.9%	\$1,046,485	87.7%	\$147,078	12.3%
5	Beaumont	\$511,926	5.1%	\$427,697	83.5%	\$84,229	16.5%
6	Houston	\$1,133,965	11.3%	\$303,105	26.7%	\$830,860	73.3%
7	Austin/Round Rock	\$371,828	3.7%	\$125,684	33.8%	\$246,143	66.2%
8	Waco	\$516,318	5.2%	\$284,338	55.1%	\$231,980	44.9%
9	San Antonio	\$501,003	5.0%	\$330,206	65.9%	\$170,797	34.1%
10	Corpus Christi	\$844,915	8.4%	\$584,170	69.1%	\$260,745	30.9%
11	Brownsville/Harlingen	\$1,464,043	14.6%	\$708,319	48.4%	\$755,724	51.6%
12	San Angelo	\$648,697	6.5%	\$489,667	75.5%	\$159,030	24.5%
13	El Paso	\$234,404	2.3%	\$170,076	72.6%	\$64,328	27.4%
	Total	\$10,000,000	100.0%	\$6,240,196	62.4%	\$3,759,804	37.6%

Table 2. General Set-Aside Regional Allocation

Allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each region

	Place for Geographical	Regional Funding	Regional Funding	Rural Funding	Rural Funding	Urban Funding	Urban Funding
Region	Reference	Amount	%	Amount	%	Amount	%
1	Lubbock	\$762,285	7.3%	\$762,225	100.0%	\$61	0.0%
2	Abilene	\$597,038	5.7%	\$583,892	97.8%	\$13,146	2.2%
3	Dallas/Fort Worth	\$1,348,983	12.8%	\$512,854	38.0%	\$836,129	62.0%
4	Tyler	\$1,253,241	11.9%	\$1,098,809	87.7%	\$154,432	12.3%
5	Beaumont	\$537,522	5.1%	\$449,082	83.5%	\$88,440	16.5%
6	Houston	\$1,190,663	11.3%	\$318,260	26.7%	\$872,403	73.3%
7	Austin/Round Rock	\$390,419	3.7%	\$131,969	33.8%	\$258,450	66.2%
8	Waco	\$542,134	5.2%	\$298,555	55.1%	\$243,579	44.9%
9	San Antonio	\$526,054	5.0%	\$346,717	65.9%	\$179,337	34.1%
10	Corpus Christi	\$887,161	8.4%	\$613,379	69.1%	\$273,782	30.9%
11	Brownsville/Harlingen	\$1,537,245	14.6%	\$743,735	48.4%	\$793,510	51.6%
12	San Angelo	\$681,132	6.5%	\$514,150	75.5%	\$166,982	24.5%
13	El Paso	\$246,124	2.3%	\$178,580	72.6%	\$67,544	27.4%
	Total	\$10,500,000	100.0%	\$6,552,205	62.4%	\$3,947,795	37.6%

HOME PROGRAM DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the 2011 HOME Single Family Development (SFD) Program Notice of Funding Availability.

RECOMMENDED ACTION

WHEREAS, the 2010 HOME Single Family Development (SFD) Program for Community Housing Development Organizations NOFA has an unsubscribed balance of \$2,342,589;

WHEREAS, the Department has experienced increased interest in funding be made available for single family development; and,

RESOLVED, the Acting Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish the 2011 HOME Single Family Development Program for Community Housing Development Organizations Notice of Funding Availability in the *Texas Register* in the form presented to this meeting and in connection therewith to make such non-substantive technical corrections as they or any of them may deem necessary or advisable to effectuate the foregoing; and,

FURTHER RESOLVED, that the 2010 HOME Single Family Development Program for Community Housing Development Organizations Notice of Funding Availability is hereby discontinued effective as of the date the 2011 HOME Single Family Development Program NOFA is published in the *Texas Register*.

BACKGROUND

On September 9, 2010, the Board approved the revised 2010 Single Family Development Program for Community Housing Development Organizations NOFA, which made \$3,024,189 in funds available for the development of affordable single-family housing. The application acceptance period ended December 3, 2010. The Department received two applications for funding, one of which was withdrawn, and one of which is being recommended today under a separate board item.

If approved, the NOFA will make funds in the amount of \$2,342,589, of which \$1,171,295 will be available for contract awards and \$1,171,294 will be made available under the reservation

system only. The application acceptance period for applicants requesting a contract award ends March 15, 2012 and funding for contract awards will be limited to \$300,000 per Application. The application acceptance period for applicants requesting to participate in the reservation system only ends July 12, 2012.

Applicants approved for funding will automatically be authorized to participate in the Reservation System for the Single-Family Development activity. Approval for participation in the Reservation System is not a guarantee of funding availability.

The availability and use of these funds are subject to the Department's HOME Program Rule (10 TAC Chapter 53), the federal regulations governing the HOME Program (24 CFR Part 92), and the Department's Real Estate Analysis Rules and Guidelines (10 TAC §§1.32-1.37). An open application cycle will be used to process applications received in response to this NOFA and the Regional Allocation Formula (RAF) does not apply to funds that are being reprogrammed. The final and blacklined NOFA reflecting changes made are attached behind this action item.



Texas Department of Housing and Community Affairs HOME Investment Partnerships Program

Single Family Development Program for Community Housing Development Organizations (CHDOs) Notice of Funding Availability (NOFA)

1) Summary

The Texas Department of Housing and Community Affairs ("the Department" or "TDHCA") announces the availability of approximately \$2,342,589 in funding from the HOME Investment Partnerships Program for Community Housing Development Organizations (CHDOs) to develop new and rehabilitate existing single family housing for low-income Texans. The availability and use of these funds is subject to the Department's HOME Program Rule at Title 10 Texas Administrative Code (10 TAC) Chapter 53 ("HOME Rules") in effect at the time the application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306 of the Texas Government Code. Other federal regulations may also apply such as, but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §85.36 and §84.42 for conflict of interest, 24 CFR Part 5, Subpart A for fair housing. HUD-funded assistance connected to construction, rehab, demolition, or other public construction must comply with Section 3, a HUD requirement (24 CFR 135): HUD funds invested in housing and community development activities include among their purposes to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to Section 3 residents and Section 3 business concerns. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

2) Allocation of HOME Funds

- a) These funds are made available through the Department's allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). These funds have been programmed to create housing options affordable to individuals and families who might otherwise purchase substandard housing. All funds distributed under this NOFA are to be used for the creation of affordable housing for low-income Texans earning 60% or less of the Area Median Family Income (AMFI).
- b) In accordance with 10 TAC §53.20, this NOFA will be conducted as an open application cycle and applications will be processed on a first-come, first-served basis. Funding made available

under this NOFA is not subject to the Regional Allocation Formula (RAF). Of the \$2,342,589 funds available, at least \$1,171,294 will be available solely through the Reservation System. Balances available for each set-aside will be maintained by the Department and can be accessed at www.tdhca.state.tx.us.

- c) Applicants approved for funding will automatically be authorized to participate in the Reservation System for the Single-Family Development activity. Approval for participation in the Reservation System is not a guarantee of funding availability.
- d) Applicants who have not previously completed a HOME Colonia Model Subdivision or Single Family Development contract with TDHCA must apply for a contract award. Contract awards shall not exceed \$300,000 and may fund up to three (3) units. Thereafter, the Administrator may continue Single Family Development activities utilizing funds from the Reservation System as a Reservation System Participant. Applicants who have successfully completed a HOME Colonia Model Subdivision or Single Family Development contract may be approved to participate in the Reservation System without applying for a Contract Award.
- e) In accordance with 10 TAC §53.20, this NOFA will be conducted as an open application cycle Applications for Contract Awards and Reservation System Participation will be accepted until 5:00 p.m. on **March 15, 2012.** After this date, all remaining funds will be redirected and made available under the Reservation System.
- f) Reservations for funding will be approved on a first come, first served bases in accordance with 10 TAC 52.28. Reservations for funding available under this NOFA will be accepted until **July 12, 2012**, or all funds available under this NOFA have been reserved.
- g) Reservation System Participants with an active Reservation System Participation Agreement may be eligible to reserve funds made available under subsequent NOFAs in accordance with the current published NOFA.
- h) The Department provides HOME funds as a 0% interest loan to eligible entities for the provision of housing for low, very low and extremely low-income individuals and families, pursuant to 10 TAC Chapter 53.71(g).
- i) Each CHDO that is awarded HOME funds or that submits a minimum of three (3) units under the Reservation System may also be eligible to receive a grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies.

3) Eligible and Prohibited Activities

- a) Eligible activities will include those permissible under the federal HOME Rule at 24 CFR §92.205 and §92.254 and at 10 TAC §§53.70-53.72, which involve the construction of single family affordable housing.
- b) Prohibited activities include those under federal HOME rules at 24 CFR §92.214.
- c) Development funds will not be eligible for use in a Participating Jurisdiction (PJ). Any HOME funds available for serving households in a PJ will only be made available under a separate

NOFA for Persons with Disabilities as described in the State of Texas Consolidated Plan One-Year Action Plan.

- d) The CHDO must act as the owner, sponsor or developer of the project.
- 4) Eligible and Ineligible Applicants Eligible Applicants are Community Housing Development Organizations (CHDOs) which meet the requirements of 10 TAC §53.90 at the time of application and recertify annually in accordance with 10 TAC §53.91. CHDOs must be certified as CHDOs by TDHCA. CHDO Certifications from other Participating Jurisdictions may not be substituted for TDHCA CHDO Certification.
- 5) Public Notifications Applicants must request at least fourteen (14) days prior to submission of an Application and submit with the Application a list of Neighborhood Organizations on record with the county and state in accordance with 10 TAC §50.9(h)(8)(A)(i). The Department shall publicly notify all individuals and entities required by §2306.1114 of Texas Government Code.
- 6) Application and Threshold Criteria An Application must be compliant with the Threshold requirements in 10 TAC §§53.24 and 53.70 and the Threshold Criteria listed in this section at the time of Application submission unless specifically indicated otherwise. In addition, an Application must be consistent with the Program and Administrative requirements in 10 TAC Chapter 53.
 - a) **Financing Documentation** A written narrative describing the financing plan for the units including the funding sources for the construction of the units. Bona fide commitment letters or term sheets for all sources of construction financing must be provided. If other sources of down payment assistance are proposed, commitment letters evidencing these sources must be provided;
 - b) **Application Certifications** All Applicants may be required to certify to compliance with the following:
 - i) Affirmative Marketing (24 CFR §92.351);
 - ii) Davis-Bacon Act (24 CFR §92.354);
 - iii) Environmental standards (24 CFR Parts 50 & 58);
 - iv) Uniform Relocation Act (49 CFR Part 24);
 - v) Section 3 of the Housing and Urban Development Act of 1968 at 24 CFR §135; and,
 - vi) Lead Safe Housing Rule (24 CFR Part 35).
 - vii) Other certifications may be required as specifically stated in the ASPM current at the time of Application.
 - viii) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).
 - c) **CHDO Certification** CHDO Certification will be awarded in accordance with the rules and procedures as set forth in the HOME rules at 10 TAC §53.90, Community Housing Development Organization (CHDO) Certification.
 - i) CHDO Certification Applications must be submitted with each application for Single Family Development funds.
 - ii) CHDO Certification Applications must meet the requirements of 10 TAC §53.90 at the time of Application submission.

- 7) Review Process All Applications will be reviewed in accordance with 10 TAC §53.23.
- 8) Tie Breaker Factors In the event that two or more reservations receive the same priority based upon the provisions of §2 of this NOFA and are both practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which Application will receive a preference in consideration for an awarded of funds.
 - a) Applications involving any Rehabilitation or Reconstruction of existing units will win this first tier tie breaker over Applications involving solely New Construction.
 - b) Applications that partner with other lenders to provide permanent money financing for the purchase of units developed with these HOME funds will win this second tier tie breaker.

9) Application Submission

- a) All applications submitted under this NOFA must be received on or before 5:00 p.m. on **July 12**, **2012**. The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. For questions regarding this NOFA please contact Abby Combs at (512) 475-0908 or via e-mail at abby.combs@tdhca.state.tx.us.
- b) Applicants must submit the Application materials as detailed in the Final ASPM in effect at the time the application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the Final ASPM in effect at the time the application is submitted.
- c) The application consists of several parts as further described in the Final ASPM. A complete application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete applications or improperly compiled applications will not be accepted. Applicants must submit the application materials as detailed in the Final ASPM in effect at the time the application is submitted.
- d) Third party reports If all applicable third party reports are not received at the time of application submission, the Application will be terminated.
- e) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- f) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$300.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the HOME Program.

- g) Application Workshops. The Department will present a one-day HOME Program application workshop to provide an overview of the Single Family Development Program, application preparation and submission, evaluation criteria, and information about the major Federal and State requirements that would impact the development. The workshop schedule and registration will be posted on the Department's website at http://www.tdhca.state.tx.us/home-division/nofas.htm.
- h) Applications must be sent via overnight delivery to:

HOME Division
Texas Department of Housing and Community Affairs
Attn: Abby Combs
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

HOME Division
Texas Department of Housing and Community Affairs
Attn: Abby Combs
Post Office Box 13941
Austin, TX 78711-3941

NOTE: This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular HOME Single Family Development Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.

HOME PROGRAM DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action regarding the revised HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA)

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs executed the Program Year 2011 Funding Approval and HOME Investment Partnerships Agreement with the U.S. Department of Housing and Urban Development on July 20, 2011 with a Congressional Release Date of June 29, 2011 in the amount of \$39,180,788;

RESOLVED, that HOME funds from the 2011 HUD HOME Allocation in the amount of \$14,132,695 be added to the 2011 Single Family Programs Reservation System NOFA; and,

FURTHER RESOLVED, the Acting Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish the revised 2011 HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA) in the *Texas Register* in the form presented to this meeting and in connection therewith to make such non-substantive technical corrections as they or any of them may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

On May 5, 2011, the Board approved the 2011 Single Family Programs Reservation System NOFA, which made available approximately \$10,000,000 to assist low-income households. The NOFA also collapsed the various programmatic set-asides from the 2010 HOME Single Family Programs NOFA into one fund, in order to allow Reservation System Participants (RSP) continued access to the funding until the Department received its 2011 Program Year HOME Allocation. On July 28, 2011, the Board approved the first revision to the 2011 HOME Single Family Programs Reservation System NOFA to add the 2011 Persons with Disabilities set aside funds and extend the application deadline date.

The Department has executed its 2011 HOME Grant Agreement with HUD, allowing the availability of HOME funds to be programmed for various uses in accordance with the HUD-approved 2011 Consolidated Plan One-Year Action Plan (OYAP). The 2011 allocation for the HOME Investment Partnerships Program is \$39,180,788, \$11.4 million has been allocated for multifamily activities and \$9,000,000 is programmed to contract awards for Single Family activities presented under a separate action item today. Staff is recommending a revision to add the remaining balance of \$12,132,695 for single family activities from the 2011 HUD HOME

allocation to the HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA) to be available on a first come first serve basis for HRA, HBA, and TBRA. In addition, \$2,000,000 will be available for the Contract for Deed Conversion Program, and approximately \$3,000,000 will be available for the HOME Disaster Relief Assistance Program. HOME funds for the Disaster Relief Assistance Program are comprised of five percent (5%) of the total HOME 2011 Home allocation (\$1,959,039), and general HOME deobligated funds (\$1,040,961).

The availability and use of these funds are subject to the Department's 2010 HOME Program Rule at 10 TAC Chapter 53, as amended, and the federal regulation governing the HOME Program at 24 CFR Part 92. The Single Family Programs Reservation System NOFA was developed in accordance with the 2010 HOME Program Rule, as amended. An open application cycle will be utilized for applications received in response to this NOFA. Funds in the amount of \$12,132,695 under this NOFA are subject to the Regional Allocation Formula (RAF). The RAF tables are not included in the NOFA; however, the tables will be available on the Department's website as stated in the NOFA.

The proposed NOFA and RAF tables are attached behind this Action Item.



Texas Department of Housing and Community Affairs HOME Investment Partnerships Program

2011 HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA)

1) Summary. The Texas Department of Housing and Community Affairs ("the Department") announces the availability of approximately \$24,388,248 in funding from the HOME Investment Partnerships Program (HOME) for single family housing programs under a Reservation System. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 ("HOME Rules") in effect at the time the Reservation System Participation application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306 of the Texas Government Code. Other federal regulations apply, including but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, 24 CFR §85.36 and §84.42 for conflict of interest, 24 CFR §135.38 for section 3 requirements and 24 CFR Part 5, Subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

2) Allocation of HOME Funds.

- a) The funds are made available through the Department's allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). Funds in the amount of \$12,132,695 under this NOFA are subject to the Regional Allocation Formula (RAF). Refer to the RAF tables located on the Department's website at www.tdhca.state.tx.us. The remaining funds are not subject to the RAF because funds were regionally allocated during the release of the 2010 HOME Single Family Programs NOFA or are a legislative mandated set-aside.
- b) Funds made available under this NOFA, excluding those funds that are set-aside for Persons with Disabilities, may be reserved for individual households for the following Program Activities:
 - i) Homeowner Rehabilitation Assistance (HRA)
 - ii) Homebuyer Assistance (HBA)
 - iii) Tenant-Based Rental Assistance (TBRA)
 - iv) Contract for Deed Conversion (CFDC)
 - v) Disaster Relief

- c) Persons with Disabilities Set-Aside. Approximately \$3,200,000 in funding is set-aside to assist Persons with Disabilities with TBRA, HRA or HBA. Approximately \$1,900,000 is reserved for use in any area of the state including within Participating Jurisdictions; approximately \$1,300,000 is reserved for use only in Non-Participating Jurisdictions (Non-PJ) areas.
- d) HOME funds subject to the RAF are reserved for the following HOME Activities until **Tuesday, November 1, 2011.** Refer to the RAF tables located on the Department's website at www.tdhca.state.tx.us
 - i) **Homeowner Rehabilitation Assistance (HRA)**. \$8,092,887 in funds is available for HRA. HRA provides funds for the rehabilitation or demolition and reconstruction of single-family residences owned and occupied by low-income households. Specific program guidelines can be found at 10 TAC §\$53.30-32.
 - ii) **Homebuyer Assistance (HBA)**. \$2,019,904 is available for HBA. HB provides downpayment and closing cost assistance to low-income households. Additionally, assistance may be provided for accessibility modifications, if required. Specific program guidelines can be found at 10 TAC §\$53.40-42.
 - iii) **Tenant Based Rental Assistance (TBRA)**. \$2,019,904 is available for TBRA. TBRA provides rental subsidies to low-income households and may include deposits and utility deposits. Specific program guidelines can be found at 10 TAC §\$53.60-62.
- e) After **Tuesday**, **November 1**, **2011** any funds which have not been requested under §2(d) of this NOFA will collapse and made available statewide for any activity under this NOFA.
- f) Applications to participate in the Reservation System will be accepted by the Department on an on-going basis until **5:00 p.m. Thursday, June 28, 2012**.
- g) Updated balances for the reservation system may be accessed online at www.tdhca.state.tx.us/home-division/home-reservation-summary.htm. Reservations of Funds may be submitted at any time during the term of a Reservation System Participation agreement, or until such time as funds made available under this NOFA are exhausted, whichever comes first.

3) Eligible and Prohibited Activities.

- a) Prohibited activities include those at 24 CFR §92.214 and 10 TAC Chapter 53.
- b) Funds will not be eligible for use in a Participating Jurisdiction (PJ) except for Applications receiving funds under the Persons with Disabilities Set-Aside and designated for use in a PJ.
- c) Eligible Applicants are Units of General Local Government, Nonprofit Organizations, and Public Housing Authorities.

4) Application Threshold Requirements.

a) **Threshold Criteria.** Threshold criteria in 10 TAC Chapter 53 are mandatory requirements at the time of application submission, unless specifically indicated otherwise, and will be included in the written agreement.

5) Application Submission.

- a) All applications for a Reservation System Participation Agreement submitted under this NOFA must be received on or before **5:00 p.m. Thursday, June 28, 2012**, regardless of method of delivery. The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays, from the date this NOFA is published in the Texas Register until the deadline date. For questions regarding this NOFA, please contact the HOME Division at (512) 463-8921 or via e-mail at HOME@tdhca.state.tx.us
- b) All applications must be submitted and documentation provided as described in 10 TAC §53 and the Application Submission Procedures Manual (ASPM).
- c) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- d) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. The Application fee is not an allowable or reimbursable cost under the HOME Program. An Applicant that is a Nonprofit Organization may request a fee waiver in accordance with Section 2306.147(b) of the Texas Government Code.
- e) This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.
- f) Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs
HOME Division
221 East 11th Street
Austin, TX 78701-2410

Or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
HOME Division
PO Box 13941
Austin, TX 78711-3941

2011 HOME Single Family Programs Regional Allocation Formula for Reservation System

Table 1. Regional, Rural and Urban Funding Amounts – RESERVATION SYSTEM

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each Region.

п	Place for		Regional				Urban
Region	Geographical	Regional Funding	Funding	Rural Funding	Rural	Urban Funding	Funding
Š	Reference	Amount	%	Amount	Funding %	Amount	%
1	Lubbock	\$880,817	7.3%	\$880,747	100.0%	\$70	0.0%
2	Abilene	\$689,874	5.7%	\$674,684	97.8%	\$15,190	2.2%
3	Dallas/Fort Worth	\$1,558,742	12.8%	\$592,600	38.0%	\$966,143	62.0%
4	Tyler	\$1,448,113	11.9%	\$1,269,668	87.7%	\$178,445	12.3%
5	Beaumont	\$621,104	5.1%	\$518,912	83.5%	\$102,192	16.5%
6	Houston	\$1,375,805	11.3%	\$367,748	26.7%	\$1,008,057	73.3%
7	Austin/Round Rock	\$451,127	3.7%	\$152,489	33.8%	\$298,638	66.2%
8	Waco	\$626,433	5.2%	\$344,979	55.1%	\$281,454	44.9%
9	San Antonio	\$607,852	5.0%	\$400,629	65.9%	\$207,223	34.1%
10	Corpus Christi	\$1,025,109	8.4%	\$708,756	69.1%	\$316,354	30.9%
11	Brownsville/Harlingen	\$1,776,279	14.6%	\$859,381	48.4%	\$916,897	51.6%
12	San Angelo	\$787,045	6.5%	\$594,098	75.5%	\$192,947	24.5%
13	El Paso	\$284,395	2.3%	\$206,348	72.6%	\$78,047	27.4%
	Total	\$12,132,695	100.0%	\$7,571,039	62.4%	\$4,561,656	37.6%

Table 2. Regional, Rural and Urban Funding Amounts –HRA RESERVATION SYSTEM

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each Region.

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$587,532	7.3%	\$587,486	100.0%	\$47	0.0%
2	Abilene	\$460,168	5.7%	\$450,035	97.8%	\$10,132	2.2%
3	Dallas/Fort Worth	\$1,039,730	12.8%	\$395,283	38.0%	\$644,447	62.0%
4	Tyler	\$965,937	11.9%	\$846,908	87.7%	\$119,029	12.3%
5	Beaumont	\$414,296	5.1%	\$346,130	83.5%	\$68,165	16.5%
6	Houston	\$917,705	11.3%	\$245,299	26.7%	\$672,406	73.3%
7	Austin/Round Rock	\$300,916	3.7%	\$101,715	33.8%	\$199,201	66.2%
8	Waco	\$417,850	5.2%	\$230,112	55.1%	\$187,739	44.9%
9	San Antonio	\$405,456	5.0%	\$267,232	65.9%	\$138,224	34.1%
10	Corpus Christi	\$683,780	8.4%	\$472,762	69.1%	\$211,018	30.9%
11	Brownsville/Harlingen	\$1,184,833	14.6%	\$573,234	48.4%	\$611,599	51.6%
12	San Angelo	\$524,984	6.5%	\$396,282	75.5%	\$128,701	24.5%
13	El Paso	\$189,701	2.3%	\$137,641	72.6%	\$52,060	27.4%
	Total	\$8,092,887	100.0%	\$5,050,120	62.4%	\$3,042,767	37.6%

2011 HOME Single Family Programs Regional Allocation Formula for Reservation System

Table 3. Regional, Rural and Urban Funding Amounts – HBA RESERVATION SYSTEM

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each Region.

uo	Place for		Regiona I				
Region	Geographical	Regional Funding	Funding	Rural Funding	Rural	Urban Funding	Urban
	Reference	Amount	%	Amount	Funding %	Amount	Funding %
1	Lubbock	\$146,642	7.3%	\$146,631	100.0%	\$12	0.0%
2	Abilene	\$114,853	5.7%	\$112,324	97.8%	\$2,529	2.2%
3	Dallas/Fort Worth	\$259,506	12.8%	\$98,659	38.0%	\$160,848	62.0%
4	Tyler	\$241,088	11.9%	\$211,380	87.7%	\$29,708	12.3%
5	Beaumont	\$103,404	5.1%	\$86,391	83.5%	\$17,013	16.5%
6	Houston	\$229,050	11.3%	\$61,224	26.7%	\$167,826	73.3%
7	Austin/Round Rock	\$75,106	3.7%	\$25,387	33.8%	\$49,719	66.2%
8	Waco	\$104,291	5.2%	\$57,434	55.1%	\$46,858	44.9%
9	San Antonio	\$101,198	5.0%	\$66,699	65.9%	\$34,499	34.1%
10	Corpus Christi	\$170,665	8.4%	\$117,997	69.1%	\$52,668	30.9%
11	Brownsville/Harlingen	\$295,723	14.6%	\$143,074	48.4%	\$152,649	51.6%
12	San Angelo	\$131,031	6.5%	\$98,908	75.5%	\$32,123	24.5%
13	El Paso	\$47,347	2.3%	\$34,354	72.6%	\$12,994	27.4%
	Total	\$2,019,904	100.0%	\$1,260,460	62.4%	\$759,444	37.6%

Table 4. Regional, Rural and Urban Funding Amounts -TBRA RESERVATION SYSTEM

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each Region.

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$146,642	7.3%	\$146,631	100.0%	\$12	0.0%
2	Abilene	\$114,853	5.7%	\$112,324	97.8%	\$2,529	2.2%
3	Dallas/Fort Worth	\$259,506	12.8%	\$98,659	38.0%	\$160,848	62.0%
4	Tyler	\$241,088	11.9%	\$211,380	87.7%	\$29,708	12.3%
5	Beaumont	\$103,404	5.1%	\$86,391	83.5%	\$17,013	16.5%
6	Houston	\$229,050	11.3%	\$61,224	26.7%	\$167,826	73.3%
7	Austin/Round Rock	\$75,106	3.7%	\$25,387	33.8%	\$49,719	66.2%
8	Waco	\$104,291	5.2%	\$57,434	55.1%	\$46,858	44.9%
9	San Antonio	\$101,198	5.0%	\$66,699	65.9%	\$34,499	34.1%
10	Corpus Christi	\$170,665	8.4%	\$117,997	69.1%	\$52,668	30.9%
11	Brownsville/Harlingen	\$295,723	14.6%	\$143,074	48.4%	\$152,649	51.6%
12	San Angelo	\$131,031	6.5%	\$98,908	75.5%	\$32,123	24.5%
13	El Paso	\$47,347	2.3%	\$34,354	72.6%	\$12,994	27.4%
	Total	\$2,019,904	100.0%	\$1,260,460	62.4%	\$759,444	37.6%

HOME PROGRAM DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Approval of the 2011 HOME Single Family Programs Notice of Funding Availability for Contract Award (NOFA)

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs executed the Program Year 2011 Funding Approval and HOME Investment Partnerships Agreement with the U.S. Department of Housing and Urban Development on July 20, 2011 with a Congressional Release Date of June 29, 2011 in the amount of \$39,180,788;

RESOLVED, the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish the 2011 HOME Single Family Programs Notice of Funding Availability for Contract Award in the *Texas Register* in the form presented to this meeting and in connection therewith to make such non-substantive technical corrections as they or any of them may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

The Department has executed its 2011 HOME Grant Agreement with HUD, allowing the availability of HOME funds to be programmed for various uses in accordance with the HUD-approved 2011 Consolidated Plan One-Year Action Plan (OYAP). The 2011 allocation for the HOME Investment Partnerships Program is \$39,180,788. The 2011 HOME Funding Plan includes \$14,092,887 for Homeowner Rehabilitation Assistance (HRA), \$3,019,904 for Homebuyer Assistance (HBA) and \$3,019,904 for Tenant-Based Rental Assistance (TBRA), \$1,959,039 for Housing Programs for Persons with Disabilities for, and \$2,000,000 for a Contract for Deed Conversion set-aside. Also included in the funding plan is approximately \$11.4 million for multifamily development activities. The remainder of the allocation, approximately \$4.2 million, is utilized for administrative costs and CHDO operating expense grants. In addition to the 2011 Program Year HOME allocation, deobligated HOME funds in the amount of \$1,959,039 will be programmed for the HOME Disaster Relief Assistance Program, and \$1,000,000 of current and anticipated HOME program income will be programmed for the Rehabilitation with Refinance Program.

The HOME Program developed and implemented a Reservation System, allowing an alternate method for eligible entities to access HOME funds. The 2011 set aside for HOME Single Family Programs (HRA, HBA, and TBRA) allow the distribution of funds to be accessed by a Contract Award and/or through a Reservation System. Approximately \$9,000,000 will be available for Contract Awards, (which is almost 50 percent of the total amount of the 2011 Single Family Funds), \$7,000,000 for HRA, \$1,000,000 for HBA, and \$1,000,000 for TBRA.

The attached NOFA is strictly for Contract Awards. The revised HOME Single Family Programs Reservation System NOFA is being presented today under a separate agenda item.

The availability and use of these funds are subject to the Department's 2010 HOME Program Rule at 10 TAC Chapter 53, as amended, and the federal regulation governing the HOME Program at 24 CFR Part 92. The Single Family Programs NOFA for Contract Award was developed in accordance with the 2010 HOME Program Rule, as amended. An open application cycle will be utilized for applications received in response to this NOFA. Funds under this NOFA are subject to the Regional Allocation Formula (RAF). The RAF tables are not included in the NOFA; however, the tables will be available on the Department's website as stated in the NOFA.

The proposed NOFA and RAF tables are attached behind this Action Item.



Texas Department of Housing and Community Affairs HOME Investment Partnerships Program

2011 HOME Single Family Programs Notice of Funding Availability for Contract Award (NOFA)

1) Summary. The Texas Department of Housing and Community Affairs ("the Department") announces the availability of approximately \$9,000,000 in funding from the HOME Investment Partnerships Program (HOME) for single family housing programs for contract award. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 ("HOME Rules") in effect at the time the Single Family Programs application for contract award is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306 of the Texas Government Code. Other federal regulations apply, including but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, 24 CFR §85.36 and §84.42 for conflict of interest, 24 CFR §135.38 for Section 3 requirements and 24 CFR Part 5, Subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

2) Allocation of HOME Funds.

- a) The funds are made available through the Department's allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). These HOME funds have been programmed for single family housing assistance programs in accordance with the 2011 State of Texas Consolidated Plan One-Year Action Plan as follows. Balances available for each region and set-aside will be maintained by the Department and can be accessed at www.tdhca.state.tx.us.
 - i) **Homeowner Rehabilitation Assistance (HRA).** \$7,000,000 in funds is available for HRA. HRA provides funds for the rehabilitation or demolition and reconstruction of single-family residences owned and occupied by low-income households. Specific program guidelines can be found at 10 TAC §§ 53.30-32.
 - ii) **Homebuyer Assistance (HBA).** \$1,000,000 is available for HBA. HBA provides downpayment and closing cost assistance to low-income households. Additionally, assistance may be provided for accessibility modifications, if required. Specific program guidelines can be found at 10 TAC §\$53.40-42.
 - iii) **Tenant Based Rental Assistance (TBRA).** \$1,000,000 in funds is available for TBRA. TBRA provides rental subsidies to low-income households and may include deposits and utility deposits. Specific program guidelines can be found at 10 TAC §\$53.60-62.
- b) Applications for Contract Awards will be accepted by the Department on an on-going basis until 5:00 p.m. Monday, April 30, 2012.

- c) Any funds under the HRA, HBA, TBRA set-asides that have been requested or reserved prior to **5:00 p.m. Tuesday, November 1, 2011** are subject to the Regional Allocation Formula (RAF). Refer to the RAF tables located on the Department's website at www.tdhca.state.tx.us
- d) After **Tuesday, November 1, 2011**, any funds which have not been requested under §(2)(c) of this NOFA will collapse and be made available statewide for any Activity under this NOFA. Applications submitted under this subsection will be accepted by the Department on an on-going basis until **5:00 p.m. Monday, April 30, 2012**, regardless of method of delivery. After this date, funds may be redirected and made available under the Reservation System to satisfy excess demand.

3) Eligible and Prohibited Activities.

- a) Prohibited activities include those at 24 CFR §92.214 and 10 TAC Chapter 53.
- 4) Funds will not be eligible for use in a Participating Jurisdiction (PJ).
 - a) Eligible Applicants are Units of General Local Government, Nonprofit Organizations, and Public Housing Authorities.

5) Application Threshold Requirements.

- a) **Threshold Criteria.** Threshold criteria in 10 TAC Chapter 53 are mandatory requirements at the time of application submission, unless specifically indicated otherwise, and will be included in the written agreement if funds are awarded.
- b) **Threshold Score.** In addition to the threshold requirements of 10 TAC §53.24, the applications for Contract Awards must meet the minimum threshold score of four (4). This score is tallied using points from the following categories:
 - i) **Additional Eligible Match:** In addition to the threshold match requirement in 10 TAC Chapter 53, (if applicable) the Applicant can receive one (1) point for each percentage of additional match.
 - ii) **Very Low Income Targeting.** Table 1 will be used to determine very low income targeting points awarded, as follows:

Table 1

Income Target	Points	Points
		(HBA only)
At least 25% of units at 60% AMFI (50% for TBRA)	1	4
At least 50% of units at 60% AMFI (50% for TBRA)	2	
At least 75% of units at 60% AMFI (50% for TBRA)	3	

iii) **Extremely Low Income Targeting.** Table 2 will be used to determine extremely low income targeting points awarded, as follows:

Table 2

Income Target	Points
At least 25% of units at 30% AMFI	2
At least 50% of units at 30% AMFI	3
At least 75% of units at 30% AMFI	4

6) Reservation System Applications.

a) Applicants applying for Contract Awards may concurrently apply to become Reservation System Participants.

7) Application Submission.

- a) All applications submitted under this NOFA must be received on or before **5:00 p.m. Monday, April 30, 2012**, regardless of method of delivery. The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays, from the date this NOFA is published in the Texas Register until the deadline date. For questions regarding this NOFA, please contact the HOME Division at (512) 463-8921 or via e-mail at <a href="https://home.ncm.nih.gov/HOME-applications-nih.go
- b) All applications must be submitted and documentation provided as described in 10 TAC §53 and the Application Submission Procedures Manual (ASPM).
- c) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- d) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. The Application fee is not an allowable or reimbursable cost under the HOME Program. An Applicant that is a Nonprofit Organization may request a fee waiver in accordance with Chapter 2306.147(b) of the Texas Government Code.
- e) This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.

f) Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs HOME Division 221 East 11th Street Austin, TX 78701-2410

Or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs HOME Division PO Box 13941 Austin, TX 78711-394

2011 HOME Single Family Programs Regional Allocation Formula for Contract Awards

Table 1. Regional, Rural, and Urban Funding Amounts – CONTRACT AWARD

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each region.

ion	Diago for Coornantical	Deviewel	Regional	Rural	Rural	Urban	Urban
Region	Place for Geographical Reference	Regional Funding Amount	Funding %	Funding Amount	Funding %	Funding Amount	Funding %
1	Lubbock	\$653,387	7.3%	\$653,335	100.0%	\$52	0.0%
2	Abilene	\$511,747	5.7%	\$500,479	97.8%	\$11,268	2.2%
3	Dallas/Fort Worth	\$1,156,271	12.8%	\$439,589	38.0%	\$716,682	62.0%
4	Tyler	\$1,074,206	11.9%	\$941,836	87.7%	\$132,370	12.3%
5	Beaumont	\$460,733	5.1%	\$384,927	83.5%	\$75,806	16.5%
6	Houston	\$1,020,568	11.3%	\$272,794	26.7%	\$747,774	73.3%
7	Austin/Round Rock	\$334,645	3.7%	\$113,116	33.8%	\$221,529	66.2%
8	Waco	\$464,686	5.2%	\$255,904	55.1%	\$208,782	44.9%
9	San Antonio	\$450,903	5.0%	\$297,186	65.9%	\$153,717	34.1%
10	Corpus Christi	\$760,423	8.4%	\$525,753	69.1%	\$234,670	30.9%
11	Brownsville/Harlingen	\$1,317,639	14.6%	\$637,487	48.4%	\$680,152	51.6%
12	San Angelo	\$583,828	6.5%	\$440,700	75.5%	\$143,127	24.5%
13	El Paso	\$210,964	2.3%	\$153,069	72.6%	\$57,895	27.4%
	Total	\$9,000,000	100.0%	\$5,616,176	62.4%	\$3,383,824	37.6%

Table 2. Regional, Rural, and Urban Funding Amounts – HRA – CONTRACT AWARD

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each region.

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$508,190	7.3%	\$508,150	100.0%	\$40	0.0%
2	Abilene	\$398,025	5.7%	\$389,261	97.8%	\$8,764	2.2%
3	Dallas/Fort Worth	\$899,322	12.8%	\$341,903	38.0%	\$557,419	62.0%
4	Tyler	\$835,494	11.9%	\$732,539	87.7%	\$102,955	12.3%
5	Beaumont	\$358,348	5.1%	\$299,388	83.5%	\$58,960	16.5%
6	Houston	\$793,775	11.3%	\$212,173	26.7%	\$581,602	73.3%
7	Austin/Round Rock	\$260,279	3.7%	\$87,979	33.8%	\$172,300	66.2%
8	Waco	\$361,422	5.2%	\$199,037	55.1%	\$162,386	44.9%
9	San Antonio	\$350,702	5.0%	\$231,144	65.9%	\$119,558	34.1%
10	Corpus Christi	\$591,440	8.4%	\$408,919	69.1%	\$182,521	30.9%
11	Brownsville/Harlingen	\$1,024,830	14.6%	\$495,823	48.4%	\$529,007	51.6%
12	San Angelo	\$454,088	6.5%	\$342,767	75.5%	\$111,321	24.5%
13	El Paso	\$164,083	2.3%	\$119,053	72.6%	\$45,029	27.4%
	Total	\$7,000,000	100.0%	\$4,368,137	62.4%	\$2,631,863	37.6%

2011 HOME Single Family Programs Regional Allocation Formula for Contract Awards

Table 3. Regional, Rural, and Urban Funding Amounts - HBA - CONTRACT AWARD

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each region.

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$72,599	7.3%	\$72,593	100.0%	\$6	0.0%
2	Abilene	\$56,861	5.7%	\$55,609	97.8%	\$1,252	2.2%
3	Dallas/Fort Worth	\$128,475	12.8%	\$48,843	38.0%	\$79,631	62.0%
4	Tyler	\$119,356	11.9%	\$104,648	87.7%	\$14,708	12.3%
5	Beaumont	\$51,193	5.1%	\$42,770	83.5%	\$8,423	16.5%
6	Houston	\$113,396	11.3%	\$30,310	26.7%	\$83,086	73.3%
7	Austin/Round Rock	\$37,183	3.7%	\$12,568	33.8%	\$24,614	66.2%
8	Waco	\$51,632	5.2%	\$28,434	55.1%	\$23,198	44.9%
9	San Antonio	\$50,100	5.0%	\$33,021	65.9%	\$17,080	34.1%
10	Corpus Christi	\$84,491	8.4%	\$58,417	69.1%	\$26,074	30.9%
11	Brownsville/Harlingen	\$146,404	14.6%	\$70,832	48.4%	\$75,572	51.6%
12	San Angelo	\$64,870	6.5%	\$48,967	75.5%	\$15,903	24.5%
13	El Paso	\$23,440	2.3%	\$17,008	72.6%	\$6,433	27.4%
	Total	\$1,000,000	100.0%	\$624,020	62.4%	\$375,980	37.6%

Table 4. Regional, Rural, and Urban Funding Amounts – TBRA - CONTRACT AWARD

The table below shows the allocation of funds to the 13 Uniform State Service Regions and the corresponding rural and urban distribution within each region.

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$72,599	7.3%	\$72,593	100.0%	\$6	0.0%
2	Abilene	\$56,861	5.7%	\$55,609	97.8%	\$1,252	2.2%
3	Dallas/Fort Worth	\$128,475	12.8%	\$48,843	38.0%	\$79,631	62.0%
4	Tyler	\$119,356	11.9%	\$104,648	87.7%	\$14,708	12.3%
5	Beaumont	\$51,193	5.1%	\$42,770	83.5%	\$8,423	16.5%
6	Houston	\$113,396	11.3%	\$30,310	26.7%	\$83,086	73.3%
7	Austin/Round Rock	\$37,183	3.7%	\$12,568	33.8%	\$24,614	66.2%
8	Waco	\$51,632	5.2%	\$28,434	55.1%	\$23,198	44.9%
9	San Antonio	\$50,100	5.0%	\$33,021	65.9%	\$17,080	34.1%
10	Corpus Christi	\$84,491	8.4%	\$58,417	69.1%	\$26,074	30.9%
11	Brownsville/Harlingen	\$146,404	14.6%	\$70,832	48.4%	\$75,572	51.6%
12	San Angelo	\$64,870	6.5%	\$48,967	75.5%	\$15,903	24.5%
13	El Paso	\$23,440	2.3%	\$17,008	72.6%	\$6,433	27.4%
	Total	\$1,000,000	100.0%	\$624,020	62.4%	\$375,980	37.6%

COMPLIANCE AND ASSET OVERSIGHT BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action on a material amendment to the Land Use Restriction Agreement for Autumn Creek Apartments

RECOMMENDED ACTION

Staff requests Board approval to amend the Land Use Restriction Agreement (LURA) for Autumn Creek Apartments in Dallas, Texas to permit one of the residential units to be used as an office.

WHEREAS, Autumn Creek was awarded Housing Tax Credits in 1990 for the rehabilitation of 82 units in Dallas and

WHEREAS, the property does not have a leasing office and has been using unit 121 as an office and

WHEREAS, the property needs a leasing office to effectively operate which is good cause for permitting the amendment,

Now, therefore, be it

RESOLVED, that the Executive Director and his designees are hereby, authorized, directed, and empowered, for and on behalf of the Department, to amend the LURA for Autumn Creek Apartments to permit one of the units to be used as an office.

BACKGROUND

The LURA for Autumn Creek Apartments was executed in 1990. The version of the LURA in use at that time did not specifically list the number of units on the property. The LURA requires 100% of the units to be leased to low income households.

The property has been using unit 121 as an office which is a violation of sections 3(g) and 3(l) of the LURA which requires all units to be used as housing and rented to members of the general public.

The owner has complied with the material amendments policy adopted by the Board; given the appropriate notices to the tenants and elected officials and provided the opportunity for public input. The public hearing was held September 6, 2011. Approximately eight residents attended and were in support of the requested change.

COMPLIANCE AND ASSET OVERSIGHT BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action on a material amendment to the Land Use Restriction Agreement for NWTH Meridian Apartments

RECOMMENDED ACTION

Staff requests Board approval to amend the Land Use Restriction Agreement (LURA) for NWTH Meridian Apartments in Amarillo, Texas to remove the requirement to provide child care and remove the requirement to provide transitional housing for the homeless.

WHEREAS, NWTH Meridian Ltd. was awarded Housing Tax Credits in 1998 for the acquisition and rehabilitation of 34 units in Amarillo and

WHEREAS, the property has had a history of noncompliance and

WHEREAS, a new owner has been identified to own and operate the property as affordable housing,

Now, therefore, be it

RESOLVED, that the Executive Director and his designees are hereby, authorized, directed, and empowered, for and on behalf of the Department, to amend the LURA for NWTH Meridian Apartments to remove the requirement to provide child care and remove the requirement to provide transitional housing for the homeless.

BACKGROUND

Credits were allocated to American Housing Foundation in 1998. The property was placed in service in 2000 and was intended to be used as transitional housing for the homeless. During the 2005 onsite review it was discovered that none of the units were occupied and the building was being rehabilitated to offer full size kitchens. In April of 2007 there was a fatal fire at the property and all units were off line. In April of 2009, the founder and president of American Housing Foundation passed away, leaving the portfolio of American Housing Foundation properties in a troubling status. Since placement in service, this property has been marginally utilized and troubled.

A new owner, the Downtown Women's Center (DWC), has been identified to purchase the property. DWC has been operating the property since January of 2009. In working through the ownership transfer process, staff reviewed the LURA requirements with DWC. They were unaware that the LURA required all units to be leased to households that meet the definition of homeless. While some of the households currently residing at the property met the definition of homeless at the time

of move in, others did not. As part of their mission, DWC is committed to serving homeless individuals and families but, because of financial constraints, they are not able to commit to operating the property exclusively for homeless households.

In addition, DWC is requesting to have the requirement to provide child care removed from the LURA. Eliminating the child care requirement will not leave the property without services as the LURA will continue to require Vocational Training, Self Help, Home Ownership, Alcohol and Drug Abuse, Domestic Violence, GED and Computer Learning Center and Personal Finance Programs.

Staff recommends approval of the request. The owner has complied with the material amendment process and the Department has received several letters of support for the proposed changes. The public hearing was held on August 31, 2011 and there was no public comment.

NEIGHBORHOOD STABILIZATION PROGRAM BOARD ACTION REQUEST

SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action regarding termination of the NSP Agreement between TDHCA and TDRA, and transition of administration of the TDRA NSP to TDHCA

RECOMMENDED ACTION

WHEREAS, on August 31, 2011, TDRA effectively ceased operations, therefore it is in the best interests of the State of Texas that continued administration of the NSP be transferred to TDHCA.

RESOLVED, that actions taken by the Acting Director and/or his designees to terminated the NSP Agreement and transfer administration of the TDRA NSP contracts and funds to TDHCA are hereby accepted and ratified, and

FURTHER RESOLVED, the Acting Director and/or his designees are authorized to take such additional action as may be required to assure an orderly assumption of administration of the TDRA NSP contracts and funds.

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the State of Texas 2008 CDBG Action Plan (Action Plan) and provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203, approved July 21, 2010) (Dodd-Frank Act) through an amendment to the existing State of Texas 2010 CDGB Action Plan. The purpose of the program is to redevelop into affordable housing, or acquire and hold, abandoned, foreclosed, and vacant properties in areas that are documented to have the greatest need for arresting declining property values.

The Texas Department of Housing and Community Affairs (TDHCA) and the Texas Department of Rural Affairs (TDRA) entered into an Agreement on September 25, 2009 regarding the administration of Neighborhood Stabilization Program funds. TDRA has been responsible for administration of the Texas NSP Select Pool contracts, representing subrecipients from smaller communities across the state. TDRA obligated \$19,981,500.00 of the NSP funds on September 3, 2010, and has continued to work with subrecipients to complete their NSP contracts.

In accordance with Section 62.13 of SB 1 (82nd Legislature, first called session) TDRA has been abolished, effective October 1, 2011. Although the activities currently and formerly

administered by TDRA will be transferred to the Department of Agriculture, it has been determined that it is in the best interest of the State of Texas and the successful operation of the NSP for TDHCA to assume full responsibility for administering the entire NSP allocation.

Nine (9) active TDRA contracts have been assigned to TDHCA for continued administration. TDRA and TDHCA NSP staff have held joint conference calls with the impacted subrecipients to inform them of the change and give them an opportunity to ask any questions. TDHCA NSP staff will visit the 9 subrecipients during September to make detailed assessments of their progress toward meeting contractual goals, any necessary contract amendments, and specific technical assessment needs. The TDRA subrecipients are already familiar with the TDHCA systems and loan closing process.

A number of TDRA contracts have expired or voluntarily terminated since the September 3, 2010 obligation deadline. The deobligated funds from these contracts total up to \$13,973,416.98. NSP Staff are working to determine the amount of any reserved funds in order to make these de-obligated funds available through the Revised NSP1-PI NOFA presented for approval by the Board at this meeting.

MEMORANDUM OF UNDERSTANDING AND INTERAGENCY COOPERATION REGARDING THE TERMINATION OF AN AGREEMENT RELATING TO ADMINISTRATION OF NSP FUNDS

(this "Agreement")

This Agreement made and entered into as of the 19th day of August, 2011, at Austin, Travis County, Texas by and between the Texas Department of Rural Affairs and the Texas Department of Housing and Community Affairs, each a public and official body and agency of the State of Texas.

RECITALS

WHEREAS, TDRA has been administering funds under the Neighborhood Stabilization Program ("NSP"), created by the Housing and Economic Recovery Act of 2008, in accordance with the terms of an agreement with the Texas Department of Housing and Community Affairs ("TDHCA") date September 25, 2009, a copy of which is attached hereto and incorporated herein as Exhibit "A" (the 9/25/09 NSP Agreement"), and

WHEREAS, TDRA and TDHCA have determined that it is in the best interest of the State of Texas and the successful operation of the NSP for TDHCA to assume full responsibility for administering NSP, and

WHEREAS, TDRA and TDHCA wish to memorialize this transfer, their agreed plans for an orderly and cooperative transition, and the termination of the ongoing active role of TDRA under the 9/25/09 NSP Agreement.

WITNESSETH

Now THEREFORE, in consideration of the mutual covenants set forth herein, including the recitals set forth above, which are intended to be contractual in nature, the Texas Department of Rural Affairs and the Texas Department of Housing and Community Affairs, (each sometimes referred to as a "Party" and collectively referred to herein as "the Parties"), each intending to be legally bound, do hereby agree as follows:

- 1. Except as specifically provided for herein, all obligations of TDRA under the 9/25/09 NSP Agreement will terminate effective August 31, 2011 (the "Effective Date").
- 2. During the period between the execution hereof and the Effective Date, TDRA will cooperate with TDHCA to provide notifications and take all reasonable measures to ensure an orderly transition of NSP to TDHCA including, but not limited to:

- a) terminating any contracts for which grounds for termination exist and
- b) notifying contractors on contracts that are not being terminated that TDHCA will be assuming the role of TDRA effective on August 31, 2011 as an assignee.
- c) TDRA will notify TDHCA and obtain written consent for any extensions or amendments of contracts during this period.
- 3. All books and records relating to TDRA's activities under the 9/25/09 NSP Agreement shall be transferred to TDHCA as soon as possible but no later than the Effective Date.
- 4. Any unexpired contracts will be assigned to TDHCA with notice to the contractor to be effective on or before the Effective Date of this Agreement.
- 5. TDRA, on behalf of itself and its successors, agrees to cooperate in any and all lawful audits or other reviews of NSP activity by TDHCA or any cognizant federal body.
- 6. It is contemplated and acknowledged that TDRA will incur expenses prior to the Effective Date that will be presented for payment after the Effective Date. TDHCA shall appropriately compensate TDRA for lawful costs incurred prior to the Effective Date within thirty days after TDRA submits such costs for payment. TDRA and TDHCA understand and agree that there will be other matters that will require continuing cooperation, and the Parties each commit to each other to cooperate and ensure that such matters are fully and appropriately addressed.
- 7. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. There are no oral agreements or understandings or side agreements.
- 8. This Agreement may be amended only in writing by the agreement of all of the Parties.
- 9. This Agreement is subject to the laws of the State of Texas. Nothing herein shall obligate any Party to expend any funds for which it does not have appropriations authority.
- 10. If any provision hereunder is found to be illegal, invalid, or unenforceable such provision shall be deemed deleted *ab initio* and the remainder hereof shall remain in full force and effect and construed and administered so as most nearly to effectuate the intention of the Parties.
- 11. Each Party represents and warrants to the other Parties and each of them that it possesses the authority to enter into and perform this Agreement and that the individual executing on their behalf is acting their official capacity as their duly authorized representative.
- 12. Each Party agrees with each of the other Parties that it will cooperate to carry out the purposes of this Agreement and in connection therewith make staff available to answer questions and provide appropriate assistance and to make its books, records, and operations relating in any manner to the administration of NSP-related activities available for audit.
- 13. This Agreement may be executed in multiple counterparts, all of which shall constitute but a single agreement.

EXECUTED AS OF THE DATE SET FORTH ABOVE.

exas Department of Rural Affairs	Texas Department of Housing and
	Community Affairs

Its duly authorized representative

Name: Tractive L. J. P. VINE
Its duly authorized representative

ASSIGNMENT OF CONTRACT

This Assignment of Contract (the "Agreement") is made and entered on this 30th day of August, 2011, by and between TEXAS DEPARTMENT OF RURAL AFFAIRS ("TDRA"), a public and official agency of the State of Texas ("Assignor") and TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS ("TDHCA"), a public and official agency of the State of Texas ("Assignee.")

RECITALS

WHEREAS, the Assignce and the Assignor entered into an Agreement Between TDHCA and TDRA ("Department Agreement") dated September 25, 2009, whereby Assignce contractually assumed responsibility as set forth therein to administer a "Select Pool" amount of \$19,981,500.00 of the \$101,996,848.00 federal grant funding under the Neighborhood Stabilization Program federal program ("NSP") created by the Housing and Economic Recovery Act of 2008 (Public Law 110-289.)

WHEREAS, Assignor and various subrecipients executed those certain Texas Neighborhood Stabilization Program contracts described in Exhibit A attached hereto and incorporated herein by reference for all purposes (collectively, the "Assigned NSP Contracts") setting forth the terms, conditions, rights, duties and obligations in the performance of activities under the NSP.

WHEREAS, the Texas Legislature enacted SB 1 (82nd Legislature, first called session) that provided for the abolishment of the Texas Department of Rural Affairs and the transfer of certain activities of Texas Department of Rural Affairs to the Texas Department of Agriculture by October 1, 2011.

WHEREAS, before the abolition of the TDRA, Assignor and Assignee have agreed that it is in the best interests of the State of Texas and for the successful administration of the NSP to terminate the Department Agreement, and for Assignee to administer the Select Pool under the NSP, all to be accomplished in an orderly and timely manner.

WHEREAS, Assignor desires to assign and transfer all of Assignor's rights, title, interest in and obligations, to and under the Assigned NSP Contracts to the Assignee.

WHEREAS, Assignee agrees to the assignment of the Assigned NSP Contracts in its favor and is willing to acquire the rights and assume the duties and obligations of Assignor under the Assigned NSP Contracts on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual release of the Assignor herein contained and the mutual obligations assumed herein by the Assignee and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees, among other things, to assign its rights, obligations and benefits under the Assigned NSP Contracts and Assignee agrees to assume said Assigned NSP Contracts (and the rights, obligations and benefits thereunder), pursuant to the terms and provisions of this Agreement as set forth below:

- 1. The Assignor hereby assigns, transfers and sets over to the Assignee all rights, title, interests, duties and obligations held by the Assignor under the Assigned NSP Contracts including without limitation, any and all present and continuing rights (i) to make claim for, collect, receive and receipt for any of the sums of money payable or receivable thereunder, (ii) to do any and all things which Assignor is or may become obligated to do under the Assigned NSP Contracts including performance of the Assignor's obligations, and (iii) to bring actions and proceedings under the Assigned NSP Contracts or for the enforcement thereof and to otherwise exercise all remedies under the Assigned NSP Contracts; TO HAVE AND TO HOLD the Assigned NSP Contracts unto Assignee, and its successors and assigns forever, together with all and singular the rights and appurtenances belonging or pertaining thereto.
- 2. Assignor hereby covenants to and with Assignce, its successors and assigns, to execute and deliver to Assignee, its successors and assigns, (i) all such other and further instruments of assignment and transfer, and all such notices, releases, and other documents, that would more fully and specifically assign and transfer to and vest in Assignee, its successors and assigns, the rights of Assignor in and to the Assigned NSP Contracts hereby assigned and transferred, or intended to be assigned and transferred, and (ii) all such other documents, notices, accountings, financial information and other documents and information that would more fully and specifically enable Assignee to receive the benefits from the Assigned NSP Contracts. Assignor further covenants and agrees to cooperate as reasonably requested by Assignee in connection with this Agreement, the administration of the Assigned NSP Contracts and the ability of Assignee to receive the benefits of the Assigned NSP Contracts.
- 3. To the best of the Assignor's knowledge and belief, the Assignor represents and warrants to the Assignee that it has made no prior transfer of any of its rights, title or interest under the Assigned NSP Contracts and facts or circumstances which would give rise to an event of default under the Assigned NSP Contracts have not occurred in relation to such party, specifically:
 - At all times from the effective date of the Department Agreement until
 the effective date of the termination of the Department Agreement,
 Assignor has administered the NSP federal funding in full compliance
 with all applicable state and federal laws, rules, and regulations;

- Neither Assignor nor any subrecipient receiving NSP funding under the Assigned NSP Contracts has incurred any disallowed or unallowable costs under the NSP federal program; and
- iii. Assignor validly obligated \$19,981,500.00 of the funds subject to the Department Agreement and has and will make available to Assignce documentation to support fully that representation and warranty.
- 4. Assignee hereby acknowledges the receipt of a copy of each of the Assigned NSP Contracts. By acceptance of this Assignment, Assignee hereby assumes and agrees to perform all the remaining and executory obligations of the Assignor under the Assigned NSP Contracts and agrees to indemnify and hold the Assignor harmless from any claim or demand resulting from non-performance by the Assignee. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

To Assignor: Texas Department of Rural Affairs

1700 N. Congress Avenue

Suite 220

Austin, Texas 78711

Attention: Mark Wyatt, Director, TxCDBG Division

To Assignee: Texas Department of Housing and Community Affairs

221 E. 11th Street

P.O. Box 13941

Austin, Texas 78701 / 78711-3941

Attention: Marni Holloway, Director, NSP Division

Any party may change its address for notice purposes by giving of ten (10) business days prior written notice, sent certified mail, return receipt requested, to the other parties.

- The parties hereto shall each pay their own costs and expenses (including legal fces) incurred in connection with or as a result of the negotiation, preparation and execution of this Agreement.
- This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.
- 7. The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- 8. This Agreement may be executed in any number of counterparts and by the several parties hereto on separate counterparts each of which when so executed shall be an original, but all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be effective as of the day and year first above written.

ASSIGNOR:

TEXAS DEPARTMENT OF RURAL AFFAIRS, a public and official agency of the State of Texas

By: Howard G. Baldwin

Title: Interim Executive Director

ASSIGNEE:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas

By: Name: Timothy K. Irvine
Title: Acting Director

EXHIBIT A

ASSIGNED NSP CONTRACTS

- Texas Neighborhood Stabilization Program (NSP) Contract No.77099999120 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the City of Bryan, dated to be effective September 1, 2009, as may be amended from time to time.
- 2. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999121 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the City of Seguin, dated to be effective September 1, 2009, as may be amended from time to time.
- 3. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999124 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the City of Waelder, dated to be effective September 1, 2009, as may be amended from time to time.
- 4. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999126 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the City of Huntsville, dated to be effective September 1, 2009, as may be amended from time to time.
- Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999128 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the City of San Angelo, dated to be effective September 1, 2009, as may be amended from time to time.
- 6. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999141 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the City of San Marcos, dated to be effective, September 1, 2009, as may be amended from time to time.
- 7. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999170 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and the Midland County Housing Authority, dated to be effective September 1, 2009, as may be amended from time to time.
- 8. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999200 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and Bryan College Station Habitat for Humanity, dated to be effective August 1, 2009, as may be amended from time to time.
- 9. Texas Neighborhood Stabilization Program (NSP) Contract No. 77099999191 by and between the Texas Department of Rural Affairs, a public and official agency of the State of Texas, and Enterprise Community Partners, dated to be effective August 1, 2009, as may be amended from time to time.

NEIGHBORHOOD STABILIZATION PROGRAM BOARD ACTION REQUEST

September 15, 2011

Recommended Action

Approval of the Revised Program Income Notice of Funds Availability for the Neighborhood Stabilization Program (NSP1-PI).

WHEREAS, the Department anticipates that it will receive funds from loan repayments and deobligation of current contracts under the Neighborhood Stabilization Program and that it will need to redistribute such funds in accordance with NSP rules and regulations; therefore it is

RESOLVED, that the Revised Notice of Funds Availability ("NOFA") for Program Income from Round 1 of the Neighborhood Stabilization Program (NSP1-PI) is hereby approved in the form presented to this meeting and the executive director or his designee are authorized and directed to publish such NOFA and, in connection therewith, to make such non-substantive technical changes as they may deem appropriate

Background

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop into affordable housing, or acquire and hold, abandoned and foreclosed properties in areas that are documented to have the greatest need for arresting declining property values as a result of excessive foreclosures.

The Texas Department of Housing and Community Affairs (TDHCA) and the Texas Department of Rural Affairs (TDRA) entered into an Agreement on September 25, 2009 regarding the administration of Neighborhood Stabilization Program funds. In accordance with Section 62.13 of SB 1 (82nd Legislature, first called session) TDRA has been abolished, effective October 1, 2011. Although the activities currently and formerly administered by TDRA will be transferred to the Department of Agriculture, it has been determined that it is in the best interest of the State of Texas and the successful operation of the NSP for TDHCA to assume full responsibility for administering the entire NSP allocation.

A portion of the TDRA NSP that has been assumed by TDHCA includes funds de-obligated from contracts that expired or were terminated prior to transfer. The deobligated funds from these contracts total up to \$13,973,416.98. Revision of the NSP1-PI NOFA is required to expeditiously make these funds, along with amounts de-obligated from TDHCA contracts, available for use within the very short NSP timeframe.

On the September 3 deadline, Texas NSP funds were fully obligated for five eligible uses as follows:

Funds Obligated

Eligible Use	Amount
Financing Mechanisms	2,185,513.52
Acquisition and Rehabilitation	48,112,938.20
Land Bank	11,284,087.64
Demolition	2,610,250.21
Redevelopment	27,987,142.26
Administration (State and Subrecipients)	9,812,416.17
TOTAL	\$101,996,848

As subgrantees move forward with completion of their NSP projects, significant program income will be generated through the resale of properties to income-eligible households. A portion of funds will be received as mortgage loan payments from households at or below 50% AMFI that have accessed NSP permanent financing, along with loan payments from subrecipient organizations that are providing rental housing to low-income households. The balance of the program income available for redistribution will be generated by loan repayments as subrecipients sell non-set-aside homes to households over 50% AMFI.

Texas NSP Program Income projections are as follows:

Year 1	5,600,000
Year 2	5,600,000
Year 3	3,300,000
Years 4-10 (each year)	2,600,000
Years 11-29 (each year)	1,600,000

The NSP1-PI NOFA will make funds available to nonprofit organizations and units of local government to continue their neighborhood stabilization efforts through the end of the NSP Grant Agreement in March, 2013. The NOFA continues substantially the same activities available under the NSP and NSP-R NOFAs.

Policy Changes

The Program Income NOFA is substantially the same as the original NOFA with a few exceptions designed to address policy priority changes, expedite the use of funds, and update certain elements based on further guidance from HUD.

Because Program Income will be available only as repayments are made or as deobligations occur, these funds will be made available under a contingent Reservation System. Nonprofit organizations, units of local government, and Housing Finance Agencies will be able to apply to

participate in the NSP Reservation System. Applicants will be presented to the TDHCA Governing Board for approval.

Applicants involving rental housing of five or more units, must submit a rental project application. The application may be submitted at the same as the entity application. The applicant may be required to participate in a phone call with the Director of Real Estate Analysis.

As funds are received, the available balance in the Reservation System will be periodically updated, and approved participants will be able to reserve NSP funds (subject to Board approval) to be used for specific activities once an eligible property is identified. In order to encourage investment of other sources of funding and to encourage the participation of multiple applicants, the maximum number of projects that can be in pending review status with Texas NSP1-PI funds for any applicant at any one time is three (3). This limit may be waived for applicants assisting troubled TDHCA properties, in the sole determination of the Department.

The minimum reservation amount for each property will be \$15,000, in order to assure that the NSP investment will create future affordability for eligible homebuyers. The minimum award for a rental project consisting of five or more units will not be less than \$250,000.

It is anticipated that the use of the NSP Reservation System will allow NSP Program Income funds to be used as they are received in order to address areas of greatest need across the state.

Attachment A

Program Income Notice of Funds Availability



Texas Department of Housing and Community Affairs

<u>Texas Neighborhood Stabilization Program 1 Program Income ("NSP1-PI)</u> <u>Notice of Funding Availability (NOFA)</u>

1) Summary

The Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") announces the expected distribution and use of approximately \$13,000,000.00 through the Neighborhood Stabilization Program One Program Income ("NSP1-PI") NOFA. This amount may vary over time based on additional funding allocations, deobligations, and program income earned from Neighborhood Stabilization Program Round One "NSP1" Neighborhood Stabilization Program Re-Allocation "NSP-R" and NSP1-PI contracts; as additional funds become available, they will be announced on the Department's website for continued application under this NOFA unless superseded by a subsequent NOFA for this fund source. The Neighborhood Stabilization Program created under the Community Development Block Grant (CDBG) Program provided for funding to be awarded for the redevelopment of abandoned, foreclosed, and vacant homes and residential properties and was initially authorized under Section 2301(b) of the Housing and Economic Recovery Act of 2008 (HERA) (Pub. L 110-289, approved July 30, 2008).

- a) The availability and use of these funds is subject to the Community Development Block Grant regulations (24 CFR Part 570), as applicable, the federal HOME Investment Partnerships Program (HOME) regulations (24 CFR Part 92), as applicable, and Chapter 2306, Texas Government Code. Other federal regulations may also apply such as, but not limited to, 24 CFR Part 58 for environmental requirements, 24 CFR Parts 84 and 85, as applicable, for such issues as procurement and conflict of interest, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) and implementing regulations at 24 CFR part 135, relocation assistance provisions at 42 U.S.C §5304 (d) and 24 CFR Part 42, lead based paint procedures (24 CFR Part 35, subparts A, B, J, K, and R), and 24 CFR Parts 100-115 for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules and program guidelines that govern the program.
- b) NSP1-PI will be awarded independently of the Texas NSP1, Texas NSP-R, or Texas Neighborhood Stabilization Program Round Three "NSP3" awards. New applicants and current subgrantees in good standing that have met benchmarks in existing Texas NSP contracts are encouraged to apply for NSP1-PI funds. NSP1-PI funds may not be used to replace Texas NSP1, Texas NSP-R, or NSP3 awards but with prior Departmental

- approval may be used to complete Texas NSP1, Texas NSP-R, or Texas NSP3 projects in eligible target areas, if such projects are an eligible use under this NOFA.
- c) The Department reserves the right to change the provisions of this NOFA based on updated HUD Notices or changes in state law.

2) Allocation of Texas NSP1-PI Funds

TDHCA will coordinate activities in accordance with NSP guidelines including establishment of financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties, purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed, establishment of land bank/trusts, removal of blight, and the redevelopment of demolished or vacant properties. Households directly assisted with NSP funds must be income eligible and be at or below 120% of the Area Median Income (AMI), as defined by HUD or as otherwise restricted by this NOFA. To the extent that a development assisted with NSP1-PI funds is also assisted by one or more other programs, the development may be required to meet additional requirements imposed by those other programs.

Because funds will be available as repayments from NSP1, NSP-R and NSP1-PI are made or as deobligation of funding occurs, funds will be made available under a Reservation System. Eligible applicants will be able to apply to participate in the NSP1-PI Reservation System on an ongoing basis. Applicants will be presented to the TDHCA Governing Board for approval

- a) Each applicant will be required to submit an entity application to participate in the NSP1-PI Reservation System. The application can be found on the Department's website. After approval by the TDHCA Governing Board, applicants may reserve funds for activities using an online reservation system. Once an applicant is eligible, they will retain their eligibility through February, 2013, unless the applicant has an event described herein that causes them to lose their eligibility.
- b) Each entity 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, as applicable. Applications will be reviewed for applicant and activity eligibility, and threshold criteria as described in this NOFA.
- c) Applicants involving rental housing of five or more units, must submit a rental project application. The application, which can be found on the Department's website, may be submitted at the same as the entity application. The applicant may be required to participate in a phone call with the Director of Real Estate Analysis.
- d) If the Department's loan(s) on a rental property of five or more units would amount to more than 50% of the total development cost, except for developments also financed through the USDA-515 program, the Rental Project Application MUST include:
 - a. A letter from a third party CPA verifying the capacity of the applicant, developer or owner to provide at least 10% of the total development cost as a short term loan for development; and

- b. A letter from the applicant's, developer, or owners bank(s) confirming funds amounting to 10% of the total development cost are available; or
- c. Evidence of a line of credit or equivalent tool equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities.
- e) In the event that two or more rental housing applications come in on the same day and are both complete, practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which project will receive a preference in consideration for an awarded of funds.
 - (1) The Application where the applicant already owns the property.
 - (2) The Application with the least amount of Texas NSP funds per Texas NSP restricted unit will win this second tier tie breaker.
- f) The Department will ensure review of materials required under the NOFA, Technical Guide, and Application and will issue a notice of any Administrative Deficiencies within ten (10) business days of the received date, if the Application meets minimum criteria. Administrative deficiencies are omissions, inaccuracies or incomplete information on the application that can be readily corrected. Applications with Administrative Deficiencies not cured within a subsequent ten (10) business days will be terminated.
- g) If a submitted entity or project application fails to meet threshold criteria, has an entire section of the application missing; has excessive omissions of required documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, the application will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the applicant.
- h) The Department may decline to consider any application or project 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 that 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.
- i) All entities and projects will be processed through the Department's application and project evaluation system, and will include a previous award and past performance evaluation. Poor past performance may disqualify an applicant for a funding recommendation or the recommendation may include conditions.
- j) In accordance with §2306.082, Texas Government Code and 10 TAC §1.17, 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. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC §1.17.

- k) An applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.
- Each applicant will be required to demonstrate how the proposed project addresses their local needs and how, if applicable, it coordinates with their community's consolidated plan.

3) Definitions

- a) As stipulated in the *Federal Register* Notices (**Dockets No. FR–5447–N–01**, **F-522-N-02**, **and FR-5321-N-03**) for NSP, there are certain terms used in HERA that are not used in the regular CDBG program. Certain terms may be used differently in HERA and in the Housing and Community Development Act of 1974, as amended. When in conflict, definitions published in the *Federal Register* (**Docket No. FR–5447–N–01**, **F-522-N-02**, **and FR-5321-N-03**) and any subsequent HUD Errata Notice or changes in State law are controlling for Texas NSP.
- b) The Department will use local code to determine the definition of a blighted structure, except that moral blight is not eligible. If there is no local definition, blighted structure shall mean when a structure exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.
- c) Words and terms shall have the same meanings as in the Texas Administrative Code 10 TAC §9.2, unless the context clearly indicates otherwise or as revised in this NOFA

4) Limitations on Funds

- a) In order to avoid allocating small amounts of funding that would likely have no meaningful impact on stabilizing of property values, the minimum award amount to an eligible project cannot be less than \$15,000. The minimum award for a rental project consisting of five or more units cannot be less than \$250,000.
- b) In order to encourage investment of other sources of funding and to encourage the participation of multiple applicants, the maximum number of projects that can be in pending review status with Texas NSP1-PI funds for any applicant at any one time is

- three (3). This limit may be waived for applicants assisting troubled TDHCA properties, in the sole determination of the Department.
- c) Department-authorized pre-award costs for predevelopment activities, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may, at the sole discretion of the Department, be reimbursed if incurred before the effective date of a Contract so long as the costs are in accordance with 24 CFR §\$570.201-207 or §570.282(a) through (d) and 24 CFR Part 58 and the limitations herein.
- d) Additional limitations as defined in HERA, Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203, approved July 21, 2010) "Dodd-Frank Act", and HUD NSP Notices regarding purchases, rehabilitation, and sales of properties, will be strictly enforced.
- e) The Department may adjust additional contract management benchmarks to ensure the proportionate use of funds to meet the federal mandates regarding serving households earning not more than 50% of AMI, discounts on acquisitions and timely use of funds, and other requirements, as applicable.
- f) Eligible Costs are limited to those listed in 24 CFR §570, Subpart C, 24 CFR §570, Subpart I, or as otherwise identified in the NSP *Federal Register* Notice or subsequent notices. No duplicate reimbursement of costs is allowed. Additionally, costs may only be reimbursed once per occurrence when providing both acquisition and construction assistance to the same Project or Activity.
- g) Nonprofit applicants for rental property may be eligible for a developer fee grant of up to 5% of the hard costs of the award. That grant is considered activity delivery/soft costs and is inclusive of Activity Delivery amount limitations as described herein.
- h) Subgrantees must certify, and provide invoices or other documentation, that the amount being reimbursed is for the actual amount of costs, including Activity Delivery costs.

5) Eligible and Ineligible Applicants

- a) Unless otherwise limited in this NOFA, eligible applicants are nonprofit organizations recognized by the Texas Secretary of State and required by federal regulation to use 24 CFR Part 84, units of general local government, special purpose units of government (including public housing and regional planning authorities), and Housing Finance Corporations authorized under the provisions of the Texas Housing Finance Corporation Act, Texas Government Code, Chapter 394.
- b) Subgrantees under Texas NSP1, Texas NSP-R, and Texas NSP3 must have successfully met all contract milestones and thresholds as of the date of application and be in compliance with those contracts in order to be eligible to apply under this NOFA;

additionally, subgrantees must not be out of compliance with any and all TDHCA contracts at the time of award.

- c) The following violations will cause an Applicant and/or any Applications they have submitted to be ineligible:
 - i) The Applicant is an Administrator of a previously funded Contract for which Department funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to application submission date; an exception may be made at the discretion of the Department if the deobligation was voluntary, part of project close-out, or the remainder was completed on a subsequent Contract;
 - ii) The Applicant has failed, (within the reasonable time allotted for response), to submit a response to provide an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a monitoring review;
 - iii) The Applicant is delinquent on any loan payment or fee due to the Department on the date of the previous participation review in conducted;
 - iv) The Applicant 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 has otherwise been debarred by HUD or the Department;
 - v) The Applicant has violated the State laws regarding ethics, including revolving door policy;
 - vi) The Applicant has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline;
 - vii) The Applicant at the time of Application submission is subject to the following for which proceedings have become final:
 - (a) an enforcement or disciplinary action under state or federal securities law or by the NASD;
 - (b) a federal tax lien; or
 - (c) or is the subject of an active enforcement proceeding with any governmental entity.
 - viii) The Applicant or anyone that has controlling (51%) ownership interest in the development owner or developer that is active in the ownership or control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the Land Use Restriction Agreement (LURA) (10 TAC §60.121); and
 - ix) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.

6) Eligible and Prohibited Activities.

- a) The use of NSP1-PI grant funds must constitute an eligible use under HERA and this NOFA. Most of the activities eligible in NSP represent a subset of the eligible activities under 42 U.S.C. §5305(a). The NSP eligible uses must be correlated with CDBG-eligible activities. Eligible activities are described further in Section 7.
- b) Prohibited activities include, but are not limited to:
 - i) The direct payment of delinquent taxes, fees, or charges on properties to be assisted with NSP1-PI funds;
 - ii) The payment of any cost that is not eligible under 24 CFR §\$570.201- 570.207 or \$570.482(a) through (d);
 - iii) Assistance to persons who owe payments identified by the Comptroller of Texas as relevant (including, but not limited to, child support, student loans, and delinquent taxes); or
 - iv) Assistance to any household whose property is subject to tax liens and/or judgment liens in favor of the State of Texas.
- c) NSP1-PI Homebuyer Financing is not available for investor purchases. The property financed must be the household's primary home.
- d) **Audit Requirements:** An applicant is not eligible to apply for funds or any other assistance from the Department unless a past audit or Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application deadline for funds or other assistance per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified. Staff will not recommend applicants for funding to the Department's Governing Board unless all unresolved audit findings, questions or disallowed costs are resolved per 10 TAC §1.3(c).

7) Eligible Activities

a) Financing Mechanisms

Activity Type: NSP Eligible Use (A) Establish finance mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.

CDBG Eligible Activities: 24 CFR §570.206 Activity delivery costs; Also, the eligible activities listed here to the extent financing mechanisms are used to carry them out: 24 CFR §570.201 (a) Acquisition, (b) Disposition, (n) Homeownership Assistance; 24 CFR §570.202 Rehabilitation.

This activity will provide affordable ownership or rental opportunities by providing financing mechanisms to subgrantees or individual homebuyer to purchase or facilitate the purchase of foreclosed homes or residential property.

TDHCA will make permanent mortgage financing and homebuyer assistance available to low, moderate, and middle income households purchasing foreclosed homes. Qualifying households will work with subrecipient entities to identify appropriate properties and complete eligibility requirements. Subrecipients may offer financing for properties they have

rehabilitated or constructed with Texas NSP1-PI funds, or for properties that homebuyers locate.

i) Permanent Ownership Financing for Low-Income Households

- 1. Households earning 50% or less AMI may obtain mortgage financing from TDHCA to purchase a foreclosed single-family home or residential property. Mortgage loans will be fully-amortized over 30 years with a zero percent (0%) interest rate. Fully amortizing scheduled repayment will be as set forth in loan documents executed at loan closing. Closing costs may be financed, up to 100% of the combined loan to value. Households may combine NSP1-PI permanent financing with homebuyer assistance from NSP1, NSP-R, NSP1-PI or other sources.
- 2. A minimum investment of no less than \$500 will be required from all homebuyers receiving financing assistance through the Texas NSP1-PI. Households participating in an approved self-help housing program may be allowed to substitute "sweat equity" for the investment requirement.
- 3. All homebuyers accessing NSP1-PI permanent financing will be required to meet Texas NSP Homebuyer Financing Guidelines.
- 4. All homebuyer properties assisted with NSP1-PI funds must meet Housing Quality Standards.
- 5. All NSP1-PI assisted ownership units must pass inspection by a licensed Texas Real Estate Commission (TREC) inspector prior to occupation.

ii) Down payment Assistance for Low, Moderate and Middle Income Households

- 1. Households with income levels less than 120% of the AMI will be eligible to access Texas NSP1-PI funds for down payment assistance, reasonable closing costs, principal reductions, and gap financing.
- 2. Assistance of up to \$30,000 will be available to assist in qualifying for private mortgage financing. Homebuyer Assistance will be in the form of a 2nd or 3rd position lien, zero percent (0%) interest, deferred-payment forgivable loan, with the principal reducing every year that the homebuyers' occupy the home. A minimum investment of no less than \$500 will be required from all homebuyers receiving permanent financing assistance through the Texas NSP1-PI. Households participating in an approved self-help housing program may be allowed to substitute "sweat equity" for the down payment requirement.
- 3. The full amount of an NSP1-PI Land Bank loan maybe provided to an eligible homebuyer as Homebuyer Assistance, under the same terms and conditions as described above. The amount of Homebuyer Assistance will be the lesser of the Land Bank loan on the property or \$30,000.

- 4. All homebuyer properties assisted with NSP1-PI funds must meet Housing Quality Standards.
- 5. All NSP1-PI assisted ownership units must pass inspection by a licensed Texas Real Estate Commission (TREC) inspector prior to occupation.
- iii) **Affordability Period**: The Texas NSP1-PI has adopted the federal program standards for continued affordability at 24 CFR 92.254, as a minimum. The ability of TDHCA to enforce this requirement for the full affordability period will be secured with a recapture provision in the loan documents in form and substance satisfactory to TDHCA and its counsel.

Affordability Periods for Texas NSP1-PI Homebuyer Assistance

Homeownership Assistance Amount Per-Unit	Minimum Period of Affordability in Years
Under \$15,000	5
Over \$15,000	10

- iv) **Repayment:** The NSP1-PI homebuyer assistance and permanent financing loans are to be repaid if any of the following occurs before the end of the loan term: resale of the property; refinance of the first lien; repayment of first lien or if the unit ceases to be the assisted household's principal residence. The amount of recapture will be based upon the recapture provision at 24 CFR §92.254(a)(5)(ii). For HBA, recapture of the amount of the NSP investment is reduced on a *pro rata* share based on the time the homeowner has owned and occupied the unit measured against the required affordability period, otherwise recapture will be based on the loan balance. The recapture amount is subject to available shared net proceeds in the event of sale or foreclosure of the housing unit.
- v) **Restrictions:** The following loan requirements are imposed for all households receiving NSP1-PI financing:
 - 1. No adjustable rate mortgage loans (ARMs) or interest rate buy-down loans are allowed;
 - 2. All sources of financing may not exceed 100% combined loan to value;
 - 3. No subprime Mortgage Loans are allowed;
 - 4. Lenders must require the escrow of taxes and homeowners insurance;
 - 5. An origination fee and any other fees associated with the mortgage loan may not exceed \$2,500.00; and,

- 6. The debt to income ratio (back-end ratio), as defined in Fannie/Freddie conventional loan underwriting guidelines, may not exceed 45%.
- 7. The housing ratio (front-end ratio) may not exceed the limits described in the Texas NSP Underwriting Guidelines for each type of purchase money mortgage.
- 8. Subrecipients must ensure that each NSP1-PI assisted homebuyer who receives conventional financing from a third party obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages (see, Statement on subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration). NSP-assisted homebuyers may not receive subprime mortgage loans. Compliance must be documented in the records maintained for each homebuyer.
- 9. Properties purchased with NSP1-PI assistance must be the household's primary residence within 30 days of closing the mortgage loan and throughout the affordability period.
- 10. The Texas NSP will follow the Single Family Mortgage limits set under the February 2008 edition of Section 203(b) of the National Housing Act. Eligible entities may, with written approval of the Department, utilize as a mortgage limit the most recent 95% of Actual Median Sales for each county as promulgated by HUD. If HUD changes this requirement for the HOME program, Texas NSP will change as well. The current limit may be found on the HUD website,

 http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm
- 11. The Texas Neighborhood Stabilization Program Homebuyer Financing Guidelines and Eligible Property Requirements will apply for all NSP1-PI homebuyer transactions.
- vi) **Homebuyer Counseling:** All NSP1-PI-assisted homebuyers will be required to provide evidence of completion of at least eight (8) hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. Evidence must include documentation describing the level of homebuyer counseling, including post purchase counseling.

vii) Rental (Single-family and Multifamily) Residential Property Financing:

1. The acquisition of foreclosed, abandoned, or vacant properties by developers to create affordable rental opportunities may be funded through a permanent loan

with the Department. Financing terms will be dependent on the level of affordability provided.

- (a) Properties of four or fewer units, leased to households at or below 50% of AMI will be eligible for financing through a loan at zero (0%) interest, fully amortized over 30 years through the Department, for eligible units. Activity Delivery Costs will be granted.
- (b) Properties of four or fewer units leased to households at or below 30% of the Area Median Family Income will be eligible for zero percent (0%) interest, deferred forgivable financing of no more than \$30,000 per unit. Any remaining amount over \$30,000 per unit may be financed with a loan at zero percent (0%) interest, fully amortized over 30 years. The principal balance of the subordinate notes will be reduced proportionately every year that the home is occupied by an eligible household. Activity Delivery Costs will be granted.
- (c) Properties of five or more units leased to households at or below 50% of AMI will be eligible for financing, for an up to 30-year amortizing for up to 30 years loan, at an interest rate ranging from (0%) interest to (5% interest) to be determined by the Director of Real Estate Analysis. Activity Delivery Costs will be part of the loan.
- (d) Properties of five or more units leased to households at or below 30% of the AMI in rental properties will be eligible for loan at zero (0%) interest, fully amortized over 30 years deferred-payment forgivable loan, through the Department, with the principal reducing every year that the unit is occupied by an eligible household. Activity Delivery Costs will be part of the loan. No more than fifty percent (50%) of the NSP1-PI permanently financed units in a project may receive deferred-forgivable financing.
- (e) If a Developer agrees to lease 30% of the NSP1-PI permanently financed units in a project to households at or below 30% of the AMI, the project may be eligible for up to 50% of the NSP1-PI to receive deferred-forgivable financing.
- (f) At least 20% of the units in an assisted rental development must be leased to households at or below 120% of the AMI in order for any units to eligible for NSP1-PI permanent financing, regardless of affordability. Units leased to households over 50% of the AMI are not eligible for permanent NSP financing.
- 2. Eligible property types are limited to single-family homes and residential property including condominium units, cooperative units in mutual housing projects and multifamily residential property.

- 3. For rental properties the maximum per-unit subsidy amount and subsidy layering allowable under the HOME Program using Section 221(d)3 limits as defined as 24 CFR §92.250 will apply. If the HOME Program modifies this requirement, Texas NSP will follow the modification.
- 4. The TDHCA underwriting guidelines in 10 TAC §1.32 will be used, which set as a feasibility criterion a 1.15 debt coverage ratio minimum.
- 5. Properties will be restricted under a Land Use Restriction Agreement ("LURA"), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, prohibit the discrimination of renters using Section 8 Housing Choice Vouchers or any other comparable voucher program, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.
- 6. Affordability period requirements will apply to all assisted units. The federal NSP affordability period will be based on the amount of NSP funding per unit, and the remaining time period will be the State Affordability Period as outlined in Section 2306.269.

Federal Affordability Periods for Texas NSP1-PI Rental properties

Rental Housing Activity	Minimum Period of Affordability in Years
Rehabilitation or acquisition of existing housing per unit: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15
New construction or acquisition of newly constructed housing	20

viii) Activity Delivery Cost Limits: Activity Delivery costs for all financing mechanisms will be limited to 15% of the NSP hard costs per housing unit or property.

b) Purchase and Rehabilitation of Abandoned or Foreclosed Properties –

Activity Type: NSP Eligible Use (B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent or redevelop such homes and properties.

CDBG Eligible Activities: 24 CFR §570.201(a) Acquisition, (b) Disposition; 24 CFR §570.202 Rehabilitation.

- i) The acquisition and rehabilitation of foreclosed and abandoned single-family and multifamily residential properties by subgrantees will be funded through a loan with the Department. Awardees must sell or lease properties to eligible Low, Moderate, and Middle Income households within six (6) months of completion of rehabilitation or by November 30, 2013, whichever is sooner.
- ii) A home or residential property has been foreclosed upon if any of the following conditions apply:
 - a) the property's current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or
 - b) the property owner is 90 days or more delinquent on tax payments, or
 - c) under state, local, or tribal law, foreclosure proceedings have been initiated or completed, or
 - d) foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, subrecipient, contractor, developer, or end user.
- iii) A home or residential property is abandoned property if either 1) mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or b) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective action within 90 days of notification of the deficiencies, or c) the property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to local law.
- iv) Homes must be re-sold to eligible households at the lesser of the total development costs or the appraised value after rehabilitation.
- v) Rehabilitated residential property must result in permanent housing.
- vi) Rehabilitation includes activities and related costs as described in 24 CFR §570.202(b), but limited to the improvement or modification of an existing residential property through an alteration, addition, or enhancement including the demolition of an existing residential property and the reconstruction (rebuilding of a structure on the same site in substantially the same manner) of residential property.
- vii) Abandoned and foreclosed properties that have been purchased and rehabilitated, or reconstructed under this activity may be eligible for financing under the same terms and conditions described under Use A—Financing Mechanisms.
- viii) Activity Delivery Cost Limits: Activity Delivery costs for acquisition-only activities will be limited to 20% of the hard costs per housing unit or property. Purchase and

Rehabilitation and Rehabilitation only projects will be limited to 25% of the NSP hard costs per housing unit or property.

c) Land Bank

Activity Type: NSP Eligible Use (C) Establish land banks for home and residential properties that have been foreclosed upon.

CDBG Eligible Activities: 24 CFR §570.201 (a) Acquisition and (b) Disposition

- i) A land bank may be established by subrecipients to assemble, manage temporarily, and dispose of properties for the purpose of stabilizing neighborhoods and encouraging reuse or redevelopment of the properties. Developers may not establish land banks.
- ii) Financing of Land Bank properties will be available in the form of an up to ten (10) year, deferred payable loan.
- iii) Release of the Land Bank lien for sale to a homebuyer will be conditioned on
 - a. Repayment of the loan (unless it is rolled over to the homebuyer);
 - b. Appraisal and documentation of total development cost and documentation that sales price is the maximum of the lower of the two;
 - c. Documentation of homebuyer counseling;
 - d. HQS and a TREC inspection; and
 - e. Verification of income requirements for the homebuyer.
- iv) The full amount of the NSP1-PI Land Bank loan may be provided to an eligible homebuyer as NSP1-PI Homebuyer Assistance, up to the programmatic maximum of \$30,000. All conditions for Homebuyer Assistance described in this NOFA will apply.
- v) Properties held in a Land Bank with NSP1-PI financing are not eligible for interim rental use.
- vi) Subrecipients are limited to the types of properties that may be acquired using land bank funding in the following manner:
 - 1. Properties must be located within an eligible census tract in which 51% or more of the households are at AMI of 120% or less;
 - 2. Acquired properties must meet the HUD definition of foreclosed; and
 - 3. NSP1-PI Land Bank properties may be held for no more than 10-years without obligating the property to a specific, eligible redevelopment in accordance with NSP1-PI requirements.
- vii) Land bank funding may only be used to acquire and dispose of eligible properties. NSP1-PI funds may also be used for basic, reasonable maintenance intended to stabilize the property and for the temporary management of the property which includes maintenance, assembly facilitating the redevelopment of and marketing of land banked properties. If the land bank is a governmental entity, it may also

maintain foreclosed property that it does not own provided that it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.

- viii) Activity Delivery Cost Limits: Activity Delivery costs for Land Bank will be limited to 25% of the NSP hard costs per housing unit or property. At the discretion of the Department, activity delivery costs exceeding per unit limits may be spread among the portfolio of properties in a landbank as long as the activity delivery costs do not exceed the respective percentages for the Eligible Use Budget line items.
- ix) Subrecipients will be required to submit a Land Bank Plan, describing project milestones, future redevelopment plans and potential fund sources. Subrecipients will be required to provide evidence of capacity to fund administrative activities for the Land Bank in subsequent years of the contract.

d) Clearance (Removal of Blight or Demolition)

Activity Type: NSP Eligible Use (D) Demolish Blighted Structures CDBG Eligible Activity: 24 CFR 570.201(d) Clearance of blighted structures only.

- i) Units of Local government and Housing Finance Corporations may use this activity type under a subrecipient contract. Developers may not use this activity type. Nonprofit subrecipients may only use this activity type if it is a land banked property, or part of a redevelopment activity.
- clearance is intended to address areas of greatest need, where subrecipients can prove that blighted structures are affecting property values in the area and pose a threat to human health, safety, and public welfare. Local definition of blight may be applied, with the exception of a finding of "moral blight". Funds to complete demolition activities not associated with acquisition, rehabilitation, or redevelopment will be provided as a grant.
 - iii) This activity cannot be utilized to meet the federal low income target requirement for 50% AMI, but may be used in conjunction with other eligible activities.
 - iv) Blighted structures to be removed should be located in eligible census tracts, in which 51% or more of the households are at or below 120% of the AMI.
 - v) Subrecipients may reserve NSP1-PI demolition funds to remove blighted structures on properties they do not own, provided they are granted authority under law. Applicants may be required to demonstrate that all notice periods have concluded before reserving demolition funds and certify that there are no pending appeals against the demolition or that an elected judge or an appointed municipal judge in a court of record has approved the demolition.

- vi) If the subrecipient will record a lien on the property after demolition in accordance with local ordinance or custom, program income created by the lien must be returned to TDHCA upon receipt. HUD requires a LURA to be filed if the total federal investment in a property is \$25,000 or greater. TDHCA may require specific language to included in demolition liens, providing for return of program income, or the subrecipient may be subject to a deferred, payable, unsecured note at zero percent (0%) interest, equal to the amount of the demolition costs.
- vii) Activity Delivery Costs: Activity delivery costs directly associated with the activity of clearance are limited to 10% of the hard costs required to carry out the activity.

e) Redevelopment

Activity Type: NSP eligible use (E) Redevelop Demolished or Vacant Properties CDBG Eligible Activities: 24 CFR §570.201(a) Acquisition, (b) Disposition, (i) Relocation, (n) Homeownership Assistance

- i) Redevelopment of demolished or vacant properties will address areas of greatest need throughout the state, where vacant properties are contributing to declining land values. Eligible redevelopment activities include acquisition, rehabilitation and new construction of housing for eligible ownership or rental use as permanent housing.
- ii) Properties must be sold to eligible households at the lesser of a price no higher than the cost to acquire and construct the home (some activity delivery costs associated with the sale of the property may be included) or the post-rehabilitation appraised value.
- Demolition as part of redevelopment is an eligible project expense, but it is limited to 10% of the NSP1-PI hard costs. The requirements regarding demolition described herein will apply.
- iv) "Vacant properties" includes both vacant land and properties with vacant structures on the land; however, vacant land must be infill properties or previously developed. "Greenfield" sites may not be acquired under Eligible Use (E).
- v) Activity Delivery Cost Limits: Activity Delivery costs for acquisition-only activities will be limited to 20% of the hard costs per housing unit or property. Activity Delivery costs for Redevelopment will be limited to 25% of the NSP hard costs per housing unit or property.

f) General Requirements for all Activities

i) **Income Targeting:** All NSP1-PI activities must benefit low, moderate and middle-income households as defined in the NSP Notice (< 120% of AMI All NSP funded

rental units must benefit households at less than or equal to 50% AMI, unless prior approval is received from the Department.

ii) Program Income:

- 1. Subrecipients shall not retain any Program Income (as defined at 24 CFR §570.500 (a) (1)) but not including the exclusions found at 24 CFR §570.500 (a)(4) of any kind however derived, including the retention of Program Income to fund other eligible Texas NSP activities. Any program income received from subrecipient activities utilizing Texas NSP1-PI funds must be returned to the Department within ten (10) business days. Revenue received by a private individual or other entity as a result of subrecipient activities involving NSP1-PI funds must also be returned to the Department within ten (10) business days. Unless otherwise stated herein the subrecipient shall comply with the requirements of 24 CF.R §570.489(e) to account for program income, repayments, and recaptured funds.
- 2. Developers shall not retain any project income. Project income includes, but is not limited to, the following:
 - (a) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with NSP funds;
 - (b) Proceeds from the disposition of equipment purchased with NSP funds;
 - (c) Payments of principal and interest on loans made using NSP funds,
 - (d) Proceeds from the sale of loans made with NSP funds;
 - (e) Proceeds from sale of obligations secured by loans made with NSP funds;
 - (f) Interest earned on project income pending its disposition; and
 - (g) Funds collected through special assessments made against properties owned and occupied by households *not* of low and moderate income, where the assessments are used to recover all or part of the NSP portion of a public improvement.
 - 3. Project income does not include:
 - (a) Gross income from the use or rental of real or personal property acquired by Developer with NSP funds, less costs incidental to generation of the income;
 - (b) Gross income from the use or rental of real property, owned by the Developer, that was constructed or improved with NSP funds, less costs incidental to generation of the income;

- (c) funds collected through special assessments used to recover the non-NSP portion of a public improvement;
- (d) proceeds from fund raising activities carried out by Developer receiving NSP assistance; and
- (e) proceeds from the disposition of real property acquired or improved with NSP funds after five years following the NSP Federal Affordability Period.
- 1. Developer may not retain Project Income of any kind, however derived. When income is generated by an activity that is only partially assisted with NSP funds, the income shall be prorated to reflect the percentage of NSP funds used.
- 2. The Developer shall provide reports of income as requested by Department. Income derived from NSP funds under the contract must be submitted to Department within ten (10) business days of receipt.
- 3. Notwithstanding any provision in this section, no private individual, developer, or other entity will be unduly enriched by revenue generated with NSP funds. Any such enrichment will be considered Project Income received by a private individual, developer or other entity and must also be returned to the Department.
- iii) **Appraisals:** The current market appraised value means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with either: 1) the appraisal requirements of the URA at 49 CFR Part 24.103. The appraisal must be completed or updated within 60 days of a final offer made for the property by a subgrantee or individual homebuyer. However, if the anticipated value of the proposed acquisition is estimated at \$25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the grantee determines is qualified to make the valuation. Appraisers must follow the Uniform Appraisal Standards for Federal Land Acquisitions.
- iv) **Discount:** All NSP1-PI assisted foreclosed property acquisitions must attain the statutorily-required minimum 1% discount from the market appraised value, at the time of purchase. The discount is confirmed by an appraisal that meets NSP guidelines, as stated herein. Homebuyers purchasing foreclosed properties directly from the initial successor in interest must also attain the discount.
- v) **Protecting Tenants at Foreclosure:** Subgrantee and homebuyer purchases of property from the initial successor in interest in a foreclosure will be subject to Protecting Tenants at Foreclosure Act of 2009 (Public Law 111-22, Title VII) requirements and Recovery Act (Public Law 111-5) requirements.

- vi) Environmental Review: Subgrantees must complete environmental review procedures and receive release of funds by TDHCA prior to purchase of any property or commencement of construction. In addition, before beginning construction the applicant will have (i) received all requisite building permits and approvals of the Plans, (ii) filed and/or recorded all requisite plats and other instruments and (iii) complied with all Legal Requirements and Environmental Laws required to be met prior to commencement of construction of the Improvements including, without limitation, all applicable restrictive covenants, zoning ordinances, subdivision and building codes, The Texas Asbestos Health Protection Rules, Texas Mold Assessment and Remediation Rules, the provisions of the Texas Windstorm Insurance Association, Chapter 2210 of the Insurance Code for applicable coastal counties flood disaster laws, applicable health and environmental laws and regulations and all other ordinances, orders or requirements issued by any state, federal or municipal authorities having or claiming jurisdiction over the property.
- vii) **Contingency:** All projects, except for Demolition only and New Construction of Rental Property over five units, may include up to a 10% contingency of hard costs of construction for all activities. Demolition only projects may not include a contingency. Rental Property over five units may include up to a 7% contingency of hard costs of construction.

viii) Benchmarks:

- 1. Subgrantees will have up to 60-days from the date of a complete reservation to close a transaction in accordance with their award.
- 2. All projects involving acquisition and rehabilitation/reconstruction are anticipated to close the acquisition transaction by March 1, 2012 and begin construction by May 1, 2012.
- 3. All projects must have expended and requested reimbursement of all the hard costs of construction by December 31, 2012.
- 4. More specific benchmarks may be developed per project via completion of the reservation process, or through underwriting of the loan.
- ix) Eligible and Ineligible Property: Eligible property types for NSP1-PI assistance are limited to single-family homes and residential property (property intended for residential purposes, *i.e.* zoned residential or where there is no zoning, residential use is consistent with deed restrictions and any other limiting factors) including condominium units, apartment units, cooperative units in mutual housing projects and multifamily residential property. All projects must have residential zoning or deed restriction at the time of project application. Further restrictions on property eligibility may apply according to the planned NSP activity. Blighted or vacant non-residential properties may be assisted with NSP1-PI funds, but only as part of a new construction, rehabilitation or reconstruction activity of single-family homes and residential property. Manufactured Homes may be eligible for assistance if:

- (a) The unit complies with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;
- (b) The unit is permanently installed in accordance with the Texas Manufactured Housing Standards Act;
- (c) The unit is permanently attached to utilities; and
- (d) The ownership of the unit is recorded in the taxing authority of the county in which it is located.
- x) **HOME previously-assisted property:** If NSP1-PI funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR Part 92, the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice will apply unless the NSP1-PI affordability restrictions are greater and then the NSP1-PI affordability restrictions will apply. The Department will give priority consideration to applications which are completing the affordability period of distressed TDHCA properties. This determination will be made in the sole discretion of the Department.
- xi) Energy Standards Gut rehabilitation, reconstruction or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation, reconstruction or new construction of mid-or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent. Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken. All projects must purchase Energy Star products and appliances. Water efficient toilets, showers, and faucets, such as those with the WaterSense label, must be installed.
- xii) Compliance and Monitoring All properties will be monitored using the procedures outlined in the Texas Administrative Code Chapter 60. All rental property owners will be required to file reports with the Department as outlined in Chapter 60. Rental properties will be required to pay an annual fee for the monitoring and compliance fees established by the Department from time to time, as assessed.
- xiii) **Target Score** All NSP1-PI assisted properties must be located in a census tract with a score of 12 or greater. The score determination is made concurrent with the reservation of funds for a specific property. The HUD data and mapping tool may be found on the HUD website, here:

 http://www.huduser.org/portal/datasets/NSP.html An exception to the target score requirement, in the sole determination of the Department, may be made for properties that were obligated under the NSP1 or NSP-R NOFAs.
- g) Additional Requirements for Rental Properties

- i) Only qualified nonprofit organizations are eligible to receive financing for rental properties. A subrecipient may reserve funding, but must procure an eligible Developer. See the eligible entity section for additional guidance. In addition, for rental properties involving five or more units, an applicant must have the experience outlined in 10 TAC §48.4 or as defined in the threashold requirements in the Qualified Allocation Plan, current as of the date of application.
 - ii) A single-site development of over 16 units must have the minimum common amenities listed in the Qualified Allocation Plan, current as of the date of application. The amenities will be required to be listed in the LURA.
 - iii) All applications involving rental property will be required to demonstrate how the type of housing proposed is financially feasible in the target area.
 - iv) It is anticipated that successful applications for entities considering rental projects involving five or more units will be submitted for consideration by the TDHCA Governing Board no later than March 2012.
 - v) It is anticipated that rental projects involving five or more units involving rehabilitation or reconstruction only will close the TDHCA loan and begin construction by May 1, 2012.
 - vi) It is anticipated that rental projects involving five or more units involving acquisition only funding will close the transaction by June 1, 2012 using the TDHCA loan.
 - vii) NSP assisted new construction, rehabilitation, or renovation will comply with federal lead-based paint requirements including lead screening in housing built before 1978 in accordance with 24 CFR Part 92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R and for Multifamily Housing must be discussed in the Property Condition Assessment.
 - viii) As applicable, Davis-Bacon Labor Standards will apply, and for Rental Housing must be discussed in the Property Condition Assessment.

9) General Loan Requirements

a) Rental Development Loan Requirements.

i) The minimum loan may not be less than \$1,000 per NSP1-PI assisted unit or as otherwise restricted in this NOFA. The Department's underwriting guidelines in 10 TAC §1.32 will be used, which set as a feasibility criterion a 1.15 debt coverage ratio minimum. Developments involving rehabilitation of five or more rental units must establish that the rehabilitation will substantially improve the condition of the housing and the scope, specifications and costs must be outlined in a Property Condition Assessment pursuant to 10 TAC §1.36. When NSP1-PI funds are used for a

- rehabilitation development the entire property must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1) and as outlined herein.
- ii) When the Department funds will be in a first lien position and funds are to be used for new construction, redevelopment and/or rehabilitation, assurance of completion of the development in the form of payment and performance bonds in the full amount of the construction contract is required. Such assurance of completion will run to the Department as obligee and must be documented prior to starting construction. The obligation must be from a surety acceptable to the Department in its sole and reasonable discretion. If there is an identify of interest between the Owner and the General Contractor, the Department may in its sole and reasonable discretion allow other methods of surety in lieu of the payment and performance bond.
- iii) NSP1-PI rental properties will be underwritten using the current year Real Estate Analysis Rules, except that if the Rules and the Federal or Texas NSP guidelines conflict, the provisions described in the HUD notice or described herein will govern.
- iv) NSP1-PI funds may only be used for the operating reserve if a third-party lender requires that funds be allocated for operating reserves as a condition for approving their loan. The amount of operating reserves may exceed amounts provided for in TDHCA's Real Estate Analysis rules only with documentation acceptable to the Department of the third-party lender's reserve requirements. If no third-party lender requirement is imposed in the transaction, the Department may require the developer to defer a fee or a portion of the fee to make the deposits to operating reserves until the end of the contract period. The Developer may not use NSP funds to pay for an on-going subsidy (or any other on-going project based rental assistance). The Developer is required to establish a Reserve for Replacement consistent with 10 TAC 1.37.

b) Documents Supporting Mortgage Loans

- i) All mortgage Loans shall be evidenced by a mortgage or deed of trust note and by a mortgage that creates a lien payable to TDHCA on the housing development and on all real property that constitutes the site of or that relates to the housing development and such other documents as TDHCA may reasonably require. All documents must be in form and substance satisfactory to TDHCA and its counsel.
- ii) For each Loan made for the development of housing with funds provided under the NSP1-PI program, the Department shall be provided with a a mortgagee's title policy in the amount of the loan. The Department may not designate a specific title insurance company to provide the mortgagee title policy or require the borrower to provide the policy from a specific title insurance company. The borrower shall select the title insurance company to close the loan and to provide the mortgagee title policy. The title policy may not reflect any liens, charges, encumbrances, or other matters excepted from coverage that are not acceptable to TDHCA in its sole and reasonable judgment.

- iii) A note or bond and a mortgage or deed of trust:
 - 1. must contain provisions satisfactory to the Department;
 - 2. must be in a form satisfactory to the Department; and
 - 3. may contain exculpatory provisions relieving the borrower or its principal from personal liability if the Department agrees.

c) Documents Supporting Homebuyer Assistance

- i) The subreceipient must ensure that required documents as listed on NSP property Setup forms, underwriting guidelines, or program manuals are timely submitted to the Department, in order to request that Loan documents be prepared for the Household.
 - ii) Additional documentation may be requested in order to complete the appropriate underwriting review.
 - iii) The subrecipient will be responsible for timely coordination of all parties in order to meet closing deadlines. Continued late submission of required documents or lack of response to Department requests may result in de-obligation of NSP1-PI funds and termination of the Contract.
 - iv) All NSP1-PI homebuyer financing will be secured with documents approved by the Department.

10) Activity Delivery/Soft Costs Limitations

- a) Activity Delivery costs are soft costs that are directly related to and incurred in carrying out activities for a specific housing unit or property, and they are separate and distinct from the general administrative costs, Because projects will apply to the reservation system with a pre-identified address(es), no general administrative costs will be allowed. Activity Delivery costs will be granted for all projects except rental projects of five or more units where they will be part of the loan unless otherwise described in this NOFA. The administrator must use these funds in accordance with 24 CFR §\$570.205 and 206, and Office of Management and Budget (OMB) Circulars A-87, A-122, A-102 and A-110, as applicable. The Texas NSP limits Activity Delivery costs according to activity as specifically described in the program activity sections and as stated herein.
- b) Eligible Activity Delivery soft costs must be reasonable and consistent with industry norms. Specific eligible activities include, but are not limited to:
 - i.) inspections for lead-based paint, asbestos, termites, or septic systems;
 - ii.) interim and final inspections by the construction inspector;
 - i.) financing fees, credit reports, title binders and insurance;
 - ii.) recordation fees, transaction taxes;
 - iii.) legal and accounting fees;
 - iv.) appraisal fees;
 - v.) architectural and engineering fees, including specifications and job progress inspections;

- vi.) relocation costs;
- vii.) site specific environmental reviews;
- viii.) lead hazard evaluation and reduction costs;
- ix.) preparation of work write-ups, work specifications, and cost estimates;
- x.) architectural, engineering or professional services required to prepare plans, drawings or specifications directly attributable to a particular project;
- xi.) staff time specifically related to the address of the project; and
- xii.) other soft costs that are demonstrably necessary to the production of an identified NSP-eligible housing unit and that are approved in writing by the Department before the costs are expended.
- c) The related Activity Delivery costs maximum will be based on the activity in a range from 5% to no more than 25% of the hard costs. Activity Delivery costs may not exceed the forgoing limits without prior written approval by the Department. Additionally upon prior approval of the Department, further exceptions may be allowed in the case of Rehabilitation activities for lead-based paint hazard reduction, noise studies, and/or cost categories not identified in the Texas NSP1-PI NOFA.
- d) For rental projects consisting of five or more units, Activity Delivery costs for specific properties that are not ultimately acquired by the subgrantee may be reimbursed, with the permission of the Department, only if the project has received a favorable underwriting report. Permission will not be given, if the applicant is not in good standing with TDHCA or under any Texas NSP contract. Costs must be reasonable and consistent with industry norms, and may not exceed 50% of the maximum Activity Delivery amount established for the related eligible activity not including the Developer Fee.

11) Site and Construction/Development Restrictions

a) Single Family Housing

- i) Pursuant to HERA, housing that is constructed or rehabilitated with NSP1-PI funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, the housing must meet the International Residential Code and the National Electrical Code, as applicable. In addition, housing that is rehabilitated with funds awarded under this NOFA must meet all applicable energy efficiency standards established by §2306.187 of the Texas Government Code, and energy standards as verified by RESCHECK.
- ii) If a Texas NSP1-PI assisted single-family or duplex is newly constructed and reconstructed, the applicant must also ensure compliance with the universal design features in new construction, established by \$2306.514 of the Texas Government Code, and as implemented by TDHCA.
- iii) All NSP1-PI assisted properties must meet all applicable State and local housing quality standards and code requirements the housing quality standards (HQS) in 24

- CFR §982.40. When NSP1-PI funds are used for rehabilitation the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a)(1).
- iv) All NSP1-PI assisted ownership units must pass inspection by a licensed Texas Real Estate Commission (TREC) inspector prior to occupation.

b) Rental Housing

- i) Pursuant to HERA, housing that is constructed, reconstructed or rehabilitated with NSP funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When NSP funds are used for rehabilitation, the entire development must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1). In the absence of a local code for new construction, reconstruction, or rehabilitation, NSP-assisted new construction, reconstruction or rehabilitation must meet, as applicable, International Residential Code and the National Electrical Code. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in an NSPassisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Gut rehabilitation, reconstruction or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation, reconstruction or new construction of mid-or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent. Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken.
- ii) Rental Housing must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) and covered multifamily dwellings, as defined at 24 CFR §100.201, must also meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619) and the Fair Housing Act Design Manual produced by HUD. Additionally, pursuant to the current as of the date of the application QAP, 10 TAC §50.9(h)(4)(H), Developments involving New Construction (excluding New Construction of nonresidential buildings) 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 and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. For rehabilitation developments, the scope, specifications and costs associated with complying with accessibility requirements must be identified in the Property Condition Assessment.

- iii) All NSP1-PI assisted properties must meet all applicable State and local housing quality standards and code requirements, which at a minimum must address UPCS and the housing quality standards HQS in 24 CFR §982.40. When NSP1-PI funds are used for rehabilitation the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a)(1).
- iv) The Real Estate Analysis Rules current as of the date of the application, will apply, except that if the Rules and the Federal or Texas NSP guidelines conflict, the provisions described in the HUD notice or described herein will govern.
- v) All applications with multifamily housing units intended to serve persons with disabilities must adhere to the Department's Integrated Housing Rule at 10 TAC §1.15.

c) Additional Requirements (Single and Multifamily Housing)

- i) Any Development proposing New Construction or Reconstruction and located within the one-hundred (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 one-hundred (100) year floodplain. No buildings or roads that are part of a Development proposing Rehabilitation (excluding Reconstruction) with the exception of Developments with existing and ongoing federal funding assistance from HUD or TRDO-USDA, will be permitted in the one-hundred (100) year floodplain unless they already meet the requirements established in this subsection for New Construction, or if the Unit of General Local Government has undertaken mitigation efforts and can establish that the property is no longer within the one-hundred (100) year floodplain.
- ii) Subgrantees must adopt affirmative marketing policies and procedures in furtherance of Texas' commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status or disability. Records should be maintained describing actions taken by the Subgrantee to affirmatively market units and assess the results of these actions. An Affirmative Marketing Plan is required for all NSP1-PI properties.
- iii) Subgrantees will require adherence to the guidelines set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24) and 104(d) requirements set out in 24 CFR Part 42.

- iv) As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, national origin discrimination includes discrimination on the basis of limitied English proficiency (LEP). To ensure compliance with Title VI, all subgrantees must take reasonable steps to ensure that LEP persons have meaningful access to programs as implemented by HUD. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subgrantees are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and conducting programs. A Language Assistance Plan is required for all subgrantees. A Language Assistance Plan is required for all NSP1-PI rental properties.
- v) Subgrantees will be required to provide job opportunities to low-income residents and businesses, to the greatest extent possible. Reporting of efforts and results according to Department policy will be required of all subgrantees. A Section 3 Plan is required for all NSP1-PI subgrantees.
- vi) All applicants must ensure compliance with the certifications required by HUD, as outlined in *Federal Register* Notices (**Dockets No. FR-5447–N-01, F-522-N-02, and FR-5321-N-03**).

11) Application Submission

a) The Department will accept applications from 8 a.m. to 5 p.m. Austin local time each business day, excluding federal and state holidays. Questions regarding this NOFA should be addressed to:

Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, Texas 78701
Telephone: (512) 936-7795
E-mail: robert.stevenson@tdhca.state.tx.us

- b) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.
- c) Applicants must submit one complete printed copy of all Application materials and one complete scanned copy on a disc of the Application materials.
- d) All Application forms will be available on the Department's website at www.tdhca.state.tx.us Applications will be required to adhere to the threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- e) **Application Workshop:** the Department will present an application workshop via webinar format on a date to be determined. The workshop recording will be available on the Department website. The workshop will address information such as the

Application preparation and submission requirements, evaluation criteria, state and federal program information, and environmental requirements. The Application workshop schedule and registration will be posted on the Department's website at www.tdhca.state.tx.us

f) Applications must be sent or delivered to:

Texas Department of Housing and Community Affairs Attn: Neighborhood Stabilization Program 221 East 11th Street Austin, TX 78701-2410

or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs Attn: Neighborhood Stabilization Program Post Office Box 13941 Austin, TX 78711-3941

NOTE: This NOFA does not include the text of the various applicable regulatory provisions that may be important to the administration of the Neighborhood Stabilization Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations and the NSP Technical Guide.

NEIGHBORHOOD STABILIZATION PROGRAM BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action regarding the recommendation to amend the NSP1 contract No. 77090000154 with the City of Port Arthur.

RECOMMENDED ACTION

WHEREAS, The City of Port Arthur has acquired more than 200 individual properties to be land banked under the NSP Contract No 77090000154. Waiver of specific NOFA requirements and amendment of the NSP Contract are required to complete redevelopment of the properties, therefore be it

RESOLVED, that the City of Port Arthur NSP Contract be amended to allow for use of land bank properties as public facilities and waiving repayment requirements for land bank acquisition loans if the properties are used to create public facilities or to provide disaster recovery housing to eligible households.

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the State of Texas 2008 CDBG Action Plan (Action Plan) and provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203, approved July 21, 2010) (Dodd-Frank Act) through an amendment to the existing State of Texas 2010 CDGB Action Plan. The purpose of the program is to redevelop into affordable housing, or acquire and hold, abandoned, foreclosed, and vacant properties in areas that are documented to have the greatest need for arresting declining property values.

The City of Port Arthur NSP Contract provides \$303,688.00 for the purpose of land banking foreclosed properties for future development into affordable housing. Through accessing tax foreclosure properties at a much lower per-property cost than originally budgeted, the City was able to purchase more than 200 properties, rather than the 46 originally projected.

The City has conducted a thorough assessment of the land bank properties currently held, and determined that waiver of NSP requirements and amendment of the NSP contract will allow the properties to be redeveloped to best support community priorities, as follows:

• A number of the Land Bank properties would be most appropriately redeveloped through transfers to adjacent property owners. Lots to be transferred are too small for

redevelopment as single family housing, and continued use and maintenance of the property by the adjacent owner creates an area-wide benefit for the community.

- Additional lots are not suitable for residential re-development due to size, topography, restrictions and easements, or other conditions which impact re-use. Development of these lots as neighborhood parks creates an area-wide benefit by creating shared green space in the community. The City of Port Arthur would continue to maintain these parks as public facilities.
- The City of Port Arthur has partnered with the Southeast Texas Regional Planning Commission to identify properties for development of new housing opportunities for victims of Hurricane Ike. The Port Arthur NSP Land Bank is an excellent source of land for homes to be constructed through the recovery efforts. In order for the homes to be provided to eligible households within the applicable regulatory requirements, the homeowners may not be required to provide payment for the property. The Land Bank properties would be transferred to the homeowner with a zero-interest, deferred-forgivable lien in order to secure the NSP affordability period.

The NSP1 NOFA and NSP program requirements stipulate that land bank properties be redeveloped for affordable housing. This requirement is not imposed by HUD regulations or guidance, which allow for disposition of Land Bank properties to create public facilities and/or area benefit. A Land Use Restriction Agreement or similar appropriate instrument will secure the future use of properties designated for side lot transfer or neighborhood parks.

The City of Port Arthur has also requested waiver of the NOFA limitation on Activity Delivery costs, to assure that funds are available to reimburse eligible soft costs of acquisition and redevelopment. The request will be fully evaluated by staff and, if appropriate, waiver provided as allowed under the NOFA.

PORT ARTHUR TDHCA BOARD REQUEST FOR CONTRACT REVISIONS OR WAIVERS

All properties that have been purchased by the City of Port Arthur for NSP purposes have been evaluated for end uses and meeting a national objective under the NSP program. All lots that were deemed ineligible for NSP uses have been removed from NSP inventories and will not be included in any drawdown request from TDHCA. The parcels have been categorized by priority for development as affordable housing. There are parcels that are ready for single family construction and the remaining lots are classified for future single family homes with lot recombination (re-platting), single family homes with variances (some lots are nonconforming to lot size but can be built with variances) and side lot transfers.

The City of Port Arthur acquired over 200 parcels of tax delinquent properties at Sheriff auction. The acquisition costs for these lots varied in price but they were very nominal. Some were acquired for as low as \$194. The NSP NOFA allows for activity delivery costs of up to 20% of purchase price for land bank parcels. In most cases, the actual activity delivery costs exceed not only 20% of the purchase price but over 100% of the purchase price-surveys, appraisals and title work costs are fixed for basic work and for this reason it is necessary to use additional NSP funds for the maintenance and disposition of the properties. For example, lots that are 25' wide that can be recombined or re-platted to include an adjacent 25' lot will require additional funding for that zoning procedure. These parcels need to be mowed and kept clear from debris as well, to prevent further blight. A budget has been developed to project these costs.

- 1. Parcels that are categorized for side lot or pocket park usage are delineated in the Port Arthur Land Bank inventory. To allow for land bank usage of the side lots and pocket parks as provided in the Urban Land Bank Plan, the City is requesting that TDHCA specifically permit in its contract the allowance of side lots and pocket parks as eligible end uses which will meet a national objective.
- 2. The Southeast Texas Regional Planning Commission has funds available for new construction of single family homes for hurricane Ike victims. These homes are provided to eligible households and the NSP lots are an excellent source of land for the homes. Any NSP lots that are provided for Ike homes will be available only to households that are income eligible under the NSP program. Under the RPC program, participating households are not required to provide funds for down payment, house cost or land costs. Therefore, the NSP lots which are provided for this use, will be held by a zero percent interest deferred payment mortgage payable to TDHCA. This mortgage lien that must be repaid when the home is sold or is not longer the principal residence of the household. For this reason, the City is requesting that TDHCA allow a deferred loan on the acquisition and program delivery costs for Ike homes. This will implement the long term affordability provision of the NSP program

3. The City of Port Arthur is requesting a waiver of the 20% cap on activity delivery costs for land bank properties. The acquisition costs were so nominal that a percentage of this amount does not cover the basic expenses associated with acquisition. In addition, the City is requesting that disposition and minimal maintenance costs be eligible expenses that can be included in the Land Bank Use budget. Many of the properties must be re-platted to combine two substandard lots to form a buildable lot. Others need variances to become buildable lots. The estimated cost for replatting is \$1,800 and variances \$1,500. Routine lot maintenance is critic-al in preventing blight. Currently the cost of lot mowing is up to \$150 per lot. The City requests that these expenses be allowable under NSP.

SUMMARY

- 1. Allow side lot and pocket park for appropriate lots
- 2. Allow a deferred loan on the acquisition costs for lots that become Ike houses
- 3. Allow a waiver of the 20% cap on activity delivery costs for land bank lots given the situation where the purchase price was so low

HOUSING TRUST FUND BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action regarding the adoption of the proposed repeal of 10 TAC Chapter 51, §§51.1 – 51.16 and the adoption of a new 10 TAC Chapter 51, §§51.1 – 51.11 Housing Trust Fund Rules for publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, the Department in its efforts to ensure compliance with all statutory requirements, remove any redundant or unnecessary references to other federal or state statutes, and include recommendations for necessary policy and administrative changes to further enhance and streamline operations.

RESOLVED, that the adoption of the proposed repeal of 10 TAC Chapter 51, §§51.1 – 51.16 and the adoption of a new 10 TAC Chapter 51, §§51.1 – 51.11 Housing Trust Fund Rules are hereby ordered and are approved, together with the preambles presented to this meeting, for publication in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the Housing Trust Fund Rules, in the form presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The proposed repeal and new rules were approved for publication in the *Texas Register* on June 30, 2011 by the Department's Governing Board and was published in the July 13, 2011 issue of the *Texas Register* to allow for public comment. The new sections ensure compliance with all statutory requirements, removes any redundant or unnecessary references to other federal or state statutes, and includes recommendations for necessary policy and administrative changes to further enhance and streamline operations. The public comment period closed on August 5, 2011 with no comment received. A public hearing to receive input on the proposed rules was held on July 29, 2011 with no public input received.

Non-substantive technical corrections to §51.8. Criteria for Reservation System Funding were made to better capture the use of the reservation system and related processes. In accordance with the 2012 HTF Biennial Plan (approved by the Governing Board on July 28, 2011) the reservation system may be utilized for loans or grants as well as programs that may not require reservations on behalf of individual households. Additionally, it was determined by staff that defined terms shall be lower case unless they are a proper noun or a word that is referred to by an acronym.

Attachment A: Preamble and New Rules

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 51, §§51.1 – 51.11 Housing Trust Fund Rules with changes to <*><*>51.2 and 51.4 – 51.10 the proposed text as published in the July 15, 2011 issue of the Texas Register (36 TexReg 4522). Sections 51.1, 51.3 and 51.11 are adopted without change and will not be republished. The new sections ensure compliance with all statutory requirements, removes any redundant or unnecessary references to other federal or state statutes, and includes recommendations for necessary policy and administrative changes to further enhance and streamline operations.

Non-substantive technical corrections to §51.8. Criteria for Reservation System Funding are made to better capture the use of the reservation system and related processes. In accordance with the 2012 HTF Biennial Plan (approved by the Board on July 28, 2011) the reservation system may be utilized for loans or grants as well as programs that may not require reservations on behalf of individual households. Additionally, it was determined by staff that defined terms shall be lower case unless they are a proper noun, a word that is referred to by an acronym, or

The new sections ensure compliance with all statutory requirements, removes any redundant or unnecessary references to other federal or state statutes, and includes recommendations for necessary policy and administrative changes to further enhance and streamline operations.

The Texas Department of Housing and Community Affairs accepted comments to the proposed rules in writing and by email.

A public hearing to receive input on the proposed rules was held on July 29, 2011 and public comments were accepted through August 5, 2011.

No public comments or input were received.

The Board approved the final order adopting the new sections on September 15, 2011.

The new sections are adopted pursuant to the authority Chapter 2306 of the Texas Government Code, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

§51.1.Purpose.

This chapter clarifies the administration of the Texas Housing Trust Fund (HTF). The Housing Trust Fund provides loans, grants or other comparable forms of assistance to income-eligible individuals, families and households. The Housing Trust Fund is administered in accordance with Chapter 2306 of the Texas Government Code.

§51.2.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the NOFA indicate otherwise. Lack of capitalization of a term or word in this chapter does not indicate that the term is undefined. Other definitions may be found in Chapter 2306 of the Texas Government Code.

- (1) Activity--A form of assistance by which HTF funds are used to provide incentives to develop and support affordable housing and homeownership through acquisition, new construction, reconstruction, and rehabilitation of residential housing.
- (2) Administrative Deficiencies--The absence of information or a document from the <u>application</u> as required by these rules and program manuals.
- (3) Administrator--A unit of government, nonprofit entity or other party who has an executed written agreement or contract with the Department committing the Department to provide funds upon the completion of certain actions called for in the agreement or contract.
- (4) Amortized--A loan in which the principal as well as the interest, if applicable, is payable monthly or in some other periodic installment over the term of the loan.
- (5) Applicant--A <u>personPerson</u> who has submitted an <u>applicationApplication</u> for Department funds or any other form of assistance.
- (6) Application--A request for funds submitted to the Department in a form prescribed by the Department, including any exhibits or other supporting material.
- (7) Application Acceptance Period--The period of time that <u>applications Applications may</u> be submitted to the Department as more fully described in the applicable Notice of Funding Availability (NOFA).
- (8) 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 Office of the Secretary of State.
- (9) 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.
- (10) Chapter 2306--Chapter 2306 of the Texas Government Code.
- (11) Combined Loan to Value (CLTV)--Value of all liens against the property and/or loans, including forgivable loans.
- (12) Committed--Funds approved by the Department to provide assistance to an individual or family.
- (13) Competitive Application Cycle--A defined deadline in which all <u>applications Applications</u> must be submitted in accordance with the NOFA.
- (14) Contract--The executed written agreement between the Department and an <u>administrator</u> Performing an activity related to a program that outlines performance requirements and responsibilities assigned by the document.

- (15) Contract Period--The length of time between the contract's <u>effective date</u> <u>Effective Date</u> (starting date) through its ending date.
- (16) Deobligation--The cancellation of funds involving some or all of a financial obligation between the Department and an <u>administrator</u>Administrator.
- (17) Department--The Texas Department of Housing and Community Affairs.
- (18) Development--A Project in which an <u>applicantApplicant</u>, <u>administratorAdministrator</u>, or <u>development Owner Development Owner</u> has or will have an ownership interest and that has a construction component, either in the form of <u>new construction New Construction</u> or rehabilitation of multi-unit or single family residential housing.
- (19) Development Owner--Any person, general partner, or affiliate of a person who owns or proposes a <u>development Development</u> or expects to acquire control of a development under a purchase contract and is the person responsible for performing under the <u>contractContract</u> with the Department.
- (20) Development Site--The area, or if scattered site, areas for which the <u>development Development</u> is proposed to be located.
- (21) Domestic Farm Laborer--Individuals (and the family) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.
- (22) Draw--Funds requested by the <u>administrator</u>Administrator, approved by the Department and subsequently disbursed to the <u>administrator</u>Administrator.
- (23) Effective Date--The date on which the Department's Governing Board approved action or when all applicable parties have signed a contract or agreement.
- (24) First time Homebuyer--A First-Time Homebuyer is:
- (A) An individual who has had no ownership in a principal residence in Texas during the three
- (3) year period ending on the date of purchase of the property.
- (B) A single parent who has only owned with a former spouse while married.
- (C) An individual who is a displaced homemaker and has only owned with a spouse.
- (D) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
- (E) An individual who has only owned a property that was not in compliance with State, local building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.
- (25) Forgivable Loan--Financial assistance in the form of money that, in an executed agreement, is not required to be repaid.
- (26) General Partner--A <u>person Person</u>, or <u>persons Persons</u>, who is identified as the general partner of the partnership that is the <u>development owner Development Owner</u> and that has general liability for the partnership. In addition, unless the context shall clearly indicate the contrary, if the <u>development owner Development Owner</u> 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.

- (27) Grant--Financial assistance that is awarded in the form of money for a specific purpose and that is not required to be repaid. A grant Grant includes a forgivable loan.
- (28) Household--One or more persons occupying a housing unit. May also be referred to as a "Family".
- (29) Housing Trust Fund (HTF)--The fund created under Chapter 2306 of the Texas Government Code and governed by this title.
- (30) HUD--United States Department of Housing and Urban Development
- (31) Income and Rent Limits--Limits in place for maximum allowable incomes and rents for specific programs administered by the Department, as provided by the Department.
- (32) Individuals and families of Low-Income--Individuals and families individuals or families whose annual incomes do not exceed 80 percent of the greater of state or local median income as provided by the Department.
- (33) Individuals and families of Very Low-Income--Individuals or families whose annual incomes do not exceed 60 percent of the greater of state or local median income as provided by the Department.
- (34) Individuals and families of Extremely Low Income--Individuals or families whose annual incomes do not exceed 30 percent of the greater of state or local median income as provided by the Department.
- (35) Lien--A claim against a property that provides security for repayment of a debt or obligation of the property owner.
- (36) Loan--Financial assistance in the form of money that is required to be repaid in accordance with terms and interest rates provided in the executed agreement.
- (37) Loan Assumption--An HTF loan may be assumable if the Department determines that all program requirements in effect at the time of the assumption are met.
- (38) Loan to Value (LTV)--The amount of the outstanding mortgage loan divided by the property's appraised value. The LTV for an HTF loanLoan cannot exceed 100 percent.
- (39) Land Use Restriction Agreement (LURA)--An agreement between the Department and a <u>person Person</u> related to a specific <u>property Property</u> or <u>properties Properties</u> which is filed with the responsible recording authority.
- (40) Manufactured Housing Unit (MHU)--A structure transportable in one or more sections which, in traveling mode, is 8 body-feet or more in width or 40 body-feet or more in length, or when erected on site, is 320 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required facilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. MHUs must comply with §19(1) of the Texas Manufactured Housing Standards Act.
- (41) Multifamily Structure--A property designed and built to support the habitation of more than one person or one household may include an attached or semi-detached unit.
- (42) New Construction--A project in which the main purpose of funds is to create additional dwelling units and is not a <u>rehabilitation</u> or <u>reconstructionReconstruction</u>.
- (43) NOFA--Notice of Funding Availability.

- (44) Nonprofit Organization--An organization, institution or agency that:
- (A) is organized under state or local laws;
- (B) has no part of its net earnings benefiting any member, founder, contributor, or individual; and
- (C) is a tax exempt §501(c) organization. A pending application for §501(c) status cannot be used to comply with the tax status requirement.
- (45) Open Reservation Cycle--A defined period during which an <u>administrator Administrator</u> may submit <u>applications Applications</u> according to a published NOFA and which will be reviewed on a first come-first serve basis until all funds available are committed, or until the NOFA is closed. Applications will be reviewed in accordance with NOFA and manual for the applicable HTF program.
- (46) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in collateral.
- (47) Person--Any individual, partnership, corporation, association, local unit of government, community action agency, or public or private organization of any character.
- (48) Persons with Disabilities--An individual who has a disability that is a physical or mental impairment that substantially limits one or more major life activities.
- (49) Principal Residence--The primary housing unit that an individual or family inhabits.
- (50) Program Manual--A set of guidelines designed to be an implementation tool for the <u>administrator Administrator</u> that has executed an agreement and allows the <u>administrator Administrator</u> to search for terms, statutes, regulations, forms and attachments. The program manual may be developed by the Department and amended or supplemented from time-to-time.
- (51) Property / Properties—The real estate and all improvements thereon which are the subject of the HTF funds whether currently existing or proposed to be built thereon in connection with the funds.
- (52) Public Housing Authority (PHA)--A housing authority established under Chapter 392 of the Texas Local Government Code.
- (53) Received Date--The date an <u>application Application</u> is verified to be received by the Department.
- (54) Reconstruction--The rebuilding of an existing structure on the same lot where housing exists at the time of <u>application Application</u>. HTF funds may also be used to build a new foundation or repair an existing foundation.
- (55) Rehabilitation--Includes the alteration, improvement or modification of an existing structure. It may also include moving an existing structure to a foundation constructed with HTF funds.
- (56) Reservation--An amount of funds set-aside for each individual <u>applicant Applicant</u> registered into the Department's HTF registration website.
- (57) Resolution--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.

- (58) Senior Lien--A lien that takes priority over the Department's lien and any subsequent liens.
- (59) Setup--The submission of required information into the <u>reservation systemReservation</u> System in order to reserve funds for activities specified in the applicable NOFA.
- (60) Single family structure--A property designed and built to support the habitation of one person or one household. This includes an attached or detached unit, including structures such as a single-family detached unit, condominium unit, and/ or a single unit in a duplex or triplex.
- (61) TAC--Texas Administrative Code.
- (62) Title Commitment--A document from a title company showing the status of a property's ownership and pledging to issue a title insurance policy when the requirements shown therein are met.

§51.3. Allocation of Funds.

- (a) The Department administers all HTF funds provided to the Department in accordance with Chapter 2306 of the Texas Government Code. The Department may solicit gifts and grants to endow the fund.
- (b) Pursuant to §2306.202(b) of the Texas Government Code, use of the HTF is limited to providing:
- (1) Assistance for individuals and families of low and very low income;
- (2) Technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) Security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) Subject to the limitations in §2306.251 of the Texas Government Code, the Department may also use the fund to acquire property to endow the fund.
- (c) Regional Allocation. Funds shall be allocated to achieve broad geographic dispersion by awarding funds in accordance with §2306.111(d) and (g) of the Texas Government Code.
- (d) Set-Asides. In accordance with §2306.202(a) of the Texas Government Code and program guidelines:
- (1) In each biennium the first \$2.6 million available through the HTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for Local Units of Government, Public Housing Authorities, and Nonprofit organizations.
- (2) Any additional funds may also be made available to for-profit organizations provided that at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to nonprofit organizations.
- (3) The remaining portion shall be distributed to nonprofit organizations, for-profit organizations, and other eligible entities, pursuant to \$2306.202 of the Texas Government Code.

§51.4.Use of Funds.

- (a) Use of Additional or Deobligated Funds. In the event the Department receives additional funds, such as loan repayments, donations and interest earnings, the Department will redistribute the funds in accordance with the HTF Plan in effect at the time the additional funds become available.
- (b) Reprogramming of Funds. If funding for a program is undersubscribed or funds not utilized, within a timeframe as determined by the Department, remaining funds may be reprogrammed at the discretion of the Department consistent with the HTF Plan in effect at the time.
- (c) Deobligation of Funds. The Department may deobligate all or a portion of the awarded or committed amount if such amount is not expended in a timely manner in accordance with the NOFA and contract or Reservation agreement.
- (d) The Department may terminate an agreement in whole or in part if the <u>administrator Administrator</u> does not achieve performance benchmarks as outlined in agreement, NOFA, contract or Reservation agreement.
- (e) Amendments. The Department may authorize, execute, and deliver modifications and/or amendments to any program written agreement provided that:
- (1) Time extensions. The Department may collectively provide up to one six (6) month extension to the end date of any agreement. Any additional time extension granted by the Department shall include a statement by the Department relating to unusual, non-foreseeable or extenuating circumstances. If the extension is longer than six (6) months and the Department determines that a statement related to unusual, non-foreseeable, or extenuating circumstances cannot be issued, it will be presented to the Governing Board for approval, approval with modifications, or denial of the requested extension; and
- (2) In the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Department, significantly decrease the benefits to be received by the Department.

§51.5.Prohibited Activities.

- (a) Conflict of Interest.
- (1) Conflict Prohibited. No person described in paragraph (2) of this subsection who exercises, has the power or ability to exercise, or has exercised any functions or responsibilities with respect to HTF activities under Chapter 2306 of the Texas Government Code, 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 HTF assisted activity, or have any interest, directly or indirectly, legally or beneficially, in any HTF contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure and for one year thereafter.
- (2) Persons <u>covered Covered</u>. The conflict of interest provisions of paragraph (1) of this subsection apply to any person ("<u>covered persons Covered Persons</u>") who is an employee, agent,

consultant, officer, trustee, director, member of a governing board or other oversight body, elected official or appointed official of the <u>administrator</u>Administrator, or any person acting in any such capacity or role, however designated.

- (3) No employee, officer or agent of the <u>administrator Administrator</u> shall participate in selection, or in the award or administration of a agreement supported by HTF funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the following persons have a financial or other interest in a firm under consideration to be selected for award or certified to administer funds:
- (A) <u>covered person</u>Covered Person;
- (B) any member of his or her immediate family;
- (C) his or her partner;
- (D) an organization which employs, or is about to employ, anyone listed in subparagraphs (A) -
- (E) of this paragraph; or
- (E) an organization controlled by any such person.
- (4) The <u>covered persons</u> Covered Persons of the <u>administrator Administrator</u> -will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Administrators may set minimum rules where the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the officers, employees, or agents of the <u>administrator Administrator</u>, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.
- (b) The following activities are prohibited in relation to the origination of a HTF loan, but may be charged as an allowable cost by a third (3rd) party lender for the origination of all other loans originated in connection with an HTF loan:
- (1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with HTF funds;
- (2) Loan origination Origination fees;
- (3) Application fee;
- (4) Discount fees;
- (5) Underwriter fee;
- (6) Loan processing fees; and
- (7) Other fees not approved by the Department.
- (c) Persons receiving or benefiting from HTF funds, as determined by the Department, may not be currently in delinquency or in default with child support and/or government loans.
- (d) Unless otherwise provided in the NOFA, <u>persons Persons</u> receiving or benefiting from HTF funds that are provided as a <u>loan Loan</u>, as determined by the Department, may not have any outstanding judgments and/or liens on the property.

§51.6.Administrator Eligibility and Requirements.

- (a) The following organizations or entities are eligible to participate in HTF programs:
- (1) Any eligible entity listed in §2306.202 of the Texas Government Code; or
- (2) Other eligible entities approved by the Department, such as, but not limited to colleges, universities, institutions of higher education and other public agencies.
- (b) Ineligible Administrators. The following violations may cause a Participant, and any <u>applications Applications</u> they have submitted, to be ineligible to participate in programs or receive funding:
- (1) Administrators that have failed to make timely payment on fee commitments or on debt instruments held by the Department and for which the Department has initiated formal collection actions; and
- (2) Administrator that have been debarred by HUD or the Department.
- (c) Current or previous noncompliance. Each <u>administrator Administrator</u> will be reviewed for its compliance history by the Department. Administrators found to be in material noncompliance, or otherwise violating the compliance rules of the Department, will be terminated and/or not recommended for future funding.
- (d) Administrator must enter into an agreement with the Department in order to be eligible as more fully described in the NOFA.
- (e) Determination of annual income. The method used to determine annual income will be provided in the NOFA or program manual Program Manual.
- (f) Procurement. Administrators must comply with all applicable state, and local laws, regulations, and ordinances for making procurements with HTF funds.
- (g) Administrators may not retain any program income generated through the operation of a HTF program or activity.
- (h) Records retention. Administrator shall be required to maintain records pertinent to an assisted household's files for a period of at least 3 years as required by the Department or, if applicable, Chapter 60, Subchapter A of this title (relating to Compliance Monitoring).
- (i) Other requirements may be specified in the NOFA or other release of funds (such a Request for Qualifications (RFQ) or Request for Proposals (RFP)).

§51.7.General Application Procedures and Requirements.

- (a) The Department will state within a NOFA, Request for Qualifications (RFQ), Request for Proposals (RFP) or other documentation for the release of funding the submission and eligibility guidelines. Applicants to the Department must verify and ensure the accuracy, sufficiency and receipt of all submissions to the Department.
- (b) Application Deadline. All <u>applications Applications</u> must be received during business hours (8:00 a.m. to 5:00 p.m. Central Time) on any business day. Completion and submission of the

<u>application</u> includes the entire <u>application</u> and any other supplemental forms which may be required by the Department.

- (c) The Department reserves the right to reduce the amount requested in an application-Application based on activity or Project feasibility, underwriting analysis, or availability of funds.
- (d) The Department may decline to fund any <u>application Application</u> 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 <u>applications Applications</u> 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 <u>application Application</u>.

§51.8. Criteria for Reservation System Funding.

- (a) This section applies to <u>reservation Reservation</u> system programs as further outlined in the applicable NOFA. <u>The reservation system is the online system utilized by administrators to reserve or draw funds, and track status of funding activities.</u> The NOFA will establish and define the terms and conditions for the submission of <u>Reservations</u> The NOFA will also indicate the approximate amount of available funds.
- (b) An <u>administrator Administrator</u> must have been approved by the Department and must have executed an agreement to be eligible to submit Reservations on behalf of <u>households Households</u> or the <u>administrator Administrator</u>. A <u>reservation Reservation containing false information and/or all documents required are not received within ten (10) business days after the <u>reservation Reservation has been entered into the system may be cancelled. The Department staff will review and process all Reservations in the <u>order received</u>. If the Department receives more than one <u>reservation Reservation on the same day and funding is insufficient</u>, the Reservations will be processed in the order <u>submitted to entered submitted into the reservation Reservation system for approval by the Department</u>. The <u>administrator Administrator</u> will be notified <u>via the reservation system or otherwise Reservation System or otherwise in writing of the Department's determination.</u></u></u>
- (c) Reservations of funds are available to the <u>administrator Administrator</u> on first-come, first-served basis. In all cases the <u>administrator Administrator must register each household or funding activity</u> as outlined in the NOFA. The <u>administrator Administrator may enter additional Reservations after a loan or activity has closed or funding has otherwise been committed.</u>
- (d) <u>Unless otherwise provided in the NOFA</u>, <u>reservations Reservations</u> received by the Department in response to a NOFA will be handled in the following manner:
- (1) The Department will accept Reservations until all funds under the NOFA have been committed or the availability of funds expires. The Department may limit the eligibility of Reservations in the NOFA.
- (2) Each <u>reservation</u> will be assigned a <u>received date in the reservation</u> <u>systemReceived Date in the Reservation System</u> based on the date and time the <u>reservation</u>

Reservation was entered into the HTF <u>reservation system</u>Reservation System. Each will be reviewed in accordance with the NOFA.

- (3) Reservations and/or applications submitted on behalf of a <a href="https://household-Househo
- (4) Administrative Deficiencies. If a <u>reservation Reservation</u> contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Reservation, the Department staff may request clarification or correction of such <u>administrative deficiencies Administrative Deficiencies</u>. The Department staff may request clarification or correction in a deficiency notice in the form of an email, facsimile or a telephone call to the <u>administrator Administrator</u> advising that such a request has been transmitted. An <u>administrator Administrator</u> may not change or supplement a <u>reservation Reservation</u> in any manner after submission, except in response to a direct request from the Department.
- (5) Prior to approval, the Department may decline to fund any <u>reservation Reservation</u> entered into the <u>reservation Reservation</u>-system if the proposed housing 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 <u>reservation Reservation</u> which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has approved the <u>Applicantapplicant</u>, but the <u>administrator Administrator</u> and/or <u>household Household</u> has not complied with all the program rules and guidelines, the Department may suspend funding until the <u>administrator Administrator</u> and/or household has satisfied all requirements of HTF.
- (e) <u>Unless otherwise provided in the NOFA</u>, a reservation A_Reservation of funds may be subject to cancellation if all required documents are not submitted to the Department within ten (10) business days of the date the registration was entered into the <u>reservation</u> Reservation system and/or if the performance benchmarks outlined in these HTF rules are not adhered to. Submission of a <u>reservation</u> Reservation on behalf of a <u>household or administrator Household</u> Administrator does not guarantee the availability or commitment of funding.
- (f) Maximum Pending Setups. <u>Unless otherwise provided in the NOFA, at Aat</u> any one time, the <u>administrator Administrator</u> may have up to ten (10) unapproved <u>setups Setups</u> awaiting approval ("pending") in the <u>reservation system Reservation System</u>. If the <u>administrator Administrator has</u> the maximum ten <u>setups Setups</u> pending, new <u>setups Setups</u> will only be reviewed by the Department once an existing unapproved <u>setup Setup</u> becomes a <u>reservation Reservation</u> (if approved) or is cancelled.
- (g) Modification of Reservation. <u>Unless otherwise provided in the NOFA</u>, <u>after Aafter</u> a <u>reservation Reservation</u> has been secured and the <u>household or activity Household</u> has been approved to <u>participate in HTF</u>, the <u>administrator Administrator</u> must notify the Department of any changes to the <u>setup Setup</u>, such as a cancellation, change in the sales price, or change in the loan <u>or grant</u> amount. The <u>administrator Administrator</u> will not be permitted to change, exchange,

replace or switch <u>Householdshouseholds</u>, if <u>applicable</u>, once the <u>reservation</u> Reservation has been approved; unless construction has commenced and one of the following events has occurred: death, illness, divorce, loss of income, nonperformance by the <u>household Household</u> or for other acceptable reasons, as approved by the Department, where the <u>household Household</u> is unable to perform.

(h) <u>Unless otherwise provided in the NOFA</u>, once <u>Oonce</u> a <u>reservation</u> Reservation has been approved, the Department may grant one forty-five (45) day extension of required benchmarks due to extenuating circumstances that were beyond the <u>administrator's Administrator's</u> control. If the <u>administrator Administrator</u> cannot meet the required benchmarks after the forty-five (45) day extension, the <u>reservation Reservation</u> will be cancelled. If funds are available, <u>another Reservation on the same Household</u> the <u>administrator Administrator</u> must <u>resubmit the reservation along with resubmit the reservation along with an updated <u>household</u> application_to ensure the <u>household Household</u> still meets all guidelines and requirements for the NOFA.</u>

§51.9.Loan, Lien and Mortgage Requirements.

- (a) The requirements in this section shall apply to HTF <u>loans</u>Loans unless otherwise provided in the NOFA or waived by the Department.
- (b) Lien position requirements:
- (1) A loan made by the Department shall be secured by a first (1st) lien on the real property if the Department's loan is the largest <u>amortized</u>, repayable loan secured by the real property; or
- (2) The Department may accept a parity lien position if the original principal amount of the leveraged loan is equal to or greater than the Department's loan; or
- (3) The Department may accept a subordinate lien position if the original principal amount of the leveraged loan is at least \$1,000 or greater than the Department's loan. However liens related to other subsidized funds provided in the form of grants and non-amortizing loans, such as deferred payment or forgivable loans, must be subordinate to the Department's loan.
- (c) Sanctions/Deobligation. The Department will apply its Administration Rules of this title.
- (d) Encumbrances.
- (1) Real property taxes assessed on the housing unit must be current and/or the household must be participating in an approved payment plan with the taxing authority.
- (2) The property must not be encumbered with tax liens or child support liens.
- (3) The Department may require the owner to be current on any existing mortgage loans or home equity loans.
- (e) Affordability periods.
- (1) In the event that the housing unit ceases to be the <u>principal residence</u> residence, the forgiveness of the loan or grant agreement will cease.

(2) If a housing unit transfers by devise, descent or operation of law upon the death of the assisted homeowner, the loanLoan may be forgiven at the discretion of the Department.

§51.10.Property Guidelines and Related Issues.

- (a) The requirements in this section shall apply unless otherwise provided in the NOFA.
- (b) If the <u>administrator</u> Administrator is utilizing HTF funds to construct the home they must conform to §2306.514 of the Texas Government Code.
- (c) All work performed that utilizes HTF funds must meet HUD Housing Quality Standards (HQS), at a minimum, as well as other property standards required in the NOFA.

§51.11.Waiver.

The Board, in its discretion and within the limits of the law, may waive any one or more of the requirements of this chapter if the Board finds that waiver is appropriate to fulfill the purposes or policies, Chapter 2306, or for good cause, as determined by the Board.

Attachment B: Preamble and Repealed Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 51, §§51.1 - 51.16, concerning the Housing Trust Fund Rules, without changes to the proposal as published in the July 15, 2011, issue of the *Texas Register* (36 *TexReg 4521*) and will not be republished. This repeal is adopted in order to consolidate and simplify the existing rules for the Housing Trust Fund.

A public hearing to receive input on the proposed rules was held on July 29, 2011 and public comments were accepted through August 5, 2011.

No comments were received concerning the proposed repeal.

The Board approved the final order adopting this repeal on September 15, 2011.

The repeal is adopted pursuant to the authority of the Texas Government Code, Chapter 2306 which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

- §51.1. Purpose and Use of the Housing Trust Fund.
- §51.2. Definitions.
- §51.3. Eligible and Ineligible Applicants and Applications.
- §51.4. Communication with Department Employees.
- §51.5. General Application Procedures and Requirements.
- §51.6. Application Review Process.
- §51.7. Criteria for Funding.
- §51.8. General Process for Awards.
- §51.9. Additional Requirements for Development and Development Applications.
- §51.10. Contract Administration Requirements.
- §51.11. Mortgage Loans and Loan Support Documentation.
- §51.12. Other Program Requirements.
- §51.13. Records to be Maintained.
- §51.14. Amendments.
- §51.15. Events Creating Deobligation of Housing Trust Funds.
- §51.16. Citizen Participation.

OFFICE OF COLONIA INITIATIVES BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action regarding the adoption of amendments to Title 10, Texas Administrative Code (TAC) Chapter 3 Colonia Self Help Center Program Rules for publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, program rules presented reflect staff's recommendations of necessary policy and administrative changes to further enhance and streamline operations.

RESOLVED, that the proposed rule amendments for the Colonia Self Help Center Program, Title 10 TAC, Chapter 3, are hereby ordered and it is approved, together with the preamble presented to this meeting, for publishing in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the Colonia Self Help Center Program rules, in the form presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantial technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The proposed amendments to the current Colonia Self Help Center Program Rules were approved for publication on June 30, 2011 by the Department's Governing Board and were published in the July 15, 2011 issue of the *Texas Register* to allow for public comment. Program rules presented reflect staff's recommendations of necessary policy and administrative changes to further enhance and streamline operations. The public comment period closed on August 5, 2011. In addition to publishing the document in the *Texas Register* a link to the *Texas Register* of the proposed amendments to the program rules were emailed to each Colonia Self Help Center and participating county. A total of six public comments were received on the proposed amended program rules and the Department's response is attached.

Attachment A: Preamble, Reasoned Response, and New Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to Title 10 TAC Chapter 3, §3.1, §3.2, §3.4, §3.5, and §3.6 concerning the Colonia Self Help Center Program with changes to §3.2 as published in the *Texas Register* on July 15, 2011 (36 TexReg 4515). Sections §3.1, §3.4, §3.5, and §3.6 are adopted without change and will not be republished. Amended program rules reflect staff's recommendations of necessary policy and administrative changes to further enhance and streamline operations including; removing redundancies and requirements related to the Texas Residential Construction Commission: requirements for proposal submissions were reduced and redefined to provide a more accurate description of services and beneficiaries; requirements for the Colonia Self Help Center Provider were moved from the proposal section to the implementation section; removing exceptions to draw request submissions; allowing for certain contract changes that do not require a contract amendment; adding requirements related to hiring an inspector; requiring homes to meet Housing Quality Standards instead of Colonia Housing Standards; requiring liens based on the amount of assistance; requiring new homes to be designed by a licensed architect; expanding the hours of operation of the Colonia Self Help Centers; and limiting the timeframe in which tools and computer equipment for computer labs can be purchased.

Two definitions were added to §3.2 to provide clear guidance in the implementation of the program.

The Department accepted comments to the proposed amended rule by email. This document provides the Department's response to all comments received. Comments and responses are presented in the order they appear in the rules.

Public comments were accepted through August 5, 2011, with comments received from (1) Juan Vargas, Webb County and (2) Anna Villarreal, Starr County. Staff reviewed the comments and determined that all but one did not warrant any change to the sections as published. Therefore, staff recommended adopting the sections as proposed with changes to §3.2.

REASONED RESPONSE TO PUBLIC COMMENT ON THE PROPOSED AMENDMENTS TO TITLE 10 TAC, CHAPTER 3, COLONIA SELF HELP CENTER PROGRAM.

§3.4(f)(2). Colonia Identification Form.

COMMENT (1): The commenter asked if the use of this form will be required for the Colonia Self Help Centers to identify properties and provide mapping and/or platting maps.

STAFF RESPONSE: This form is used for the purpose of identifying the characteristics of a colonia at the proposal stage. Identifying specific properties or plat maps is not necessary with regards to this form. Staff recommends no amendments to §3.4(f)(2).

 $\S3.4(f)(4)(A)$ Description of the method of implementation.

COMMENT (1): The commenter asked if current contracts and the amounts per activity must be changed to comply with minimum amount of funds for self-help activities.

STAFF RESPONSE: This section refers to the minimum amount of a contract budget that must be applied to self-help activities. The previous amount was 15% and this percentage did not change. The addition of this language to this section was meant to reinforce the need to consider self-help activities. Staff recommends no amendments to §3.4(f)(4)(A).

§3.6(g) Reporting.

COMMENT (1): The commenter stated that this change was a good change.

STAFF RESPONSE: This section changed the day of quarterly report submissions from the 20th day of the month following a calendar quarter to the 10th day. Staff recommends no amendments to §3.6(g).

§3.6(m) Deferred Forgivable Loans.

COMMENT (1): The commenter stated that all homes that receive rehabilitation, reconstruction, or new construction require a lien to be placed on the property and forgivable loan terms are applied and secured by a promissory note. Commenter asked if the current county policy must be changed for homes in which construction activities total less than \$30,000.

STAFF RESPONSE: This section requires that all homes assisted with construction activities exceeding \$30,000 must be secured by a lien and deferred forgivable loan. Counties may choose to require liens and forgivable loans for homes in which construction activities are less than \$30,000 if they choose. Staff recommends no amendments to §3.6(m).

§3.6(n) Blueprints.

COMMENT (1): The commenter asked for definitions for new construction and reconstruction. The commenter asked if plans and specs would also be required for mobile homes.

STAFF RESPONSE: Staff recommends that definitions for new construction and reconstruction be added to §3.2 Definitions because they are not currently defined. Accordingly, staff proposes the following definitions:

§3.2(16) New Construction—A housing unit that is built on a previously vacant lot that will be occupied by a low-to-moderate income colonia resident.

§3.2(21) Reconstruction—Demolishing and rebuilding a housing unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members

living in the housing unit at the time of application. Reconstruction includes replacing an existing substandard manufactured housing unit with a new manufactured housing unit. Manufactured housing units must be installed according the manufacturer's installation instructions and in accordance with state laws and regulations.

§3.6(o) Access to public service activities.

COMMENT (2): The commenter stated that the requirement to offer public service activities to colonia residents on two Saturdays a month is unnecessary as activity and beneficiary requirements are met or have been exceeded.

STAFF RESPONSE: §3.5(e) states that the Colonia Residents Advisory Committee (C-RAC) advises the board on matters relating to colonia residents' needs. C-RAC meetings are required to be held at least thirty (30) days prior to the board awarding a new contract. At the C-RAC meeting held on March 31, 2011 in Laredo, several C-RAC members stated that Colonia Self Help Centers' hours of operation are during the week and that many colonia residents therefore do not have access to the services offered. They stated that more colonia residents would utilize the Colonia Self Help Centers if the hours were extended during the week and if the centers were opened on Saturdays. Staff recommends no amendments to §3.6(o).

The Board approved the final order adopting amendments on September 15, 2011.

The new sections are adopted pursuant to the authority Chapter 2306 of the Texas Government Code, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

§3.1.Purpose and Services.

- (a) The purpose of this chapter is to establish the requirements governing Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Texas Government Code and its funding including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs by the legislature of the annual Texas Community Development Block Grant allocation from the United States Department of Housing and Urban Development. Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the colonias' designated service area or in another area the Department has determined is suitable.
- (b) A Colonia Self-Help Center shall set a goal to improve the living conditions of residents in the colonias designated by the Department according to \$2306.583 of the Texas Government Code, within a four (4) year period after a Contract is awarded.
- (c) A Colonia Self-Help Center may serve individuals and families of low-income and very low-income by:
- (1) providing assistance in obtaining loans or grants to build, rehabilitate, repair or reconstruct a home:
- (2) teaching construction skills necessary to repair or build a home;

- (3) providing model home plans;
- (4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;
- (5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets, and utilities;
- (6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;
- (7) providing credit and debt counseling related to home purchase and finance;
- (8) applying for grants and loans to provide housing and other needed community improvements;
- (9) providing other services that the Colonia Self-Help Center, with the approval of the Department, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;
- (10) providing assistance in obtaining loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract;
- (11) providing access to computers, the internet and computer training pursuant to the General Appropriations Act; and
- (12) providing monthly programs to educate individuals and families on their rights and responsibilities as property owners;
- (d) Through a Colonia Self-Help Center, a colonia resident may apply for any direct loan or grant program operated by the Department.
- (e) Ineligible activities. Any type of activity not allowed by the Federal Housing and Community Development Act of 1974, (42 U.S.C. §§5301, et seq.) is ineligible for funding.
- (f) A Colonia Self-Help Center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.
- (g) For a manufactured home to be approved for installation and use as a dwelling in a colonia:
- (1) the home must be a HUD-code manufactured home, as defined by §1201.003, Occupations Code and in accordance to §2306.591 of the Texas Government Code;
- (2) the home must be habitable, as described by §1201.453 of the Texas Occupations Code; and
- (3) ownership of the home must be properly recorded with the manufactured housing division of the Department.
- (h) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the Department, including the single-family mortgage revenue bond program under §2306.142 of the Texas Government Code unless the owner complies with this section.

§3.2.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Common definitions used under the Community Development Block Grant (CDBG) are incorporated herein by reference.

- (1) Applicant--A unit of general local government who is preparing to submit or has submitted a Proposal for Colonia Self-Help Center funds.
- (2) Beneficiary--A person or family benefiting from the activities of a Self-Help Center Contract.
- (3) Board--The governing board of the Texas Department of Housing and Community Affairs.
- (4) C-RAC--Colonia Residents Advisory Committee. Advises the Department's Governing Board and evaluate the needs of colonia residents, review programs that are proposed or operated through the Colonia Self-Help Centers and activities that may be undertaken through the Colonia Self-Help Centers to better serve the needs of colonia residents.
- (5) Colonia--A geographic area located in a county some part of which is within one hundred-fifty (150) miles of the international border of this state that consists of eleven (11) or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that: 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, Texas Water Code, and has the physical and economic characteristics of a colonia, as determined by the Department.
- (6) Colonia Self-Help Center Provider--An organization with which the Contractor has an executed Contract to administer Colonia Self-Help Center activities.
- (7) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.
- (8) Community Development Block Grant (CDBG) nonentitlement area funds--Funds awarded to the State of Texas pursuant to the Housing and Community Development Act of 1974, Title 1, as amended, (42 U.S.C §§5301, et seq.) and the regulations promulgated thereunder in 24 CFR Part 570.
- (9) Contract--A written agreement including all amendments thereto, executed by the Department and Contractor.
- (10) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the drawdown processes. The budget also includes all other funds involved that are necessary to complete the Performance Statement specifics of the Contract.
- (11) Contractor--A Unit of General Local Government with which the Department has executed a Contract.
- (12) Department--The Texas Department of Housing and Community Affairs.
- (13) HUD--The United States Department of Housing and Urban Development.
- (14) Implementation Manual--A set of guidelines designed to be an implementation tool for the Contractor and Colonia Self-Help Center Providers that have been awarded Community Development Block Grant Funds and allows the Contractor to search for terms, regulations, procedures, forms and attachments.
- (15) 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 60% of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size; and
- (C) Extremely low-income families--families whose annual incomes do not exceed 30% of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size.
- (16) New Construction— A housing unit that is built on a previously vacant lot that will be occupied by a low-to-moderate income colonia resident.
- (17) (16) Nonentitlement area--An area which is not a metropolitan city or part of an urban county as defined in 42 U.S.C. §5302.
- (18) (17) 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;
- (C) Has a current tax exemption ruling from the Internal Revenue Service (IRS) under \$501(c)(3), a charitable, nonprofit corporation, or \$501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as amended, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling or classification as a subordinate of a central organization nonprofit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS, must be effective throughout the length of the Contract.
- (19) (18) Performance Statement--An Exhibit in the Contract which specifies in detail the scope of work to be performed.
- (20) (19) Proposal--A written request for Colonia Self-Help funds in the format required by the Department.
- (21) Reconstruction-- Demolishing and rebuilding a housing unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of application. Reconstruction includes replacing an existing substandard manufactured housing unit with a new manufactured housing unit. Manufactured housing units must be installed according the manufacturer's installation instructions and in accordance with state laws and regulations.
- (22) (20)_Self-Help--Housing programs which allow low, very low-income families to build or rehabilitate their homes through their own labor or volunteers.
- (23) (21) TDRA--Texas Department of Rural Affairs.
- (24) (22) TREC--Texas Real Estate Commission.
- (25) (23)—Unit of General Local Government (UGLG)—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. A county is considered a unit of general local government under the Colonia Self-Help Center Program.

§3.4.Allocation and the Colonia Self Help Center Proposal Requirements.

- (a) The Department distributes Colonia Self-Help Center funds to Unit of General Local Governments (UGLG) from the 2.5% set-aside of the annual Community Development Block Grant (CDBG) allocation to the State of Texas.
- (b) The Department shall allocate no more than \$1.2 million per Colonia Self-Help Center award except as provided by \$3.6(h)(3) of this chapter (relating to Colonia Self Help Center Contract Operation and Implementation). If there are insufficient funds available from any specific program year to fund a proposal fully, the awarded Contractor may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.
- (c) With a baseline award beginning at \$700,000, the Department will add an additional \$100,000 for each expenditure threshold, as defined in \$3.8 of this chapter (relating to Expenditure Thresholds and Closeout Requirements), met on the current Colonia_Self Help Center Contract, and an additional \$100,000 for an accepted proposal submitted by the deadline. If a Contractor can demonstrate that any violation of an Expenditure Threshold was beyond the control of the Contractor, it may request of the Board that an individual violation be waived for the purpose of future funding. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the expenditure threshold requirements if the Board finds the waiver is appropriate to fulfill the purposes or policies, of the Texas Government Code, or for good cause, as determined by the Board.
- (d) The Contractor shall submit its proposal no later than three (3) months before the expiration of its current Contract, or when 90% of the funds under the current Contract have been expended, whichever comes first. If this requirement is not met, the Department will apply the options outlined in subsection (c) of this section which will result in lost and delayed funding.
- (e) Proposal reviews are conducted on a first-come first-serve basis until all Self Help Center funds for the current program year and deobligated Self Help Center funds are committed. Each complete proposal will be assigned a "received date" based on the date and time it is received by the Department.
- (f) In order to be accepted, each proposal must include the following:
- (1) Evidence of the submission of the Contractor's current annual single audit;
- (2) A Colonia Identification Form for each colonia to be served, including all required back-up documentation as identified on the form, signed by the county judge;
- (3) A boundary map for each of the five colonias;
- (4) A description of the method of implementation. For each colonia to be served by the Colonia Self Help Center, the Contractor shall describe the services and activities to be delivered. The Proposal must identify:
- (A) The percentage (15% minimum) and scope of work that will be performed using self-help methodologies;
- (B) The estimated percentage or services that will be contracted to the Colonia Self Help Center Provider; and
- (C) The activities that the Contractor will be administering.

- (5) The proposed Performance Statement. The Contractor must include the number of colonia residents to be assisted from each activity, the activities to be performed (including all subactivities under each budget line item), and corresponding budget;
- (6) The proposed Contract Budget must address the following:
- (A) The Administration line item may not exceed 15% of the total budget;
- (B) The Public Service line item may not exceed [more than] 15% of the total budget;
- (C) The proposal must identify at least 15% of the budget that will be allocated for direct Self-Help activities;
- (D) The amount of leveraged funding, if applicable; and
- (E) Direct Delivery Costs (soft costs) for all contractual activities cannot exceed 10% of each budget line item, with the exception of the Rehabilitation budget line item which cannot exceed 15%. Direct Delivery Costs (soft costs) are costs related to and identified with a specific housing unit or public service other than construction costs. Eligible direct delivery costs include:
- (i) preparation of work write-ups, work specifications, and cost estimates;
- (ii) architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit or public service;
- (iii) home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections; and
- (iv) other costs as approved by the Department.
- (7) Proposed housing guidelines (includes small repair, rehabilitation, reconstruction, new construction and all other housing activities).
- (8) Evidence of model subdivision rules adopted by the Contractor.
- (9) Written policies and procedures for the following, as applicable:
- (A) solid waste removal;
- (B) construction skill classes;
- (C) homeownership classes;
- (D) technology access;
- (E) homeownership assistance; and/or
- (F) tool lending library. All Colonia Self Help Centers are required to operate a tool lending library.
- (10) Authorized signatory form and accompanying UGLG resolution and direct deposit authorization.
- (11) Unit of General Local Government resolution authorizing the submission of the proposal and appointing the primary signator for all Contract documents.
- (12) Acquisition report (even if there is no acquisition activity).
- (13) Certification of exemption for HUD funded projects.
- (14) Initial disclosure report.
- (g) Upon receipt of the Proposal, the Department will perform an initial review to determine whether the Proposal is complete and that each activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. §5304(b)(3)).
- (h) The Department may reduce the funding amount requested in the proposal in accordance to subsection (c) of this section. Should this occur, the Department shall notify the appropriate Contractor before the proposal is submitted to C-RAC for review, comments and approval. The

Department and the Contractor will work together to jointly agree on the performance measures and proposed funding amounts for each activity.

- (i) The Department shall execute a four (4) year Contract with Contractor. No Contract extensions will be allowed. If the Contractor requirements are completed prior to the end of the four (4) year contract period, the Contractor may submit a new proposal.
- (j) Decline to Fund. The Department may decline to fund any proposal if the activities do not, in the Department's sole determination, represent a prudent use of Colonia Self Help Center funds. The Department is not obligated to proceed with any action pertaining to any proposal which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

§3.5. Colonia Residents Advisory Committee Duties and Awarding Contracts.

- (a) The Board shall appoint not fewer than five persons who are residents of colonias to serve on the Colonia Residents Advisory Committee. The members of the Colonia Residents Advisory Committee shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the commissioner's court of a county in which a Colonia Self-Help Center is located.
- (b) The Colonia Resident Advisory Committee members' terms will expire every four (4) years. Colonia Resident Advisory Committee members may be reappointed by the Board; however, the Board shall review and approve all members at least every four (4) years.
- (c) The Board shall appoint one committee member to represent each of the counties in which a Colonia Self-Help Center is located. Each committee member:
- (1) must be a resident of a colonia in the county the member represents; and
- (2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a Contract under this chapter and cannot be in default on any Department obligation.
- (3) The Department will conduct a compliance check on all members.
- (d) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings.
- (e) The Colonia Resident Advisory Committee shall advise the Board regarding:
- (1) the housing needs of colonia residents;
- (2) appropriate and effective programs that are proposed or are operated through the Colonia Self-Help Centers; and
- (3) activities that might be undertaken through the Colonia Self-Help Centers to serve the needs of colonia residents.
- (f) The Colonia Resident Advisory Committee shall advise the colonia initiatives coordinator as provided by §775.005 of the Texas Government Code.

- (g) Awarding Contracts:
- (1) Upon reaching an agreement with the Contractor, the Department will set the date for the Colonia Resident Advisory Committee meeting. The Colonia Resident Advisory Committee shall meet before the 30th calendar day proceeding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.
- (2) The Contractor shall be present at the Colonia Resident Advisory Committee if its Proposal is being considered to answer questions that the Colonia Resident Advisory Committee may have.
- (3) After the Colonia Resident Advisory Committee makes a recommendation on a proposal, the recommendation will undergo the Department's award process.
- (h) Reimbursement of Colonia Resident Advisory Committee members for their reasonable travel expenses in the manner provided by §3.6 (k) of this chapter (relating to Colonia Self Help Center Contract Operation and Implementation) is allowable and shall be paid by the Contractor.

§3.6.Colonia Self Help Center Contract Operation and Implementation.

- (a) The Department shall contract with a Unit of General Local Government (UGLG) for the operation of a Colonia Self-Help Center. The UGLG shall subcontract with a local nonprofit organization, local community action agency, or local housing authority that has demonstrated the ability to carry out all or part of the functions of a Colonia Self-Help Center. The contracted Colonia Self-Help Center provider selected by the UGLG shall have the capacity to administer and manage financial resources and provided documentation and auditable programmatic compliance, as evidenced by previous experience in any of the following:
- (1) implementation of a CDBG contract;
- (2) affordable housing, including new construction; and housing rehabilitation, reconstruction, small repair; and experience in homebuyer and down payment assistance programs;
- (3) grantsmanship, project planning and development in housing and infrastructure, and project management;
- (4) home ownership counseling, home loan processing and coordinating with private financial institutions;
- (5) property development, including experience in processes related to surveying, platting, and recording of property records;
- (6) self-help programs related to housing or infrastructure, including operation of a tool library; and
- (7) managing state/federally funded projects or projects funded under private foundations and not have major outstanding monitoring or audit issues.
- (b) Upon award of Colonia Self-Help Center funds by the Board, the Department shall deliver a Contract based on the scope of work to be performed within thirty (30) days of the award date, unless extenuating circumstances do not allow for delivery. Any activity funded under the Colonia Self Help Center Program will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract.

- (c) Environmental. Contractors are required to complete their environmental reviews in accordance with 24 CFR Part 58 and receive the Authority to Use Grant Funds from the Department before:
- (1) Any commitment of Community Development Block Grant (CDBG) funds (i.e., execution of a legally binding agreement and expenditure of CDBG funds) for activities other than those that are specifically exempt from environmental review.
- (2) Any commitment of non-CDBG funds associated with the scope of work in the Contract that would have an adverse environmental impact (i.e. demolition, excavating, etc.) or limit the choice of alternatives (i.e. acquisition of real property, rehabilitation of buildings or structures, etc.).
- (d) All reconstruction and new construction activities must meet the accessibility requirements pursuant to §2306.514 of the Texas Government Code.
- (e) Request for Payments. The Contractor shall submit a properly completed request for reimbursement, as specified by the Department, at a minimum on a quarterly basis; however the Department reserves the right to request more frequent reimbursement requests as it deems appropriate. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment request until the Department has reviewed and approved such request. Payments under the Contract are contingent upon the Contractor's full and satisfactory performance of its obligations under the Contract.
- (1) \$2,500 is the minimum amount for a draw to be processed, unless it is the final draw request.
- (2) Draw requests will be reviewed to comply with all applicable laws, rules and regulations. The Contractor is responsible for maintaining a complete record of all costs incurred in carrying out the activities of the Contract.
- (3) Draw requests for all housing activities will only be reimbursed upon satisfactory completion of types of activities (i.e., all plumbing completed, entire roof is completed, etc.), consistent with the construction contract.
- (4) The Contractor will be the principal contact responsible for reporting to the Department and submitting draw requests.
- (f) Reporting. The Contractor shall submit to the Department reports on the operation and performance of the Contract on forms as prescribed by the Department. Quarterly Reports shall be due no later than the tenth (10th) calendar day of the month after the end of each calendar quarter. The Contractor shall maintain and submit to the Department up-to-date accomplishments in quarterly reports identifying quantity and cumulative data including the expended funds, activities completed and total number of Beneficiaries.
- (g) Inspections. At a minimum, inspections will be required for all housing rehabilitation (initial and final), small home repair (initial only), reconstruction (initial and final) and new construction (final only) activities and must be inspected by a professional inspector licensed by TREC. Prior to awarding a contract with a licensed inspector, the inspector shall not have any disciplinary actions taken against the inspector within the last five (5) years by TREC and shall be in good standing with TREC.

- (1) The final inspections for housing rehabilitation must ensure that the construction on the house is complete, that the home is safe and that it meets at a minimum, Housing Quality Standards. A copy of the final inspection report must be given to the homeowner.
- (2) The final inspections for reconstruction and new construction shall not include any deficiencies noted on the inspection report. A copy of the final inspection report must be given to the homeowner.
- (3) The initial inspections for small home repair will identify and prioritize areas in need of repair. Only the area being repaired under the small home repair activity must meet, at a minimum, Housing Quality Standards, unless otherwise approved by the Department. A copy of the initial inspection report must be given to the homeowner.
- (4) Homes receiving only utility connections are not required to meet Housing Quality Standards or have a third-party inspection.
- (5) The Department will only reimburse for two inspection reports for housing rehabilitation and reconstruction, and one inspection report for new construction and small home repair.
- (6) Cosmetic issues such as paint, wall texture, etc. identified as deficiencies on final inspection reports will not be required to be corrected if self-help construction is utilized.
- (h) Amendments. Any alterations, additions, or deletions to the terms of the Contract shall be submitted in writing to the Department. Reduced Beneficiaries or activities, due to extenuating or unforeseeable circumstances, may be allowed as approved by the Department. The Department's executive director or its designee, may authorize, execute, and deliver amendments to any Contract:
- (1) Contract Time Extensions beyond the four (4) year contract period will not be allowed for Self-Help Center contracts.
- (2) Changes in beneficiaries. Reductions in contractual deliverables and beneficiaries shall require a contract amendment. Increases in contractual deliverables and beneficiaries that do not shift funds, or cumulatively shift less than 10% of total contract funds, shall be completed through a contract modification rather than a contract amendment.
- (3) The Department, at its discretion and in coordination with a Contractor, may increase a contract budget amount and the number of activities and beneficiaries based on the availability of Self Help Center funds, the exemplary performance in the implementation of a Contractor's current contract, and the time available in the four (4) year contract period. Upon Board approval, the cap on the maximum contract amount may be exceeded if the terms of this paragraph are met by a Contractor.
- (i) If the Contractor fails to meet a Contract requirement the awarded funds related to the lack of performance may be entirely or partially deobligated at the Department's sole discretion.
- (j) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of this chapter if the Board finds that waiver is appropriate to fulfill the purposes or policies, Chapter 2306 of the Texas Government Code, or for good cause, as determined by the Board.
- (k) Travel. Costs incurred by Colonia Self Help Center employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered

reasonable and allowable only to the extent such costs do no exceed charges normally allowed by the State Comptroller's Travel Allowance Guide.

- (l) Every new construction and reconstruction, and any rehabilitation construction costs exceeding thirty thousand dollars (\$30,000) in hard costs shall have a lien placed on the property secured by a deferred forgivable loan not shorter than five (5) years.
- (m) Blueprints for new construction and reconstruction shall be required and submitted to the Department and must include the required construction requirements pursuant to §2306.514 of the Texas Government Code. All proposed blueprints submitted for approval must be prepared and executed by an architect or engineer licensed by the state of Texas.
- (n) The Contractor's initial and any revised Housing Activity Guidelines shall be approved by commissioners' court and the Department prior to implementation.
- (o) Access to all public service activities identified in the contract shall be provided at least two (2) Saturdays a month during hours preferable to colonia residents. In addition, access shall be
- provided at least one day during the workweek after hours for a period long enough to allow colonia residents to utilize the services.
- (p) The purchase of new tools, new computers and computer equipment shall only occur within the first twenty four (24) months of the contract period. Any purchases of these items after twenty four (24) months shall be approved by the Department prior to purchase.

OFFICE OF COLONIA INITIATIVES BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action regarding the adoption of amendments to Title 10, Texas Administrative Code (TAC), Chapter 2, Texas Bootstrap Loan Program Rules for publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, the recommended program rules presented today include changes from Senate Bill 992, which was approved during the 82nd Legislative Session and signed by the Governor on June 17, 2011 and also reflect comments received from the public and staff's recommendations of necessary policy and administrative changes to further enhance and streamline operations.

RESOLVED, that the proposed rule amendments for the Texas Bootstrap Loan Program, 10 TAC, Chapter 2, are hereby ordered and it is approved, together with the preamble presented to this meeting, for publishing in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the Texas Bootstrap Loan Program rules, in the form presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

Texas Bootstrap Loan Program Rules were approved for publication on June 30, 2011 by the Department's Governing Board, and was published in the July 15, 2011 issue of the *Texas Register* to allow for public comment. The recommended program rules presented today include changes from Senate Bill 992, which was approved during the 82nd Legislative Session and signed by the Governor on June 17, 2011 and also reflect comments received from the public and staff's recommendations of necessary policy and administrative changes to further enhance and streamline operations. The public comment period for the amended rules commenced upon publication and ended on August 5, 2011. In addition to publishing the document in the *Texas Register* a link to the *Texas Register* of the proposed amended program rules were emailed to each participating Nonprofit Owner-Builder Housing Provider under the Texas Bootstrap Loan Program. A total of four public comments were received on the proposed amended program rules and the Department's response is attached.

Chapter 2. TEXAS BOOTSTRAP LOAN PROGRAM 10 TAC §§2.2, 2.4, 2.5, 2.7 - 2.13

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC, Chapter 2, §§2.2, 2.4 - 2.5, and 2.7 - 2.13, concerning the Texas Bootstrap Loan Program. Section 2.9 is adopted with changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (35 TexReg 4506). Sections 2.2, 2.4 - 2.5 and 2.7, 2.8, and 2.10 - 2.13 are adopted without changes and will not be republished. The amended program rules include changes from Senate Bill 992, which was approved during the 82nd Legislative Session and signed by the Governor on June 17, 2011 and also reflect comments received from the public and staff's recommendations of necessary policy and administrative changes which included providing clarity to the performance benchmarks, defining the type of blueprints that would be accepted for the program, adding requirements to unacceptable credit criteria in order to continue to address the number of delinquencies and added the combined loan to value ratio to ensure that owner-builder applicants are not in a negative equity position. These amendments were recommended to provide more clarity to the Nonprofit Owner-Builder Housing Providers.

The Texas Department of Housing and Community Affairs accepted comments to the proposed rule in writing and by email. This document provides the Department's response to all comments received. Comments and responses are presented in the order they appear in the rules.

A public hearing to receive input on the proposed rule was held on July 29, 2011 with no public input received. Public comments were accepted from July 15, 2011 through August 5, 2011, with comments received from (51) Habitat for Humanity, Texas (52) Habitat for Humanity of San Antonio.

REASONED RESPONSE TO PUBLIC COMMENT AND STAFF RECOMMENDATIONS ON THE PROPOSED ADOPTION OF 10 TAC, CHAPTER 2.

§2.9(r). Program Administration.

COMMENT (51): The commenter stated they are concerned that Habitat for Humanity affiliates and others currently have access to large portfolios of house plans and blueprints that have been prepared by architects and engineers from across the country that would be excluded from the program because the original designers were not licensed in Texas.

STAFF RESPONSE: Staff concurs and recommends that §2.9(r) be revised to:

(r) Blueprints. If NOHPs activity is interim or residential construction, NOHP must provide an original copy of the proposed blueprints to be approved by the Department prior to accepting applications. Blueprints must include the required construction requirements pursuant to §2306.514 of the Texas Government Code. All blueprints submitted for approval must be prepared and executed by an architect or engineer licensed by the state of Texas or any state of the United States.

§2.9(t)(9). Program Administration.

COMMENT (51): The commenter stated that one of the provisions in the rules that affiliates often find burdensome is the debt-to-income ratio of 45%. While they understand the purpose of the rule is to provide some assurance the families will have enough income to remain current on

their loans, quite often they are not able to use the Program with some families that otherwise meet local underwriting guidelines. In addition commenter also proposed to allow NOHPs to provide a guarantee to the Department if the loan goes into default.

STAFF RESPONSE: Currently the 45% debt-to-income ratio requirement currently equals or is greater than most debt-to-income ratio requirements utilized by the private sector. Staff recommends no amendments.

§2.9(t)(11)(E). Program Administration.

COMMENT (52): The commenter stated that paying off collection accounts and living within your means without incurring more debt should be considered a good thing. This proposed addition makes incurring debt a requirement even though the applicant may not need or want to get back into debt.

STAFF RESPONSE: Staff concurs and recommends that §2.9(t)(11)(E) be revised to:

(E) Any account (with the exception of a medical account) that has been placed for "collection," "profit and loss" or "charged off" within the last twelve (12) months prior to the date of application, unless the account has been or will be paid in full within two (2) weeks of receiving notice from the Department. If there are other, unpaid or unresolved accounts that were placed for "collection", "profit and loss" or "charged off" prior to the last twelve (12) months prior to the date of application, then Owner-Builder applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of application. Types of debts that will be taken into consideration may include, but are not limited to the following, rental history, cell phone, utility, day care, auto insurance, etc.

§2.12(d-e). Property Guidelines and Related Issues.

COMMENT (51): The commenter stated that it is important to maintain affordability and responsible lending to homeowners, but that some degree of flexibility be allowed to the combined loan to value ratio when warranted.

STAFF RESPONSE: Section 2306.753(b)(4)(A) of the Texas Government Code requires the Owner-Builder to provide at least 65% of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program. With this requirement there should be enough labor from the Owner-Builder and/or volunteers to offset any additional cost associated with building or rehabilitating the home. In addition the Department does not support that any home owner be placed in negative equity position. Staff recommends no amendments.

The Board approved the final order adopting the amended sections on September 15, 2011.

The amended sections are adopted pursuant to the authority Chapter 2306 of the Texas Government Code, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

§2.2.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 Texas Bootstrap Loan Program funds are used to provide incentives to develop and support affordable housing and homeownership through acquisition, existing new construction, reconstruction, or rehabilitation of residential housing.

- (2) Administrative Deficiencies--The absence of information or a document from the Owner-Builder application as required by these rules and Program Manual.
- (3) Amortized--A loan in which the principal as well as the interest, if applicable, is payable monthly or in some other periodic installment over the term of the loan.
- (4) Board--The governing board of the Texas Department of Housing and Community Affairs.
- (5) Colonia--A geographic area located in a county some part of which is within one-hundred fifty (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, Texas Water Code; or
- (B) has the physical and economic characteristics of a Colonia, as determined by the Department.
- (6) Colonia Self-Help Center--As defined under Chapter 2306, Subchapter Z of the Texas Government Code.
- (7) Committed--Funds reserved for an Owner-Builder and approved by the Department.
- (8) Competitive Application Cycle--A defined deadline by which Applications must be submitted according to a published NOFA. Competitive Applications will be reviewed for scoring criteria in accordance with the rules, and the NOFA.
- (9) Department--The Texas Department of Housing and Community Affairs.
- (10) Development--Projects that have a construction component, either in the form of new construction or the rehabilitation of single family residential housing that meet the Texas Bootstrap Loan Program requirements.
- (11) Domestic Farm Laborer--Individuals (and the family) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.
- (12) Drawn--Funds approved by the Department and disbursed to the Nonprofit Owner-Builder Housing Provider (NOHP).
- (13) Forgivable Loan--Loans which the lender undertakes to waive repayment of under certain prescribed conditions.
- (14) Grant--Financial assistance that is awarded in the form of money for a specific purpose and that is not required to be repaid. A Grant includes a forgivable loan.
- (15) HUD--United States Department of Housing and Urban Development.
- (16) Life of Loan Flood Certification--Life of Loan Flood Certification tracks the flood zone of the property for the life of the loan.
- (17) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Nonprofit Owner-Builder Housing Provider (NOHP), that authorizes the NOHP to originate certain loans under the Texas Bootstrap Loan Program.
- (18) New Construction--Any single-family structure not meeting the definition of Rehabilitation or Reconstruction.
- (19) NOFA--Notice of Funding Availability.
- (20) NOHP--Nonprofit Owner-Builder Housing Provider.
- (21) Nonprofit Organization--An organization that:
- (A) is organized under state or local laws;
- (B) has no part of its net earnings benefiting any member, founder, contributor, or individual;
- (C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, 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 nonprofit under \$501(c)(3) of 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) has a pending application for §501(c)(3) status cannot be used to comply with the tax status requirement.
- (22) Open Reservation Cycle--A defined period during which an NOHP may submit Owner-Builder applications according to a published NOFA and which will be reviewed on a first come-first serve basis until all funds available are committed, or until the NOFA is closed. Owner-Builder applications will be reviewed in accordance with Program rules and the Program Manual. The Department may release funds in a two (2) year funding cycle or less than two (2) years.
- (23) Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a contract for deed entered into before January 1, 1999; and who undertakes to make improvements to that property.
- (24) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in collateral.
- (25) Participant--An organization which submits an application to the Department to be certified as an NOHP.
- (26) Program--Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program.
- (27) Program Manual--A set of guidelines designed to be an implementation tool for the NOHP that has executed a Loan Origination Agreement and allows the NOHP to search for terms, statutes, regulations, forms and attachments. The Program Manual is developed by the Department and amended or supplemented from time-to-time.
- (28) Reconstruction--The rebuilding of a new single-family structure on the same lot where housing exists at the time of Owner-Builder loan application. Texas Bootstrap Loan Program funds may also be used to build a new foundation or repair an existing foundation.
- (29) Rehabilitation--Includes the alteration, improvement or modification of an existing single family structure. It may also include moving an existing single family structure to a foundation constructed with Texas Bootstrap Loan Program funds.
- (30) Reservation--An amount of funds set-aside for each individual Owner-Builder applicant registered into the Department's Texas Bootstrap Loan Program Registration website.
- (31) Self-Help Housing Construction--The self-help housing process enables Owner-Builders to rehabilitate, reconstruct or construct their own homes, usually working together in groups on other eligible Owner-Builder's houses at the same time. Owner-Builders use their own "sweat equity" to reduce the cost of their homes.
- (32) Single family structure--A property designed and built to support the habitation of one person or one household may include an attached or detached unit.
- (33) Very Low-Income Families--Owner-Builders who do not have an annual income that exceeds 60% of the greater of the state or local median family income, as determined by the Department, when combined with the income of any person who resides with the Owner-Builder.

§2.4.Participant Requirements.

- (a) Eligible Participants. The following organizations or entities are eligible to participate in the Texas Bootstrap Loan Program:
- (1) Colonia Self Help Centers established under Chapter 2306, Subchapter Z of the Texas Government Code; or
- (2) Nonprofit Owner-Builder Housing Provider (NOHP) certified by the Department pursuant to \$2306.755 of the Texas Government Code.
- (b) Ineligible Participants. The following violations may cause a Participant, and any applications they have submitted, to be ineligible:
- (1) Previously funded Participant(s) who have been partially or fully deobligated due to failure to meet contractual obligations during twelve (12) month period prior to the NOFA published date;
- (2) Participants who have not satisfied all eligibility requirements described in the Program rules and NOFA to which they are responding;
- (3) Participants that have failed to make timely payment on fee commitments or on debt instruments held by the Department and for which the Department has initiated formal collection actions;
- (4) Participants that have been debarred by HUD or the Department; or
- (5) Participants whose staff violates the state's revolving door policy.
- (c) Noncompliance. Each Participant will be reviewed for its compliance history by the Department. Participants found to be in material noncompliance, or otherwise violating the compliance rules of the Department, will be terminated.
- (d) Eligibility requirements. Participant must be certified as an NOHP or must be a Colonia Self-Help Center and must have entered into a Loan Origination Agreement with the Department in order to be eligible to participate in the Texas Bootstrap Loan Program and as more fully described in the NOFA. The Participant must have the capacity to administer and manage resources as evidence by previous experience of managing state and/or federal programs.
- (e) If indicated by the Department, comply with all requirements to utilize the Department's website to provide necessary data to the Department.

§2.5.Program Activities.

Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, existing, new construction, reconstruction, or rehabilitation of residential housing. All eligible Participants that satisfy the requirements of §2.4 of this chapter (relating to Participant Requirements) may reserve funds and submit a loan application on behalf of an Owner-Builder applicant for the Texas Bootstrap Loan Program.

*§*2.7.*Distribution of Funds.*

(a) Set-Asides. In accordance with §2306.753(d) of the Texas Government Code, at least two-thirds (2/3) of the dollar amount of loans made under this chapter in each fiscal year must be made to Owner-Builders whose property is located in a census tract that has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available.

- (b) Balance of State. The remaining one-third (1/3) of the dollar amount of loans may be made to Owner-Builders statewide.
- (c) Reservation procedures. Reservations of funds are available to the NOHP on first-come, first-serve basis. In all cases the NOHP must register each Owner-Builder applicant on the Department's Internet Loan Reservation system. Maximum Reservations allowed for an NOHP at any given time may not exceed \$900,000 in total loan Reservations in the two-thirds set-aside as noted in \$2306.753(d) of the Texas Government Code. The NOHP may not exceed \$450,000 in total loan Reservations at any given time under the Balance of the State set-aside. The NOHP may enter additional Reservations after a loan has closed.
- (d) A Reservation of funds with respect to the Program may be subject to cancellation if all documents required in the Program Manual are not submitted to the Department within ten (10) business days of the date the registration was entered into the Reservation system and/or if the performance benchmarks outlined in these Program rules are not adhered to. Registration of an Owner-Builder applicant does not guarantee funding.
- (e) Modification of Loan Reservation. After a Reservation has been secured and the Owner-Builder applicant has been deemed eligible to participate in the Program, the NOHP must notify the Department of any changes to the Owner-Builder application, such as a cancellation, change in the sales price, or change in the loan amount. The NOHP will not be permitted to change, exchange, replace or switch Owner-Builder applicants once the loan has been registered; unless construction has commenced and one of the following events has occurred: death, illness, divorce, loss of income, nonperformance by Owner-Builder applicant or for other acceptable reasons, as approved by the Department, where the Owner-Builder applicant is unable to perform.
- (f) Once a Reservation has been awarded, the Department may grant one forty-five (45) day extension of required benchmarks due to extenuating circumstances that were beyond the Owner-Builder's and/or the NOHPs control. If the NOHP cannot meet the required benchmarks after the forty-five (45) day extension, the Reservation will be cancelled. If funds are available the NOHP may receive another Reservation on the same Owner-Builder applicant and the NOHP must submit an updated application to ensure the Owner-Builder applicant still meets all guidelines and requirements under Texas Bootstrap Loan Program rules and Program Manual.

*§*2.8.*Criteria for Funding.*

(a) All Notices of Funding Availability (NOFA) will be presented to the Board for approval. The Department will publish a NOFA in the *Texas Register* and on the Department's website. The NOFA may be published as an Open Reservation Cycle or a Competitive Application Cycle . The NOFA will establish and define the terms and conditions for the submission of Reservations and/or applications. The Department may also set a deadline for receiving Reservations and/or applications. The NOFA will also indicate the approximate amount of available funds. The Department may increase the NOFA from time to time without republishing the NOFA in the *Texas Register* and Department's website.

- (b) A nonprofit organization must have been certified by the Department as a Nonprofit Owner-Builder Housing Provider (NOHP) and must have executed a Loan Origination Agreement to be eligible to submit a Reservation on behalf of an Owner-Builder applicant. A Reservation containing false information will be disqualified. The Department staff will review and process all Owner-Builder applications in the order received. If the Department receives more than one Owner-Builder application on the same day the applications will be processed in the order entered into the Reservation system. The NOHP will be notified in writing of the Department's determination.
- (c) Reservations received by the Department in response to a NOFA will be handled in the following manner:
- (1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.
- (2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.
- (3) Reservations and/or applications submitted on behalf of an Owner-Builder applicant must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in these rules. Reservations and/or applications submitted on behalf of an Owner-Builder applicant that do not comply with such requirements may be disqualified. The NOHP will be notified in writing of any cancelled and/or disqualified Reservations and/or applications submitted on behalf of an Owner-Builder applicant.
- (4) Administrative Deficiencies. If a Reservation contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Reservation, 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 an email, facsimile or a telephone call to the NOHP advising that such a request has been transmitted.
- (5) Prior to issuing an applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing 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 Reservation which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has issued an applicant eligibility letter to the Owner-Builder applicant, but the NOHP and/or Owner-Builder applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the NOHP and/or Owner-Builder applicant has satisfied all requirements of the Program. If the NOHP is unable to cure any deficiencies within fifteen (15) days, the Department may provide a one-time fifteen (15) day extension or decline to fund the Reservation.
- (6) In the event of a tie between two or more Reservations, the Department reserves the right to determine which Reservation will receive funding. The Department will give priority to Reservations to Owner-Builders with an annual income of less than \$17,500 and Reservations to Owner-Builders who will reside in counties and municipalities that agree in writing to waive the capital recovery fees, building permit fee or other fees related to the building of the houses to be

built with the loan proceeds. Tied Reservations may also receive a partial recommendation for funding.

(d) Alternative Dispute Resolution Policy. In accordance with \$2306.082 of the Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution (ADR) procedures under the Governmental Dispute Resolution Act, Chapter 2009 of the 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. 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 procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR procedure at \$1.17 of this title (relating to Alternative Dispute Resolution and Negotiated Rulemaking).

§2.9.Program Administration.

- (a) Per household assistance from the Department for any Texas Bootstrap Loan Program loans may not exceed \$45,000 per-household pursuant to \$2306.754(b) of the Texas Government Code. The Owner-Builder must obtain the amount necessary that exceeds \$45,000 from other sources of funds including other Department funds with the exception of funds being utilized to implement the Texas Bootstrap Loan Program. The total amount of Amortized repayable loans made by the Department and other entities to an Owner-Builder under the Program may not exceed \$90,000 pursuant to \$2306.754(b) of the Texas Government Code.
- (b) A loan made by the Department shall be secured by a first (1st) lien on the real property if the Department's loan is the largest Amortized, repayable loan secured by the real property; or
- (c) The Department may accept a parity lien position if the original principal amount of the leveraged loan is equal to or greater than the Department's loan; or
- (d) The Department may accept a subordinate lien position if the original principal amount of the leveraged loan is at least \$1,000 or greater than the Department's loan. However liens related to other subsidized funds provided in the form of grants and nonamortizing loans, such as deferred payment or forgivable loans, must be subordinate to the Department's loan.
- (e) The Department, through a Nonprofit Owner-Builder Housing Provider (NOHP), shall make loans for Owner-Builder applicants to enable them to:
- (1) purchase or refinance real property on which to build new residential housing;
- (2) build new residential housing; or
- (3) improve existing residential housing.
- (f) The NOHP will be granted a 6% administration fee upon completion of the house and closing of each mortgage loan.

- (g) Loan Origination Agreement. Upon approval by the Department, the nonprofit organization certified as an NOHP or Colonia Self-Help Centers shall enter into, execute, and deliver to the Department the Loan Origination Agreement.
- (h) 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 Program written agreement provided that:
- (1) Time extensions. The Executive Director may collectively provide up to one six (6) month extension to the end date of any Loan Origination Agreement. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director relating to unusual, non-foreseeable or extenuating circumstances. If the extension is longer than six (6) months and the Executive Director determines that a statement related to unusual, non-foreseeable, or extenuating circumstances cannot be issued, it will be presented to the Governing Board for approval, approval with modifications, or denial of the requested extension; 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.
- (i) Sanctions/Deobligation. The Department will apply its Administrative Rules in Chapter 1 of this title.
- (j) The Department may use all applicable provisions and/or any relevant rules to assure compliance with these rules or Loan Origination Agreement.
- (k) Additional Funds. In the event the Department has additional funds in the same funding cycle, the Department, with Board approval, will distribute funds in accordance with §2.7(a) (b) of this chapter (relating to Distribution of Funds).
- (1) The Department may terminate the Loan Origination Agreement in whole or in part. If the NOHP has not achieved performance benchmarks as outlined in Loan Origination Agreement, Program rules and Manual. Performance benchmarks must be satisfactorily completed as follows:
- (1) If the Owner-Builder applicant qualifies for the Program, the Department will issue an applicant eligibility letter (approval letter) which reserves the funds (up to \$45,000 per Reservation) for twelve (12) months from the date of the applicant eligibility letter. Owner-Builder applicant will not be required to re-qualify for the Program if the Owner-Builder applicant closes on the loan on or before the expiration date stated on the applicant eligibility letter issued by the Department. If the Owner-Builder fails to close on the loan on or before the expiration date stated on the applicant eligibility letter, the Owner-Builder applicant will be required to re-qualify for the Program. In an effort to expedite expenditure of funds, the NOHP will be required to meet specific performance benchmarks on the home within twelve (12) months from the date of the applicant eligibility letter. If the NOHP fails to meet the required benchmarks, the Reservation may be subject to cancellation in accordance with the Loan Origination Agreement. The Department may provide one forty-five (45) day extension to benchmark deadlines due to extenuating circumstances that were beyond the Owner-Builder's

and/or the NOHPs control. If the NOHP cannot meet the required benchmarks after the forty-five (45) day extension, the Reservation will be cancelled. In order to receive another Reservation on the same Owner-Builder applicant the NOHP will be instructed to submit an updated application if funds are available, to ensure the Owner-Builder applicant meets all Texas Bootstrap Loan Program rules. Once an Owner-Builder has been deemed eligible and funds have been reserved, the NOHP must meet the following performance benchmarks depending on the type of loan being requested:

- (A) Purchase Money Loan:
- (i) Within one-hundred twenty (120) days of the date of the applicant eligibility letter construction must have started on the unit; and
- (ii) Within one (1) year of the date of the applicant eligibility letter the unit must be 100% complete and the purchase money loan must have closed with the owner-builder applicant.
- (B) Interim and Residential Construction Loans:
- (i) Within ninety (90) days of the date of the applicant eligibility letter, the loan must close and construction must have started on the unit;
- (ii) Within one-hundred-eighty (180) days of the date of the applicant eligibility letter, the unit must be at 40% completion;
- (iii) Within two-hundred-seventy (270) days of the date of the applicant eligibility letter, the unit must be at 80% completion; and
- (iv) Within one (1) year of the date of the applicant eligibility letter the unit must be 100% complete and the purchase money loan must have closed with the Owner-Builder applicant.
- (2) Quarterly reports are due by the NOHP to the Department on the 10th of the month following the end of each calendar quarter. All funding may be suspended until reports are received.
- (m) Roles and responsibilities for administering the Program contract. NOHPs are required to:
- (1) Qualify potential Owner-Builders for loans;
- (2) Provide Owner-Builder homeownership education classes;
- (3) Supervise and assist Owner-Builders in building and/or rehabilitate housing;
- (4) Facilitate loans made or purchased by the Department under the Program; and
- (5) Implement and administer the Program on behalf of the Department.
- (n) Loan Origination/Loan Servicing. An NOHP must enter into a Loan Origination Agreement with the Department in order to participate in the Program. If the NOHP wishes to service the loans originated on behalf of the Department it must enter into a Loan Servicing Agreement with the Department. The Department may grant the request upon reviewing the NOHP capacity to implement those specific functions.
- (o) First Year Consultation Agreement. The NOHP agrees that if notified by the Department that Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents issued under the Program, within the first twelve (12) months of funding, the NOHP will be required to meet with the Owner-Builder and provide counseling and assistance until the payments are made current. After consultation and in the event that the Department and NOHP are not able to reach a consensus about NOHPs effort to bring the Program loan current as required under this chapter, the Department in accordance

with its administrative rules may apply appropriate graduated sanctions leading up to, but not limited to deobligation of funds and future debarment from participation in the Program.

- (p) Conflict of Interest. The NOHP shall ensure that no employee, officer, or agent of NOHP shall participate in the selection, or in the award or administration of a subcontract supported by funds provided under this Program if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when the employee, officer, or agent; any member of his or her immediate family; his or her partner; or, any organization which employs, or is about to employ any of the above; has a financial or other interest in the firm or person selected to perform the subcontract. The NOHP may not accept an application from any of its officers or employees nor any spouse or person related within the third (3rd) degree of affinity (marriage) or consanguinity (blood) to any officer or employee of the NOHP.
- (q) Administrative Fee. The NOHP may request their administrative fee upon completion of the house and closing of each mortgage loan.
- (r) Blueprints. If NOHPs activity is interim or residential construction, NOHP must provide an original copy of the proposed blueprints to be approved by the Department prior to accepting applications. Blueprints must include the required construction requirements pursuant to \$2306.514 of the Texas Government Code. All blueprints submitted for approval must be prepared and executed by an architect or engineer licensed by the state of Texas or <u>any state of</u> the United States.
- (s) Work Write-up. The NOHP must submit a work write-up for all rehabilitation projects. Work write-ups must be reviewed and approved by the Department, before rehabilitation is started.
- (t) Loan Program requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as follows:
- (1) Maximum Loan amount not to exceed \$45,000. If it is not possible for the Owner-Builder to purchase necessary real property and build adequate housing for \$45,000, the NOHP must obtain additional funding from other sources of funds.
- (2) Minimum Loan amount is \$1,000.
- (3) The total amount of all Amortized repayable loans under the Program may not exceed \$90,000. Deferred forgivable loans are not included in these total loan calculations.
- (4) May not exceed a term of thirty (30) years.
- (5) Minimum loan term of five (5) years.
- (6) Zero percent (0%) non-interest loans.
- (7) When refinancing a contract for deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property.
- (8) Owner-Builder(s) must have resided in this state for the preceding six (6) months prior to the date of application.
- (9) Total Debt-to-Income Ratio. Maximum of 45% (unless otherwise dictated by the mortgage insurer, if any).
- (10) Credit Qualifications. Owner-Builder applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. In order for the Department to make

a reasonable determination, the Department will obtain a tri-merge credit report on all Owner-Builder applicants submitted to the Department for approval.

- (11) Unacceptable credit includes, but is not limited to the following:
- (A) Payments on any open consumer, retail and/or installment account (i.e. auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan) which has been delinquent for more than thirty (30) days on three (3) or more occasions within the last twelve (12) months, unless the Owner-Builder applicant has been current for the four (4) months immediately preceding the application date and must submit to the Department a written explanation of the cause for the previous delinquency, which is acceptable to the Department. For purposes of this subparagraph, the credit history of an Owner-Builder who is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products will not apply. However, Owner-Builder must still demonstrate the ability and willingness to meet debt obligations.
- (B) A foreclosure which has been completed within the last twelve (12) months prior to the date of application.
- (C) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens where Owner-Builder applicant has made no satisfactory payment arrangements for at least six (6) months prior to the date of application.
- (D) A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding must be paid off. The Department may consider this account in good standing if the Owner-Builder applicant has made formal payment arrangements and has a satisfactory payment arrangement history for at least six (6) months prior to the date of application.
- (E) Any account (with the exception of a medical account) that has been placed for "collection," "profit and loss" or "charged off" within the last twelve (12) months prior to the date of application, unless the account has been or will be paid in full within two (2) weeks of receiving notice from the Department. If there are other, unpaid or unresolved accounts that were placed for "collection", "profit and loss" or "charged off" prior to the last twelve (12) months prior to the date of application then. Owner-Builder applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of application. Type of debts that will be taken into consideration may include, but are not limited to the following: rental history, cell phone, utility, child care, auto insurance, etc.
- (F) Any delinquency on any government debt unless the Owner-Builder applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of application.
- (G) A bankruptcy that has been filed within the past twelve (12) months prior to the date of application.
- (H) Any delinquency on child support unless the Owner-Builder applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of application.
- (12) The following will not be considered indicators of unacceptable credit:
- (A) A bankruptcy in which debts were discharged more than twelve (12) months prior to the date of application. Owner-Builder applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of application. In addition the Owner-Builder applicant must submit to the Department a letter of

explanation regarding the circumstances that led to the bankruptcy which is acceptable to the Department.

- (B) Where an Owner-Builder applicant has successfully completed a debt restructuring plan and has demonstrated a willingness to meet obligations when due for the six (6) months prior to the date of application. If an Owner-Builder applicant is currently participating in a debt management plan, the trustee or assignee must provide a letter to the Department stating that they are aware and agree with the Owner-Builder applicant applying for a mortgage loan. In addition Owner-Builder applicant must have successfully completed at least six (6) months of the debt management plan with no delinquent payments.
- (C) Medical accounts that are delinquent or that have been placed for collection.
- (13) Liabilities. The Owner-Builder applicant's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than ten (10) monthly payments remaining. Debts for which the Owner-Builder applicant is a co-signer will be included in the total monthly obligations unless the other party to the debt provides evidence showing that the Owner-Builder applicant has not been making payments on the co-signed loans for the previous twelve (12) months. There may be no late payments within the past twelve (12) months or the debt will be included. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on all revolving debts (i.e. credit cards, payday loans, lines of credit, unsecured loans) and certain types of installment loans that appear to be recurring in nature will be included in debt ratio calculation, even if the Owner-Builder applicant intends to pay off the accounts, since the Owner-Builder applicant can reuse those credit sources, unless the account is paid off and closed. Payments on any type of loan that have been deferred must be deferred for at least twelve (12) months from the date of closing in order for the debt not to be included in the debt ratio calculation.
- (14) Must be a single-family detached or attached unit within the State of Texas. Manufactured homes are not eligible. All property taxes must be current prior to closing.
- (15) The residence must be occupied as the principal residence of the Owner-Builder within thirty (30) days of the later of the end of the construction period or the closing of the loan. Any additional habitable structures must be removed from the property prior to closing. Portion of the former structure may be utilized as storage upon the Department's written approval prior to closing.
- (16) Escrow Account-- If the Department is in a first lien position and servicing the loan an account to which the borrower contributes monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs will be required. The Department may require that up to two (2) months of reserves for hazard and/or flood insurance and property taxes to be collected at the time of closing and these funds must be deposited with the Department. In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department. The Owner-Builders will be required to deposit monthly funds to an escrow account with the mortgage loan servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due. These funds are included in the Owner-Builders monthly payment to the Department. The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA).

- (17) Non-Purchasing Spouse--An Owner-Builder applicant's spouse who does not apply for the loan will be required to execute the information disclosure form and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes the non-purchasing spouse's debts and obligations will be considered in the Owner-Builder total debt-to-income ratio. The Owner-Builder applicant will be qualified using obligations for which the Owner-Builder applicant and non-purchase spouse are personally or jointly liable. Only the income of the Owner-Builder applicant will be used in determining the total debt to income ratio. For Program eligibility purposes, the income of a non-applicant spouse or any other person(s) living in the home to be purchased must be included in the calculation of family income. Tax Returns, W2's and recent pay check stubs, or Verification of Employment must be submitted to document household income.
- (u) Loan Assumption--A Program loan is assumable if the Department determines that the Owner-Builder applicant complies with all Program requirements in effect at the time of the assumption.

§2.10.Owner-Builder Qualifications.

The Owner-Builder must:

- (1) Own or be purchasing a piece of real property through a warranty deed or Contract for Deed;
- (2) Not have an annual household income that exceeds 60% of the greater of the state or local area median family income as determined by HUD income table;
- (3) Demonstrate the willingness and ability to repay the loan;
- (4) Execute a Self-Help Agreement committing to provide through personal labor at least 65% of the labor necessary to build or rehabilitate the proposed housing working through a state-certified NOHP; or provide an amount of labor equivalent to 65% in connection with building or rehabilitating housing for others through a state certified NOHP; provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65% of the labor necessary to build or rehabilitate the proposed housing by working through a state certified NOHP or if due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65% of the labor necessary to build or rehabilitate the proposed housing by working through a state certified NOHP;
- (5) Not have cash assets in excess of \$25,000 (excluding retirement and/or 401K accounts);
- (6) Successfully complete an Owner-Builder homeownership education class prior to loan funding;
- (7) Be given priority for loans if the Owner-Builder has an income of less than \$17,500 annually;
- (8) Not have any outstanding judgments and/or liens on the property.

§2.11.Types of Funding Transactions.

All mortgage loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following transaction types are permitted by the Department under the Program.

(1) Purchase Money. In a purchase money transaction, all proceeds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property which will be the Owner-Builders primary residence within thirty (30) days of closing the loan. In this instance, a

permanent loan is made and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds.

- (2) Residential Construction (One Time Closing with Owner-Builder). An interim construction loan, also known as a residential construction loan, this transaction is treated as a purchase, because it is a one time closing with the Owner-Builder. Construction period may be up to twelve (12) months.
- (3) Interim Construction (Closing with NOHP). Interim construction is a commercial transaction between the NOHP and the Department. The construction period may be up to twelve (12) months; once the construction of the home is completed the closing with the Owner-Builder will take place as a purchase money transaction.
- (4) Purchase of Mortgage Loans. The Department may purchase and take assignments from mortgage lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this section or for residential construction transactions as described in paragraph (2) of this section.

§2.12.Property Guidelines and Related Issues.

- (a) If the Nonprofit Owner-Builder Housing Provider (NOHP) is utilizing Program funds to construct the home they must conform to §2306.514 of the Texas Government Code.
- (b) If the property is located within an incorporated area where certain building codes must be met, the Department will require a copy of the certificate of occupancy. If no certificate of occupancy is available from an incorporated area the NOHP must obtain a document from the local government entity showing that the home has passed all required building codes. A copy of the certificate of occupancy or any other document received from the local governing entity must be submitted to the Department upon completion of construction. If the property is located outside an incorporated area inspections will be required to be completed by a professional inspector licensed by the Texas Real Estate Commission. For all housing rehabilitation projects an initial and final inspection will be required. An initial inspection will be required for all reconstruction projects to determine that it is not cost effective for rehabilitation and therefore needs to be reconstructed. If the property is located in an incorporated area a certificate of occupancy will be required for all completed reconstruction and new construction projects. If the property is located outside an incorporated area a final inspection will be required for reconstruction and new construction projects.
- (1) The initial inspection for rehabilitation must identify and prioritize areas in need of repair. A copy of the initial inspection reports must be provided to the Department and the homeowner.
- (2) The final inspections for housing rehabilitation must ensure that the construction on the house is complete, that the home is safe, sound and sanitary. A copy of the final inspection report must be provided to the Department and the homeowner.
- (3) All final inspections must ensure that the construction on the house is complete and that the home is safe. In both instances any deficiencies noted on the certificate of occupancy or the third party inspector's report must be corrected prior to closing. Cosmetic issues such as paint, wall texture, etc. will not be required to be corrected since this is a self-help construction Program. A copy of the final inspection report must be provided to the Department and the Owner-Builder applicant.

- (4) The NOHP and/or the Owner-Builder applicant will be responsible for the selection and/or the fee of a licensed inspector.
- (c) Appraisals are required by the Department on each property prior to funding.
- (d) Loan to value ratio may not exceed 95%, the lien amounts of forgivable loans and/or grants will not be included in the loan-to-value calculation.
- (e) Combined loan to value ration may not exceed 100%, the lien amounts of forgivable loans will be included in the combined loan to value ration.
- (f) Improvement Surveys are required on each property.
- (g) Lot Surveys are required for all interim and residential construction loans. Upon completion of construction an improvement survey must also be provided.
- (h) Insurance requirements:
- (1) Title Insurance. The title insurance must be written by a title insurer licensed to do business in the jurisdiction where the mortgaged property is located.
- (A) Title Commitment. A copy of the preliminary title report including complete legal description, and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required. The preliminary title report should not be more than thirty (30) days old at the time the submission package (Submission or Funding Package) is sent to the Department.
- (B) Mortgagee's Policy. The Department requires a Mortgagee's policy of title insurance in the amount of the loan. The Mortgagee named shall be: "Texas Department of Housing and Community Affairs." Required endorsements include T-36 Environmental Endorsement for all loans made by the Department.
- (2) Property Insurance.
- (A) Builder's Risk is required where construction of the residence is being financed by the Department. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.
- (B) Hazard Insurance. The Department requires property insurance for protection against loss or damage from the following perils: fire, windstorm, hail, explosion, riot, and civil commotion, damage by aircraft, vehicles or smoke. Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable. The amount of hazard insurance coverage at the time the loan is funded must be no less than 100% of the current insurable value of improvements. The Department will require that the premium for a twelve (12) month homeowner's policy and up to two (2) months of reserve be collected at closing and name the Department as loss payee.
- (C) Flood insurance is required for all structures located in special flood hazard areas where the U.S. Federal Emergency Management Agency (FEMA) has mandated flood insurance coverage. In addition the Department requires a Life of Loan Flood Certification on all loans. The flood certification must be part of the Funding Package. Flood insurance is not required if the NOHP or Owner-Builder applicant obtains a Letter of Map Amendment from FEMA stating that the area is no longer classified as a special flood hazard area. The letter must include a map illustrating the

amended flood hazard area. An Owner-Builder applicant may elect to obtain flood insurance even though flood insurance is not required. However, the Owner-Builder applicant may not be coerced into obtaining flood insurance unless it is required in accordance with this section. Evidence of insurance must be obtained prior to loan funding. Insurance premiums for at least twelve (12) months and up to two (2) months of reserves may be collected at closing. The Department must be named as loss payee on the policy.

- *§2.13.Nonprofit Owner-Builder Housing Program (NOHP) 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 nonprofit organization that has submitted a request for certification as a NOHP to the Department. An Applicant for the Texas Bootstrap Loan Program must be a NOHP certified by the Department.
- (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 Office of 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) 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) Application Procedures for Certification of NOHP. An Applicant requesting certification as a NOHP must submit an application for NOHP certification in a form prescribed by the Department. The NOHP application must be submitted prior to submitting an application for Texas Bootstrap Loan Program Reservation system, and must be recertified every three (3) years. The application must include documentation evidencing the requirements of this subsection.
- (1) Applicant must have the following legal status at the time of application to apply for certification as a NOHP:
- (A) The Applicant must be organized as a nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by Charter or Articles of Incorporation.
- (B) The Applicant must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the State of Texas.
- (C) No part of the nonprofit organization's net earnings may inure to the benefit of any member, founder, contributor, or individual, as evidenced by Charter or 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 §501(c)(3), a charitable, nonprofit corporation, 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 NOHP; or
- (ii) Classification as a subordinate of a central organization non-profit under the Internal Revenue Code §501(c)(3), 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.
- (iii) A nonprofit organization's pending application for §501(c)(3) 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 Charter, Articles of Incorporation, Resolutions or Bylaws.
- (2) An Applicant must have the following capacity and experience listed in subparagraphs (A) and (B) of this paragraph.
- (A) Conforms to the financial accountability standards of "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; or
- (ii) certification from a Certified Public Accountant.
- (B) Has a demonstrated capacity of at least one (1) year for carrying out mortgage loan origination and self-housing construction activities, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization.
- (3) An Applicant must submit a current roster of all Board of Directors, including names and mailing addresses.
- (4) A local or state government and/or public agency cannot qualify as a NOHP, but may sponsor the creation of a NOHP.
- (5) Religious or Faith-based Organizations may sponsor a NOHP if the NOHP meets all the requirements of this section. While the governing board of a NOHP sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the faith-based organization may retain control over appointments to the board. If a NOHP is sponsored by a religious organization, the following restrictions also apply:
- (A) Housing developed must be made available exclusively for the residential use of Program beneficiaries and must be made available to all persons regardless of religious affiliations or beliefs:
- (B) A religious organization that participates in the Texas Bootstrap Loan Program may not use Texas Bootstrap Loan Program funds to support any inherently religious activities such as worship, religious instruction, or proselytizing; and
- (C) Texas Bootstrap Loan Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Sanctuaries, chapels, or other rooms which a faith-based NOHP uses as its principal place of worship are always ineligible;
- (D) Compliance with subparagraphs (A) (C) of this paragraph may be evidenced by the Organizations By-laws, Charter or Articles of Incorporation.

- (6) A Colonia Self-Help Center as defined under Chapter 2306, Subchapter Z of the Texas Government Code is not required to complete the NOHP Certification process as long as it provides a letter from the appropriate funding entity demonstrating a good standing performance and/or certification standing.
- (c) Program Design. Organizations must provide written evidence on how the Owner-Builder will meet the 65% sweat equity requirement.
- (d) Applicant must provide details, such as number of houses they are proposing to build, type of proposed financing structure and construction timeliness in order to show evidence of its ability to carry out the Texas Bootstrap Loan Program.
- (e) Applicant must provide copies of Program guidelines used to qualify Owner-Builders and homebuyer course curriculum in order to show evidence of its experience in qualifying potential Owner-Builders; providing education classes, counseling and training.
- (f) Applicant must submit any past due audit to the Department in a satisfactory format on or before the Application deadline.
- (g) Applicants must be in compliance in any existing or prior contracts awarded by the Department.
- (h) The Department may certify NOHPs meeting all of the criteria in subsection (b) of this section operated by a tax-exempt organization listed under §501(c)(3), Internal Revenue Code of 1986 to:
- (1) qualify potential Owner-Builders for loans under this chapter;
- (2) provide Owner-Builder education classes;
- (3) assist Owner-Builders in building or rehabilitating housing; and
- (4) originate and/or service loans.

HOME PROGRAMS DIVISION BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action to Approve for publication in the *Texas Register* final order adopting amendments to the rule for the HOME Program, 10 TAC Chapter 53, Subchapters B, C, and D.

RECOMMENDED ACTION

RESOLVED, that the amendments to 10 Texas Administrative Code Chapter 53, Subchapters B, C, and D, together with the preambles presented to this meeting are hereby ordered adopted, and

FURTHER RESOLVED, that the Acting Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the amendments to the HOME Program Rule, in the form presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The proposed amendments to the rule were published in the August 5, 2011 issue of the *Texas* Register to allow public comment. Public comments were accepted through August 15, 2011 with no comments received.

The amendments to the HOME Program Rule were proposed as follows:

- The removal of the requirement that applications for participation in the Reservation System approved by the Executive Director will be subject to ratification by the Board. Staff will continue to report the approval of Reservation System Participants to the Board.
- A suspension of Match requirements for the Homeowner Rehabilitation Assistance (HRA) and Homebuyer Assistance (HBA) Program Activities until August 31, 2012. This amendment serves as an extension of the match suspension adopted by the Board on December 17, 2010, which suspended match requirements until August 31, 2011. Since most HOME Contract Administrators are located in and serving rural areas of the State and eligible match contributions have become increasingly difficult to obtain, staff recommends extending the match reduction for an additional year to overcome one of the most common challenges cited by applicants and consultants for applying for the HRA and HBA Program Activities. The Department will continue to report matching contributions to HUD during the annual reporting period in order to carry-forward all eligible match received or contributed by the Department.



Attachment A: Preamble and Chapter 53, Subchapter B

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 53, Subchapter B, §§53.23and 53.26 without changes to the proposed text as published in the August 5, 2011, issue of the *Texas Register* (36 TexReg 4877) and will not be republished.

The purpose for the amendments is to temporarily suspend match requirements for the Homeowner Rehabilitation Assistance and Homebuyer Assistance Program Activities, and clarify the "Extremely Low-Income Household' requirement for households assisted with disaster relief funds.

The Department accepted public comments through August 15, 2011. Comments regarding the amendments were accepted in writing and by email. No comments were received concerning the proposed amended section.

The Board approved the final order adopting the amended section on September 15, 2011.

The amended section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306 which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

§53.23.Reservation System Participant Review Process.

- (a) In order for an Applicant to participate in the reservation system, the Department must review and approve an Application to become a Reservation System Participant (RSP). Applications will be reviewed and presented to the Executive Director for approval in the order they are received.
- (b) Applications for recertification may be submitted ninety (90) days prior to the end of the RSP agreement term and will be required to demonstrate that all Application requirements are met.
- (c) Administrative Deficiencies must be cured within ten (10) business days of the date of the deficiency notice. If Administrative Deficiencies are not clarified or corrected within ten business days from the deficiency notice date, the Application may be terminated.

§53.26.Reservation System Participant (RSP) Agreements.

- (a) Terms of agreement. RSP agreements will have a twenty-four (24) month term for all Program Activities. Execution of an RSP agreement does not guarantee the availability of funds under a reservation system.
- (b) Limits on Number of Reservations. The number of Homeowner Rehabilitation, Homebuyer Assistance or Single Family Development reservations for an RSP is limited to five (5) per county within the RSP's Service Area at any given time. The number of Tenant-Based Rental Assistance reservations for an RSP is limited to thirty (30) at any given time.
- (c) Extremely Low-Income Households. Except for Households served with disaster relief, HBA or SFD funds, each RSP will be required to serve at least one (1) Household at or below 30% of AMFI out of every four (4) Households submitted and approved for assistance.

- (d) Match. The requirements of this subsection are waived until August 31, 2012. An RSP must meet the tiered Match requirements per Program Activity for at least every fourth Household submitted and approved for assistance. For example, if Match is not provided for the first three (3) Households assisted by an RSP, the Match provided to the fourth Household must meet the Match requirement for all four (4) Households.
- (e) Completion of Construction. For Activities involving construction, an RSP must complete construction and submit all requests for disbursement within nine (9) months from the Commitment of Funds for the Activity.
- (f) Extensions. The Division Director may approve one three (3) month time extension to the Commitment of Funds to allow for the completion of construction and submission of requests for disbursement.
- (g) An RSP must remain in good standing with the Department, the State of Texas, and HUD. If an RSP is not in good standing, participation in the reservation system will be suspended and may result in termination of the RSP agreement.

Attachment B: Preamble and Chapter 53, Subchapter C

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 53, Subchapter C, §53.30 without changes to the proposed text as published in the August 5, 2011, issue of the *Texas Register* (36 TexReg 4878) and will not be republished.

The purpose for the amendments is to temporarily suspend match requirements for the Homeowner Rehabilitation Assistance Activity.

The Department accepted public comments through August 15, 2011. Comments regarding the amendments were accepted in writing and by email. No comments were received concerning the proposed amended section.

The Board approved the final order adopting the amended section on September 15, 2011.

The amended section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306 which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

§53.30. Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with the following:

- (1) The requirements of this subsection are waived until August 31, 2012. An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match. For Applications submitted to become an RSP, the Department may withhold disbursements if after every four reservations sufficient Match documentation has not been provided. The Department shall use population figures from the most recently available U.S. Census to determine the applicable tier for an Application. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Program Activity. Except for Applications for disaster relief, Match shall be required based on the following tiers:
- (A) zero percent of Project funds if serving a city of less than 3,000 Persons or an unincorporated area of a county with less than 20,000 Persons;
- (B) ten percent of Project funds if serving a city of between 3,001 and 5,000 Persons or an unincorporated area of a county of between than 20,001 and 75,000 Persons; and
- (C) twelve and one-half percent of Project funds for all other applications.
- (2) Documentation of a commitment of at least \$80,000 or for a Contract award 80% of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:
- (A) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

- (B) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or
- (C) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.
- (3) Housing construction plans must be certified by a licensed architect. The Department may procure and make architect certified plans available.
- (A) The Department will reimburse only for the first time a set of architectural plans are used unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and
- (B) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

Attachment C: Preamble and Chapter 53, Subchapter D

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 53, Subchapter C, §53.40 without changes to the proposed text as published in the August 5, 2011, issue of the *Texas Register* (36 TexReg 4878) and will not be republished.

The purpose for the amendments is to temporarily suspend match requirements for the Homebuyer Assistance Program Activity.

The Department accepted public comments through August 15, 2011. Comments regarding the amendments were accepted in writing and by email. No comments were received concerning the proposed amended section.

The Board approved the final order adopting the amended section on September 15, 2011.

The amended section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306 which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

§53.40. Homebuyer Assistance (HBA) Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with the following:

- (1) The requirements of this subsection are waived until August 31, 2012. An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match. The Department may not require such support at the time an Application is submitted when the funds are made available under a reservation system. Except for Applications for disaster relief and Persons with Disabilities set-asides, the amount of Match required must be at least 5% of Project funds requested. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Program Activity.
- (2) Documentation of a commitment of at least \$80,000 or for a Contract award 100% of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:
- (A) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
- (B) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or
- (C) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

MULTIFAMILY FINANCE DIVISION BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 33 concerning 2010 Multifamily Housing Revenue Bond Rules, and a proposed new 10 TAC Chapter 33, concerning 2012 Multifamily Housing Revenue Bond Rules for publication and public comment in the *Texas Register*.

Requested Action

RESOLVED, that the proposed repeal and proposed new rule for the Multifamily Housing Revenue Bond Rules, 10 TAC, Chapter 33, is hereby ordered and it is approved, together with the preambles presented to this meeting, for publishing in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the draft Multifamily Housing Revenue Bond Rules, in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

Background

Changes to the draft rules include language that makes the 2012 Multifamily Housing Revenue Bond Rules (the "Bond Rules") consistent with the other multifamily program rules. These rules will provide greater flexibility and choices to improve the overall quality of multifamily developments. These rules contain language that mirrors the 2012 Qualified Allocation Plan (the "QAP") and explains that the 2012 QAP, once approved by the Board, may have changes that would affect the Housing Tax Credit applications that coincide with the Bond program, and the QAP would therefore take precedence over the 2012 Bond Rules where applicable. The draft rules will be posted to the Department's website and published in the *Texas Register*. Public comment will be taken via mail, email or facsimile. There will be consolidated public hearings between September 26 and October 19 to garner public comment. The rule will be brought before the Board in November for final approval.

The majority of the changes proposed are to ensure consistency with other multifamily rules and provide more clarity. Specifically, they mirror changes that are proposed in the 2012 Draft QAP. Listed below is a summary of the proposed changes that are specific to the Multifamily Bond Program.

- 1. **§33.3 Definitions (Pages 2-3 of 15).** Removed definitions that are no longer relevant to the program.
- 2. §33.5(b) Pre-application (Page 4 of 15). This section clarifies that the pre-application review is limited and potential eligibility and/or threshold issues pursuant to the QAP may not be identified at the time of pre-application.
- 3. §33.5(e)(7) Pre-application Scoring Criteria (Tenant Services) (Page 7 of 15). This scoring item is modified from a total cost per unit in tenant services to a maximum of 8 points based on services provided. As proposed it conforms to the QAP requirements for tax credit Developments under the State Housing Credit Ceiling and is easier for the Department to monitor compared to the costs per unit as historically used.
- 4. §33.5 (h) Trustee and Investment Banker Firm Selection (Page 9 of 15). This section was added to provide guidance for the Applicant on the selection of a Trustee and Investment Banking Firm.

Attachment A: Preamble and Proposed New Chapter 33

10 TAC §§33.1 - 33.9

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 33, §§33.1 - 33.9, concerning the 2012 Multifamily Housing Revenue Bond Rules. The new sections are proposed in order to implement changes that will improve the 2012 Private Activity Bond Program.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed new sections are in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the new sections as proposed.

Mr. Irvine has also determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result will be to permit the adoption of new rules for multifamily housing revenue bonds, thereby enhancing the State's ability to provide decent, safe and sanitary housing administered by the Department.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the new sections as proposed. The proposed new sections will not impact local employment.

The public comment period will be held between September 26, 2011to October 19, 2011 to receive input on these rules and public hearings will be held. More information on the public hearings can be found at: http://www.tdhca.state.tx.us. Written comments may be submitted to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 19, 2011.

The new sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provide the Department with the authority to adopt rules governing the administration of the Department and its programs.

No other statutes, articles, or codes are affected by the proposed new sections.



Private Activity Bond Program 20112012 Multifamily Housing Revenue Bond Rules Table of Contents

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§353.1. Introduction.

The purpose of this chapter is to state the Texas Department of Housing and Community Affairs (the "Department") requirements for issuing Bonds, the procedures for applying for multifamily housing revenue Bond financing, and the regulatory and land use restrictions imposed upon Developments financed with the issuance of Bonds for the 20112 Private Activity Bond Program year. The rules and provisions contained in this chapter are separate from the rules relating to the Department's administration of the Housing Tax Credit Program. Applicants seeking a housing tax credit allocation should consult the Department's Qualified Allocation Plan ("QAP"), in effect for the program year for which the Housing Tax Credit application will be submitted. If the applicable QAP contradicts rules set forth in this chapter, the applicable QAP will take precedence over the rules in this chapter. The Department encourages the participation in the Multifamily Bond programs by working directly with Applicants, lenders, trustees, legal counsels, local and state officials and the general public to conduct business in an open, transparent and straightforward manner. The Department has simplified the process, within the limitation of statute, to affirmatively support and create affordable housing throughout the State of Texas.

§3<u>5</u>3.2. Authority.

The Department receives its authority to issue Bonds from Chapter 2306 of the Texas Government Code. All Bonds issued by the Department must conform to the requirements of the Act. The Department will issue Bonds to finance the rehabilitation, preservation or construction of decent, safe and affordable housing throughout the State of Texas. Eligible Developments may include those which are constructed, acquired, or rehabilitated and which provide housing for individuals and families of Low Income, Very Low Income, or Extremely Low Income, and Families of Moderate Income. Notwithstanding anything herein to the contrary, tax-exempt Bonds which are issued to finance the Development of multifamily rental housing are specifically subject to the requirements of the laws of the State of Texas, including but not limited to Chapter 2306 and Chapter 1372 of the Texas Government Code relating to Private Activity Bonds, and to the requirements of the Code (as defined in this title).

§353.3. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Texas Government Code, Chapter 2306, §§42, 141 and 145 of the Internal Revenue Code, and §1.1 of_this title (relating to Definitions) and repeated in the Tax Credit (Procedures) Manual.

(1) Eligible Tenants--means

- (A) individuals and families of Extremely Low, Very Low and Low Income;
- (B) individuals and families of Moderate Income; or
- (C) Persons with Special Needs, in each case, with an Anticipated Annual Income not in excess of 140% of the area median income for a four-person household in the applicable standard metropolitan statistical area; provided that all Low-Income Tenants shall count as Eligible Tenants.

(2) Institutional Buyer--means

- (A) An accredited investor as defined in Regulation D promulgated under the Securities Act of 1933, as amended (17 CFR §230.501(a)), but excluding any natural person or any director or executive officer of the Department (17 CFR §230.501(a)(4) (6)); or
- (B) A qualified institutional buyer as defined by 17 CFR §230.144(A), promulgated under the Securities Act of 1935, as amended.
- (3) Owner--An Applicant that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a Development subject to the regulatory powers of the Department and other terms and conditions required by the Department and the Act.
- (4) Persons with Special Needs--Persons who:
 - (A) Are considered to be disabled under a state or federal law;
 - (B) Are elderly;
 - (C) Are designated by the Board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise; or
 - (D) Are legally responsible for caring for an individual described by subparagraph (A), (B) or (C) of this paragraph and meet the income guidelines established by the Board.
- (5) Private Activity Bond Program Scoring Criteria--The scoring criteria established by the Department for the Department's Multifamily Housing Revenue Bond Program, §3533.5(e) of this chapter (relating to Application Procedures, Evaluation and Approval).
- (6) Private Activity Bond Program Threshold Requirements--The threshold requirements established by the Department for the Department's Multifamily Housing Revenue Bond Program, §3533.5(d) of this chapter.
- (7) **Program**--The Department's Multifamily Housing Revenue Bond Program.
- (8) Tenant Services Social services, including child care, transportation, and basic adult education, that are provided to individuals residing in low income housing under Title IV-A, Social Security Act (42 U.S.C. §§601 et seq.), and other similar services.
- (9) Tenant Services Program Plan-The plan, subject to approval by the Department, which describes the Tenant Services to be provided by the Development Owner in a Development.
- (108) Trustee--A national banking association organized and existing under the laws of the United States, as trustee (together with its successors and assigns and any successor trustee).

§353.4. Bond Rating and Investment Letter.

(a) Bond Ratings. All publicly offered Bonds issued by the Department to finance Developments shall have and be required to maintain a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Board, which approval shall be evidenced by adoption by the Board of a resolution authorizing the issuance of the credit-enhanced Bonds. Remedies relating to failure to maintain appropriate credit ratings shall be provided in the financing documents relating to the Development.

(b) Investment Letters. Bonds rated less than "A," or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investment letter acceptable to the Department. Subsequent purchasers of such Bonds shall also be qualified as Institutional Buyers and shall sign and deliver to the Department an investment letter in a form acceptable to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and shall carry a legend requiring any purchasers of the Bonds to sign and deliver to the Department an investment letter in a form acceptable to the Department.

§353.5. Application Procedures, Evaluation and Approval.

- (a) Application Costs, Costs of Issuance, Responsibility and Disclaimer. The Applicant shall pay all costs associated with the preparation and submission of the Pre-application—including costs associated with the publication and posting of required public notices—and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any stage during the Application process, the Applicant is solely responsible for determining whether to proceed with the Application, and the Department disclaims any and all responsibility and liability in this regard.
- (b) Pre-application. An Applicant who requests financing from the Department for a Development shall submit a pre-application in the format prescribed by the Department. Within fourteen (14) days of the Department's receipt of the pre-application, the Department will be responsible for federal, state, and local community notifications of the proposed Development. Upon review of the pre-application, if the Development is determined to be ineligible for Bond financing by the Department pursuant to \$49.4 of this title (relating to Ineligible Applicants, Applications and Developments), the Department will send a letter to the Applicant explaining the reason for the ineligibility. Department review at this stage is limited and not all issues of Eligibility pursuant to \$50.4 of this title and Threshold pursuant to \$50.8 of this title are reviewed. Acceptance by staff of a pre-application does not ensure that the Applicant satisfies all Application Eligibility and Threshold requirements, including supporting documentation. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or threshold deficiencies at the time of pre-application. If the Development is determined to be eligible for Bond financing by the Department, the Department will score and rank the pre-application based on the Private Activity Bond Program Scoring Criteria as described in subsection (e) of this section.
 - (1) The Department will rank the pre-application with higher scores ranking higher within each priority defined by §1372.0321, Texas Government Code. All Priority 1 Applications will be ranked above all Priority 2 Applications which will be ranked above all Priority 3 Applications, regardless of score, reflecting a priority structure which gives consideration to the income levels of the tenants and the rent levels of the units consistent with §2306.359, Texas Government Code. This priority ranking will be used throughout the calendar year. In the event two or more Applications receive the same score, the Department will use as a tie-breaking mechanism the criteria as stipulated in §50.6(e) of this title. use, as a tie-breaking mechanism, a priority first for Applications involving rehabilitation; then if a tie still exists, the Application with the greatest number of points awarded for Quality and Amenities for the Development;

then if a tie still exists, the Department will grant preference to the pre-application with the lower number of net rentable square feet per bond amount requested. Pre-Applications must meet the threshold requirements as stated in the Private Activity Bond Program Threshold Requirements as set out in subsection (d) of this section.

- (2) After scoring and ranking, the Development and the proposed financing structure will be presented to the Department's Board for consideration of an inducement resolution declaring the Department's initial intent to issue Bonds with respect to the Development.
- (c) Approval of the inducement resolution does not guarantee final Board approval of the Bond Application. Department staff, for good cause, may recommend that the Board not approve an inducement resolution for an Application. Because each Development is unique, making the final determination is often dependent on the issues presented at the time the full Application is presented to the Board.
- (d) Pre-Application Threshold Requirements.
- (1) As the Department reviews the Application, the Department will use the assumptions as reflected in §1.32 of this title (relating to Underwriting Rules and Guidelines), even if not reflected by the Applicant in the Application.
 - (A) Construction Costs Per Unit Assumption. Costs not to exceed \$85 per square foot for general population developments and \$95 for elderly developments (Rehabilitation developments are exempt from this requirement);
 - (B) Anticipated Interest Rate and Term. As stated in the Summary of Financing Participants in the pre-application;
 - (C) Size of Units as reflected in §4950.8(5)(B) of this title (relating to Threshold Criteria).
- (2) Zoning. Evidence of appropriate zoning must be provided as referenced in $\$49\underline{50}.8(8)(B)$ of this title.
- (3) Proper Site Control. Properly executed and escrow receipted Site Control in the name of the Applicant (principal or member of the General Partner) valid through the inducement Board meeting at pre-application and ninety (90) days from the date of the Certificate of Reservation with the option to extend through the scheduled TDHCA Board meeting at full application. The potential expiration of site control does not warrant the application being presented to the TDHCA Board prior to the scheduled meeting.
- (4) Current Market Information (must support affordable rents).
- (5) Completed current TDHCA Bond Pre-Application.
- (6) Completed 2011/2012 Bond Review Board Residential Rental Attachment.
- (7) Evidence of paid Application Fees (\$1,000 to TDHCA, \$2,000 to Vinson and Elkins, as the Department's bond counsel, and \$5,000 to Bond Review Board).
- (8) Boundary Survey or Plat clearly identifying the location and boundaries of the subject property.
- (9) Local Area map showing the location of the Property and Community Services/Amenities within a three (3) mile radius (radius ring or scale must be present on the map).
- (10)Organization Chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant with evidence of Entity Registration or Reservation with the Office of the Secretary of State.
- (11)Required Notification. Evidence of notification is required in the form provided in the preapplication. The "Public Information Form" must be completed and include a list of all of the recipients (including names and complete addresses). Proof of delivery, though not required to be

submitted with the Application, must not be older than three months prior to the—date—of Application submission date. Notification must be sent to all the following individuals and entities (if the QAP in effect for the program year for which the Bond and Housing Tax Credit applications are submitted reflect a notification process that is different from the process listed in subparagraphs (A) - (G) of this paragraph, then the QAP will override the notification process listed in subparagraphs (A) - (G) of this paragraph):

- (A) State Senator and Representative that represents the district containing the development;
- (B) Presiding Officer of the governing body of any municipality containing the development and all elected members of that body (Mayor, City Council members);
- (C) Presiding Officer of the governing body of the county containing the development and all elected members of that body (County Judge and/or Commissioners);
- (D) School District Superintendent of the school district containing the development;
- (E) Presiding Officer of the School Board of Trustees of the school district containing the development; and
- (F) The Applicant must request Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as follows:
 - (i) No later than fourteen (14) days prior to the date the Ppre-application is submitted, the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Ppre-application materials to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in an area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (the "ETJ") of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format;
 - (ii) If no reply letter is received from the local elected officials by seven (7) days prior to the Ppre-application submission, then the Applicant must certify to that fact in the Ppre-application materials; and
 - (iii) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as provided by the local elected officials, or that the Applicant has knowledge of (regardless of whether the organization is on record with the county or state) as of the Ppre-Application submission in the "Certification of Notification Form" provided in the Ppre-application.
- (G) No later than the date the Ppre-application is submitted, Nnotification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt (email or fax to be "receipt confirmed") in the format required in the "Pre-application Notification Template" provided in the Ppre-Application materials. Developments located in an ETJ of a city are not required to notify city officials; however the county officials are required to be notified. It is strongly encouraged that Applicants retain proof of delivery of the notifications to the persons or entities prescribed in clauses (i) (ix) of this subparagraph in the event the Department requires proof of Nnotification. Evidence of proof of delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of receipt by recipient for facsimile and electronic mail. Officials to be notified are those officials in office at the time the Ppre-Aapplication is submitted.

- (i) Neighborhood Organizations on record with the state or county whose boundaries contain the proposed Development Site as identified in subparagraph (F)(iii) of this paragraph;
- (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) Mayor 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 representative of the district containing the Development; and
- (ix) State senator of the district containing the Development.
- (H) 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 Private Activity Bonds and 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 (general, or 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 and/or bonds are awarded.
- (e) Pre-application Scoring Criteria.
 - (1) Income and Rent Levels of the Tenants: Applications submitted as a Priority 1 will receive 10 points, Priority 2 will receive 7 points and Priority 3 will receive 5 points.
 - (2) Cost of the Development by Square Foot: For this item, costs shall be defined as construction costs, including site work, direct hard costs, 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). Costs must be greater than or equal to do not exceed \$85 per square foot for general population Developments and \$95 per square foot for elderly Developments (1 point) (Rehabilitations will automatically receive (1 point)).
 - (3) Size of Units: The average size of all Units combined in the Development must be greater than or equal to 950 square foot for general and must be greater than or equal to 750 square foot for elderly (5 points). (Rehabilitations will automatically receive 5 points).
 - (4) Period of Guaranteed Affordability for Low Income Tenants: Add ten (10) years of affordability after the extended use period for a total affordability period of forty (40) years ($\frac{14}{2}$ points).
 - (5) Quality of the Units as referenced in §4950.9(a)(4)(B) of this title (relating to Selection Criteria) and further defined in §1.1 of this title (relating to Definitions). Must select at least 14 points. (relating to Selection ____Criteria).

- (6) Common Amenities as referenced in §4950.8(5)(A)(iii) (vii) (relating to Threshold) and further defined in §1.1 of this title (relating to Definitions).
- (7) Tenant Services. Acceptable services include those described in §1.1 of this title (relating to <u>Definitions</u>). (maximum 8 points) (Tenant Services shall include only direct costs (tenant services contract amount, supplies for services, internet connections, initial cost of computer equipment, etc.). Indirect costs such as overhead and utility allocations may not be included);
- (A) \$10 per Unit per month (10 points);
- (B) \$7 per Unit per month (5 points);
- (C) \$4 per Unit per month (3 points).
- (8) Development Support/Opposition. Maximum net points of +24 to -24. Each letter will receive a maximum of +3 to -3. All letters received by 5:00 PM, seven (7) business days prior to the date of the Board meeting at which the Application will be considered for Applications submitted for waiting list and carryforward will be used in scoring. Letters must clearly state support or opposition to the specific Development. State Representatives or Senators as well as local elected officials to be considered are those in office at the time the Application is submitted and represent the district containing the proposed Development Site. Letters of support from State or local elected officials that do not represent the district containing the proposed Development Site 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. A letter that does not directly express support by expresses it indirectly by inference, (i.e. a letter that says "the local jurisdiction supports the Development and I support the local jurisdiction" will be treated as a neutral letter).
 - (A) Texas State Senator and Texas State Representative (maximum +3 to -3 points per official);
 - (B) Presiding officer of the governing body of any municipality containing the Development and the elected district member of the governing body of the municipality containing the Development (maximum +3 to -3 points per official);
 - (C) Presiding officer of the governing body of the county containing the Development and the elected district member of the governing body of the county containing the Development (if the site is not in a municipality, these points will be doubled) (maximum +3 to -3 points per official);
 - (D) Local School District Superintendent and Presiding Officer of the Board of Trustees for the School district containing the Development (maximum +3 to -3 points per official).
- (9) Proximity to Community Services/Amenities Community services/amenities within three (3) miles of the site. A map must be included identifying the Development Site and the location of services by name. If the services are not identified by name, points will not be awarded. All services must exist or, if under_active construction must be under active construction, post pad, by the date pre-application is submitted. The map must include either a three (3) mile radius ring or a scale. (Rehabilitation developments will receive 1.5 points for each item in subparagraphs (A) (NH-O) of this paragraph.)
 - (A) Full service grocery store-or supermarket (1 point);
 - (B) Pharmacy (1 point);
 - (C) Convenience store/mini-market (1 point);
 - (D) Department or Retail Merchandise Store (1 point);
 - (E) Bank/Credit Union (1 point);
 - (F) Restaurant (including fast food) (1 point);
 - (G) Indoor public recreation facilities, such as civic centers, community centers, and libraries, (1 point);

- (H) Outdoor public recreation facilities, such as parks, golf courses, and swimming pools, (1 point);
- (I) Fire/Police Station (1 point);
- (J) Hospital/medical clinic (1 point);
- (KGJ) Medical offices (physician, dentistry, optometry) or hospital/medical clinic (1 point);
- (LH) Public Transportation (1/2 mile from site) (1 point);
- (MK) Public School (only one school required for point and only eligible with general population developments) (1 point);
- (NL) Senior Center (1 point);
- (M)Religious Institutions.
- (N) Day Care Services (must be licensed only eligible for Developments that are not Qualified Elderly Developments).
- (O)Post Office, City Hall, County Courthouse.
- (10) Rehabilitation or Reconstruction Developments will receive 30 points. This will include the demolition of old buildings and New Construction of the same number of units if allowed by local codes or less units to comply with local codes. (not to exceed 252 total units).
- (11) Preservation Developments will receive 10 points. This includes Rehabilitation proposals on properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past ten (10) years. Evidence must be provided.
- (12) Declared Disaster Areas. Applications will receive 7 points, if at the time the complete preapplication is submitted or at any time within the two-year period preceding the date of submission, the proposed Development Site is located in a declared Disaster Area. This includes federal, state and Governor declared disaster areas.
- (13) Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits. Applications will receive 6 points if the proposed Development is located in a census tract in which there are no other existing Developments that were awarded housing tax credits in the last five (5) years and 3 points if there are no other existing developments that were awarded housing tax credits in the last three (3) years. The applicant must provide evidence of the census tract in which the Development is located. These Gensus Ftracts are outlined in the 2011 Housing Tax Credit Site Demographic Characteristics Report for the current program year.
- (14) Notary Public Services for Tenants. Applications will receive 1 point for this item. (§2306.6710(b)(3)) To receive this point, the Applicant must submit a certification that the Development will provide notary public services to the tenants during regular business hours at no cost to the tenant. This provision will be included in the Land Use Restriction Agreement and Regulatory Agreement.
- (f) Multiple Site Applications. For the purposes of scoring, applicants must submit the required information as outlined in the Pre-Application Submission Manual. Each individual property will be scored on its own merits and the final score will be determined based on an average of all of the individual scores.
- (g) Financing Commitments. After approval by the Board of the inducement resolution, and as part of the submission of a final application, the Applicant will be solely responsible for making appropriate arrangements with financial institutions which are to be involved with the issuance of the Bonds or the financing of the Development, and to begin the process of obtaining firm commitments for financing from each of the financial institutions involved.

- (h) Trustee and Investment Banking Firm Selection. The Applicant shall select, from the Approved list on the Department's website, a Trustee. An Applicant may coordinate with an out of state Trustee on the Approved list; however the funds must flow through a Texas office. The Applicant shall also select from the Approved list on the Department's website, an investment banking firm to serve as senior managing underwriter, co-managing underwriter or placement agent, as applicable. The Applicant will be responsible for all fees and expenses including those of the respective counsels, associated with the transaction.
- (hi) Full Application. Once the inducement resolution has been approved by the Board, Aan Applicant who elects to proceed with submitting a final Application to the Department must submit the Volumes I and II of the Housing Tax Credit Application. for Priority 1 and 2 Applications (as elected on the Bond Review Board Residential Rental Attachment) must submit the volumes, prior to receipt of a Certificate of Reservation-of allocation from the Texas Bond Review Board. For Priority 3 Applications the Volumes I and II must be submitted within fourteen (14) days of the Certificate of Reservation date from the Texas Bond Review Board. The Volume III of the Application and-such supporting material all Third Party reports as is-required by the Department must be submitted at least sixty (60) days prior to the scheduled meeting of the Board at which the Development and the Bond issuance are to be considered, unless the Department directs the Applicant otherwise in writing. The Application consists of the completed Uniform Application and Multifamily Rental Worksheets in the format required by the Department as posted to the Department's website. The Tax Credit (Procedures) Manual provides guidance on completing the Uniform Application. If the Applicant is applying for other Department funding then they are encouraged to refer to the Rules for that program for regarding Application submission requirements. The full Application must adhere to the Department's QAP in effect for the program year for which the Bond and Housing Tax Credit applications are submitted. The Department may determine that supporting materials listed in the full Application shall be provided subsequent to the final Application deadline in accordance with a schedule approved by the Department. Failure to provide any supporting materials in accordance with the approved schedule may be grounds for terminating the Application and returning the reservation to the Texas Bond Review Board.
 - (1) A Public Notification Sign shall be installed on the proposed Development site, regardless of Priority as described in §49.8(9)(B) of this title.
 - (2) Completed Uniform Application and Multifamily Rental Worksheets in the format required by the Department as posted to the Department's website.
- (ij) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification, or correction, or non-material missing information to resolve inconsistencies in the original Application of information submitted at the time of the Application, the Department staff may request such information in the form of an clarification or correction of such Administrative Deficiencyies as described in §4950.7(a)(2)(B) of this title (relating to Application Process).
- (jk) Eligibility Criteria. The Department, in addition to those items described in §4950.4 of this title, will evaluate the Development for eligibility at the time of pre-application, and at the time of full Application. If there are changes to the Application at any point prior to closing that have an adverse affect on the score and ranking order and that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the Certificate of Reservation to the Texas Bond Review Board (with the

exception of changes to deferred developer's fees and support or opposition points). The Development and the Applicant must satisfy the conditions set out in paragraphs (1) and (2) of this subsection in order for a Development to be considered eligible:

- (1) The proposed Development must further meet the public purposes of the Department as identified in the Code.
- (2) An <u>aApplication</u> may include either the <u>rRehabilitation</u> or <u>nNew eConstruction</u>, or both the <u>rRehabilitation</u> and <u>nNew eConstruction</u>, of qualified residential rental facilities located at multiple sites and with respect to which 51% or more of the residential units are located:
 - (A) in a county with a population of less than 75,000; or
 - (B) in a county in which the median income is less than the median income for the state, provided that the units are located in that portion of the county that is not included in a metropolitan statistical area containing one or more projects that are proposed to be financed, in whole or in part, by an issuance of bonds. The number of sites may be reduced as needed without affecting their status as a project for purposes of the application, provided that the final application for a reservation contains at least two sites. (§1372.002, Texas Government Code)
- (kl) Bond Documents. After receipt of the final Application, bond counsel for the Department shall draft Bond documents which conform to the state and federal laws and regulations which apply to the transaction. Bond counsel is not required to begin drafting the Bond documents until the appropriate fees have been received. The Applicant will be responsible for all bond counsel fees and expenses associated with the transaction.
- (Im) Public Hearings; Board Decisions. For every Bond issuance, the Department will hold a public hearing in accordance with §147(f) of the Code, in order to receive comments from the public pertaining to the Development and the issuance of the Bonds. The Applicant or member of the Development team must be present and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should contain at a minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is a Rehabilitation then the presentation should include the scope of work that will be done to the property. All handouts must be submitted to the Department for review at least two (2) days prior to the public hearing. Publication of all notices required for the public hearing shall be at the sole expense of the Applicant. The Board's decisions on approvals of proposed Developments will consider all relevant matters. Any topics or matters, alone or in combination, may or may not determine the Board's decision. The Department's Board will consider the following topics in relation to the approval of a proposed Development:
 - (1) The Developer market study;
 - (2) The location;
 - (3) The compliance history of the Developer;
 - (4) The financial feasibility;
 - (5) The appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;
 - (6) The Development's proximity to other low-income housing Developments;
 - (7) The availability of adequate public facilities and services;
 - (8) The anticipated impact on local school districts;
 - (9) Zoning and other land use considerations;
 - (10) Any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes; and

(11) Other good cause as found by the Board.

(mn) Approval of the Bonds.

- (1) Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board, upon presentation by the Department's staff, will consider the approval of the Bond issuance, final Bond documents and in the instance of privately placed Bonds, the pricing of the Bonds. The process for appeals and grounds for appeals may be found under §1.7 and §1.8 of this title. To the extent applicable to each specific bond issuance, the Department's conduit housing transactions will be processed in accordance with 34 TAC Part 9, Chapter 181, Subchapter A (relating to the Texas Bond Review Board rules) and Chapter 1372, Texas Government Code. The Bond issuance must receive an approving opinion from the Department's bond counsel with respect to the legality and validity of the Bonds and the security therefore, and in the case of tax-exempt Bonds, with respect to the excludability from gross income for federal income tax purposes of interest on the Bonds.
- (2) Alternative Dispute Resolution Policy. The Department encourages use of Alternative Dispute Resolution methods as outlined in §1.17 of this title.
- (no) Local Permits. Prior to the closing of the Bonds, all necessary approvals, including building permits, from local municipalities, counties, or other jurisdictions with authority over the Development must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees must be provided to the Department.
- (op) Closing. If there are changes to the Application prior to closing that have an adverse effect on the score and ranking order that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). Once all approvals have been obtained, including final approval by the Board and Bond documents have been finalized to the respective parties' satisfaction, the Bond transaction will close. Any outstanding Housing Trust Fund Pre-Development loans, if applicable, for the proposed Development ssite must be paid in full at the time the bond transaction is closed. All Applicants are subject to \$1.20(g) of this title (relating to Asset Resolution and Enforcement). Upon satisfaction of all conditions precedent to closing, the Department will issue Bonds in exchange for payment thereof. The Department will then loan the proceeds of the Bonds to the Applicant and disbursements of the proceeds may begin.

§353.6. Regulatory and Land Use Restrictions.

- (a) Filing and Term of LURA. A Regulatory and Land Use Restriction Agreement or other similar instrument (the "LURA"), will be filed in the property records of the county in which the Development is located for each Development financed from the proceeds of Bonds issued by the Department. The term of the LURA will be the longer of thirty (30) years, from the date the Development Owner takes legal possession of the Development or until the end of the remaining term of the existing federal government assistance pursuant to §2306.185.
- (b) Development Occupancy. The LURA will specify occupancy restrictions for each Development based on the income of its tenants, and will restrict the rents that may be charged for Units occupied by tenants who satisfy the specified income requirements. Pursuant to §2306.269, Texas Government

Code, the LURA will prohibit a Development Owner from excluding an individual or family from admission to the Development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (the "Housing Act"), and from using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than two and one half (2.5) times the individual's or family's share of the total monthly rent payable to the Development Owner. Development occupancy requirements must be met on or prior to the date on which Bonds are issued unless the Development is under construction. Adequate substantiation that the occupancy requirements have been met, in the sole discretion of the Department, must be provided prior to closing. Occupancy requirements exclude Units for managers and maintenance personnel that are reasonably required by the Development.

(c) Set Asides.

- (1) Developments which are financed from the proceeds of Private Activity Bonds or from the proceeds of Qualified §501(c)(3) Bonds must be restricted under one of the following two minimum set-asides:
 - (A) at least 20% of the Units within the Development that are available for occupancy shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 50% of the area median income; or
 - (B) at least 40% of the Units within the Development that are available for occupancy shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 60% of the area median income.
- (2) The Development Owner must designate at the time of Application which of the two set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with §1372.0321, Texas Government Code. Units intended to satisfy set-aside requirements must be distributed evenly throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.
- (3) No tenant qualifying under either of the set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit; provided, however, that, should a tenant's income, as of the most recent determination thereof, exceed 140% of the then applicable income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant (Required federal set-aside requirements).
- (d) Global Income Requirement. All of the Units that are available for occupancy in Developments financed from the proceeds of Private Activity Bonds or from the proceeds of Qualified §501(c)(3) Bonds shall be occupied or held vacant (in the case of <u>nNew eConstruction</u>) and available for occupancy at all times by persons or families whose income does not exceed 140% of the area median income for a four-person household.
- (e) Qualified §501(c)(3) Bonds. Developments which are financed from the proceeds of Qualified §501(c)(3) Bonds are further subject to the restriction that at least 75% of the Units within the Development that are available for occupancy shall be occupied (or, in the case of <u>PNew eConstruction</u>, held vacant and available for occupancy until such time as initial lease-up is complete) at all times by individuals and families of Low Income (less than or equal to 80% of <u>AMGIAMFI</u>).

- (f) Taxable Bonds. The occupancy requirements for Developments financed from the issuance of taxable Bonds will be negotiated, considered and approved by the Department on a case by case basis.
- (g) Fair Housing. All Developments financed by the Department must comply with the Fair Housing Act which prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. The Fair Housing Act also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities.
- (h) Tenant Services. Acceptable services include those found in §49.9(a)(9) of this title (relating to Selection Criteria).

§3<u>53</u>.7.Fees.

- (a) Pre-Application Fees. The Applicant is required to submit, at the time of pre-application, the following fees: \$1,000 (payable to TDHCA), \$2,000 (payable to Vinson & Elkins, the Department's bond counsel) and \$5,000 (payable to the Texas Bond Review Board (BRB)). These fees cover the costs of pre-application review by bond counsel and filing fees to the BRB. The Department shall set fees to be paid by the Applicant in order to cover the costs of pre-application review, Application and Development review, the Department's expenses in connection with providing financing for a Development, and as required by law. (§1372.006(a), Texas Government Code).
- (b) Application and Issuance Fees. At the time of full application the Applicant is required to submit a tax credit application fee of \$30/unit and \$10,000 for the bond application fee (for multiple site Applications \$10,000 or \$30/unit, whichever is greater, for the bond application fee.) At the closing of the bonds the following fees are required: an issuance fee equal to 50 basis points (0.005) of the issued bond amount, administration fee equal to 20 basis points (0.002) and a Private Activity Bond compliance fee equal to \$25/unit and a tax credit compliance fee equal to \$40/unit. For refunding Applications the Application fee will be \$10,000 unless the refunding is not required to have a TEFRA public hearing, in which case the fee will be \$5,000.
- (c) Annual Administration, Portfolio Management and Compliance, and Asset Management Fees. The Department shall set ongoing fees to be paid by Development Owners to cover the Department's costs of administering the Bonds, portfolio management and compliance with the program requirements applicable to each Development and asset management applicable requirements as applicable.
 - (1) Administration. The annual administration fee is paid in arrears and is equal to 10 basis points (0.001) of the outstanding bond amount beginning three years from the closing date. These fees are paid as long as the bonds are outstanding.
 - (2) Compliance Monitoring Fees. The annual tax credit compliance fee is paid in advance (for the duration of the compliance or affordability period) and is equal to \$40/unit beginning two years from the closing date on the bonds. 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 form 8609. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the month the first building is placed in service. The Private Activity Bond compliance fee is paid in advance at closing (for as long as the bonds are outstanding) and is equal to \$25/unit beginning two years from the closing

- date on the bonds for payment to be applied to the third year following closing. Compliance monitoring fees may be adjusted from time to time by the Department.
- (3) Asset Management. The asset management fee is paid in advance and is equal to \$25/unit beginning two years from the closing date on the bonds. This fee is based on voluntary participation in the asset management program. Those who elect to participate are encouraged to contact the Texas State Affordable Housing Corporation (TSAHC) for information on billing and services offered.

§353.8. Waiver of Rules.

Provided all requirements of the Act, the Code, and any other applicable law are met, the Board may waive any one or more of the Rules set forth in this chapter relating to the Multifamily Housing Revenue Bond Program in order to further the purposes and the policies of Chapter 2306, Texas Government Code; as further referenced in §50.16 of this title. to encourage the acquisition, construction, reconstruction, or rehabilitation of a Development that would provide decent, safe, and sanitary housing, including, but not limited to, providing such housing in economically depressed or blighted areas, or providing housing designed and equipped for Persons with Special Needs; or for other good cause, as determined by the Board.

§353.9. No Discrimination.

The Department and its staff or agents, Applicants, Development Owners, and any participants in the Program shall not discriminate under this Program against any person or family on the basis of race, creed, national origin, age, religion, handicap, family status, or sex, or against persons or families on the basis of their having minor children, except that nothing herein shall be deemed to preclude a Development Owner from selecting tenants with Special Needs, or to preclude a Development Owner from selecting tenants based on income in renting Units to comply with the set asides under the provisions of this chapter.

Attachment B: Preamble and Proposed Repeal Chapter 33

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 33, §§33.1 - 33.10, concerning the 2010 Multifamily Housing Revenue Bond Rules. The sections are proposed to be repealed in order to enact new sections.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the repeal.

Mr. Irvine has also determined that for each year of the first five-years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to permit the adoption of new rules for multifamily housing revenue bonds, thereby enhancing the State's ability to provide decent, safe and sanitary housing administered by the Department.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed. The proposed repeal will not impact local employment.

The public comment period will be held between September 26, 2011 to October 19, 2011 to receive input on these rules and public hearings will be held. More information on the public hearings can be found at http://www.tdhca.state.tx.us. Written comments may be submitted to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. October 19, 2011.

The repeal is proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provide the Department with the authority to adopt rules governing the administration of the Department and its programs.

No other statutes, articles, or codes are affected by the proposed repeal.

- *§33.1. Introduction.*
- *§33.2. Authority.*
- §33.3. Definitions.
- §33.4 .Policy Objectives and Eligible Developments.
- *§33.5. Bond Rating and Investment Letter.*
- §33.6. Application Procedures, Evaluation and Approval.
- *§33.7. Regulatory and Land Use Restrictions.*
- §33.8. Fees.
- §33.9. Waiver of Rules.
- §33.10. No Discrimination.

REAL ESTATE ANALYSIS BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1, §§1.31 – 1.37, concerning 2011 Real Estate Analysis Rules and Guidelines and a proposed new 10 TAC Chapter 1, §§1.31 – 1.37, concerning 2012 Real Estate Analysis Rules and Guidelines for public comment and publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Chapter 2306 of the Texas Government Code, the Department is provided the authority to adopt rules governing the administration of the Department and its programs.

RESOLVED, that the proposed repeal and proposed new rule for the Real Estate Analysis Division, 10 TAC, Chapter 1, Subchapter B, §§1.31 – 1.37, General Provisions, Underwriting Rules and Guidelines, Market Analysis Rules and Guidelines, Appraisal Rules and Guidelines, Environmental Site Assessment Rules and Guidelines, Property Condition Assessment Guidelines, and Reserve for Replacement Rules and Guidelines is hereby ordered and it is approved, together with the preambles presented to this meeting, for publishing in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the draft Real Estate Analysis Rules, in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Real Estate Analysis Rules remain separate from the Qualified Allocation Plan ("QAP") to facilitate the application of these rules with all of the Department's multifamily programs. The draft rules presented herein include proposed changes resulting from public input garnered at a roundtable meeting, comments received on the discussion draft published on the website and staff input. Significant changes are summarized below. Other changes that are minor or clarifying in nature are not discussed herein.

§1.31(b) Definitions

(5) Comparable Unit - Changed to reflect only the physical characteristics of a unit that is then used contextually throughout the rules.

- (9) Development Added
- (22) Net Program Rent Added to define the maximum collectable rent under any program with affordable rent limits.
- (25) Pro Forma Rent Added to define the rent used by the Underwriter in calculating the gross potential rent.
- (27) Qualified Market Analyst Changed to remove reference to certification and license requirements.
- (26) Rent Over-Burdened Households Deleted as not used in the rule.
- (28) Restricted Market Rent Deleted as no longer necessary for rental income determination.
- (31) Supportive Housing Deleted as defined in other rule.
- (34) Unstabilized Development Modified to allow the Underwriter to deem a development stabilized if warranted and determined by the Underwriter.

§1.32 Underwriting Rules and Guidelines

§1.32(d)(1)(A) Rental Income

This section is simplified by defining only three types of rents that the Underwriter will determine and use in calculating the Pro Forma Rent for comparison to the Applicant's rents: Market Rent, Net Program Rent and Contract Rent. The concept of Restricted Market Rent is eliminated as it is already a component of Market Rent on properties with Comparable Units.

§1.32(d)(1)(C) Vacancy and Collection Loss

Language modified to allow Underwriter to adjust vacancy and collection loss assumptions based on current or projected market conditions.

§1.32(d)(2)(A) General and Administrative Expense

Clarified that this expense item does not include partnership and tenant service expenses.

§1.32(d)(4) Debt Coverage Ratio

Changed to eliminate "commitment" letters and replace with "term sheet(s)" as commitment letters do not typically exist at underwriting.

§1.32(d)(5)(C) Long Term Pro forma

Removed list of specific items the Underwriter may consider in making adjustments to the Long Term Proforma.

§1.32(e)(1)(B) Identity of Interest Acquisitions

Simplifies methodology and information required.

§1.32(e)(1)(C) Acquisition of Buildings for Tax Credit Properties

Simplifies and clarifies methodology and information required.

§1.32(e)(3) Site Work Costs

Allows the Underwriter to request additional information, including an engineer certification regardless of the \$9,000 per unit threshold, on sites where the site work cost estimate is inconsistent with site conditions. Of the 22 new construction developments underwritten in the 2011 tax credit applications, 10 applications were submitted showing site work cost between \$8,900 and \$9,000 per unit. Many site plans did not show or discuss detention/retention requirements and did not consider topography or other site conditions.

§1.32(e)(7) Developer Fee

Clarifies current methodology that eligible Developer Fee is calculated based on eligible costs.

§1.32(d)(8) Financing Costs

Removes construction interest on Related-Party loans from the eligible interest calculation.

§1.32(f) Development Team Capacity and Development Plan

Modified and expands the scope of the Underwriter's review of the Applicant and Development as a whole. Additionally, the section provides a mechanism to address significant concerns in cases where the Development otherwise meets numeric feasibility tests. Any such concerns will be presented to the Executive Award and Review Committee prior to publication of the Report.

§1.32(i)(1)(3)

Deleted additional restriction requirement when the Restricted Market Rent (which definition has been deleted) for 60% units are less than the Net Program Rent and Market Rent.

§1.32(i)(5)(B)(vi)

Deleted exception due to lack of clarity and already handled in other exceptions.

§1.34 Appraisal Rules and Guidelines

§1.34(d)(10) Value Estimates

Clarifies and simplifies the values to be provided by the Appraiser based on the type of development.

Attachment A: Preamble and Proposed New Rule §§1.31 - 1.37

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 1, §§1.31 – 1.37, concerning the Real Estate Analysis Division. The new sections are proposed in order to remove any redundant or unnecessary references to other federal or state statutes and include recommendations for necessary policy and administrative changes to further enhance and streamline operations.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed new sections are in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the new sections as proposed.

Mr. Irvine has also determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be enhanced compliance with formalized policy, all contractual and statutory requirements. There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the new sections as proposed. The proposed new sections will not impact local employment.

The public comment period will be held between September 26, 2011 to October 19, 2011 to receive input on the repeal of the sections. Written comments may be submitted to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 19, 2011.

The new sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provide the Department with the authority to adopt rules governing the administration of the Department and its programs.

No other statutes, articles, or codes are affected by the proposed new sections.



Real Estate Analysis Division

20112012 Real Estate Analysis Rules

§1.31. GENERAL PROVISIONS.	<u>1</u> 2
§1.32. UNDERWRITING RULES AND GUIDELINES.	
§1.33. MARKET ANALYSIS RULES AND GUIDELINES.	21 22
§1.34. APPRAISAL RULES AND GUIDELINES.	28 2 9
§1.35.ENVIRONMENTAL SITE ASSESSMENT RULES AND GUIDELINES.	
§1.36. PROPERTY CONDITION ASSESSMENT GUIDELINES.	34 <mark>35</mark>
§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, 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 that ensures the most efficient allocation of resources while promoting and preserving the public interest in ensuring the long-term health of the Department's portfolio. 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 determination of Development feasibility (§2306.0661(f)081(c), §2306.185 and §2306.6710(d), Texas Government Code). 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) Definitions.

Terms used in this subchapter that are also defined in Chapter 4950 of this title (relating to the 2011 Department's Housing Tax Credit Program 2012 Qualified Allocation Plan-and-Rules, known as the "QAP") have the same meaning as in the QAP. Those terms that are not defined in the QAP or which may have another meaning when used in this subchapter, shall have the meanings set forth in §1.3231(b) of this subchapter (relating to Underwriting Rules and Guidelines) and subchapter §1.1 (relating to Definitions and Amenities for Housing Program Activities).

(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.

- (2) Bank Trustee--A bank authorized to do business in this state, with the power to act as trustee.
- (3) Breakeven Occupancy--The occupancy level at which rental income plus secondary income is equal to all operating expenses, including replacement reserves and taxes, and mandatory debt service requirements for a Development.
- (4) Cash Flow--The funds available from operations after all expenses and debt service required to be paid has been considered.
- - (A) for purposes of calculating the inclusive capture rate, targets the same population and is likely to draw from the same demand pool;
 - (B) for purposes of estimating the Restricted Market Rent targets the same population and is similar in net rentable square footage and number of bedrooms; or
 - (C) for purposes of estimating the subject Unit market rent does not have any income or rent restrictions and is similar in net rentable square footage and number of bedrooms.
- –(6) Contract Rent--MaximumNet rent—limits based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.
- (7) Credit Underwriting Analysis Report--Sometimes referred to as the "Report." A decision making tool used by the Department and Board containing a synopsis and reconciliation of the application information submitted by the Applicant.
- (8) Debt Coverage Ratio (DCR)--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 Calculated as Net Operating Income for any period divided by debt service required to be paid during the same period.
- (9) Development—A residential rental housing development that has no less than 16 units under common ownership which has applied for Department funds.
- (109) Effective Gross Income (EGI)--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.
- (1<u>10</u>) Eligible Hard Costs--Hard Costs includable in Eligible Basis for the purposes of determining a Housing Tax-Credit Allocation.
- (124) Environmental Site Assessment (ESA)--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 §1.35 of this subchapter (relating to Environmental Site Assessment Rules and Guidelines) as it relates to a specific Development.
- (132) First Lien Lender--A lender whose lien has first priority.
- (1<u>4</u>3) Gross Capture Rate--The Gross Capture Rate is defined <u>Calculated</u> as the Relevant Supply divided by the Gross Demand.
- (154) Gross Demand--The sum of Potential Demand from the Primary Market (PMA), demand from other sources, and Potential Demand from a Secondary Market Area (SMA) to the extent that SMA demand does not exceed 25% of Gross Demand.
- (165) Gross Program Rent--Sometimes called the "Program Rents." Maximum rent limits based upon the tables promulgated by the Department's division responsible for compliance which are developed by program and by county or Metropolitan Statistical Area ("(MSA")) or Primary Metropolitan Statistical Area ("(PMSA")) or national non-metro area.
- (1<u>76</u>) Hard Costs--The sum total of direct construction costs, site work costs, off-site costs and contingency.
- (187) Market Analysis--Sometimes referred to as "Market Study." An evaluation of the economic conditions of supply, demand and rental rates or pricing conducted in accordance with §1.33 of

- this subchapter (relating to Market Analysis Rules and Guidelines) as it relates to a specific Development.
- ((198) Market Analyst--Any person who prepares a market study.
- (2019) –Market Rent--The rent concluded by the Market Analyst for a particular unit type and sizeComparable Unit determined after adjustments are made to rents charged by owners of Comparable Units on properties without rent and income restrictions.
- (210) Net Operating Income (NOI)--The income remaining after all operating expenses, including replacement reserves and taxes have been paid.
- (22)21Net Program Rent--Calculated as Gross Program Rent less Utility Allowance.
- (23) Potential Demand--The number of income-eligible, age-, size-, and tenure-appropriate target households in the designated market area at the proposed placement in service date.
- (2224) Primary Market--Sometimes referred to as "Primary Market Area" or "PMA.". The area defined by the Qualified Market Analyst as described in §1.33(d)(9) of this subchapter from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers.
- (23) Pro Forma Rent—For a restricted unit, the lesser of the Net Program Rent or the Market Rent.

 For an unrestricted unit, the Market Rent. Contract Rents, if applicable, will be used as the Pro Forma Rent.
- (26) Property Condition Assessment--Sometimes referred to as "PCA," "Physical Needs Assessment," "Project Capital Needs Assessment," or "Property Condition Report." The PCA provides an evaluation of the physical condition of an existing property to evaluate the immediate cost to rehabilitate and to determine costs of future capital improvements to maintain the property. The PCA must be prepared in accordance with §1.36 of this subchapter (relating to Property Condition Assessment Rules and Guidelines) as it relates to a specific Development.
- (2427) Qualified Market Analyst--A real estate appraiser certified or licensed by the Texas Appraiser Licensing and Certification Board, a real estate consultant, or other professional currently active infamiliar with the subject property's market area who demonstrates competency, expertise, and the ability to render a high quality written report. Market Analysis. 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.
- (2527) Relevant Supply--The relevant supply of proposed and unstabilized Comparable Units includes in proposed and Unstabilized Developments targeting the same population including:
 - (A) The proposed subject Units;
 - (B) Comparable Units in another development within the PMA with a priority Application over the subject, based on the Department's evaluation process described in §49.7(g) of this title (relating to Application Process), the QAP that may not have made application to TDHCA and have not been presented to the TDHCA Board for decision; and
 - (C) Comparable Units in previously approved but Unstabilized Developments in the Primary Market Area (PMA); and
 - (D) Comparable Units in previously approved but Unstabilized Developments in the Secondary Market Area (SMA), in the same proportion as the proportion of Potential Demand from the SMA that is included in Gross Demand.
- (26) 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 50% of gross income towards total housing expenses.
- (27 (28) 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.

(28) Restricted Market Rent—The restricted rent concluded by the Qualified Market Analyst for a particular unit type and size after adjustments are made to rents charged by owners of Comparable Units on properties with the same rent and income restrictions.

(29)

- (29) Secondary Market--Sometimes referred to as "Secondary Market Area." or "SMA". The area defined by the Qualified Market Analyst as described in §1.33(d)(8) of this subchapter.
- (30(31) Sub-Market--An area defined by the Underwriter based on general overall market segmentation promulgated by market data tracking and reporting services from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers.
- (31) Supportive Housing Residential rental developments intended for occupancy by individuals or households in need of specialized and specific non-medical services in order to maintain independent living.
- (32) TDHCA Operating Expense Database--Sometimes referred to as "TDHCA Database." A consolidation of recent actual income and operating expense information collected through the Department's Annual Owner Financial Certification process, as required and described in Chapter 60, Subchapter A of this title (relating to Compliance Monitoring), and published on the Department's web site.
- (33) Underwriter--The author(s) of the Credit Underwriting Analysis Report.
- (34) Unstabilized Development--A Development with Comparable Units that has been approved for funding by the TDHCA Board or is currently under construction or has not maintained a 90% occupancy level for at least twelve (12) consecutive months following construction completion.— A development may be deemed stabilized by the Underwriter based on factors relating to a development's lease-up velocity, Sub-Market rents, Sub-Market occupancy trends and other information available to the Underwriter. The Market Analyst may not consider a development stabilized in the Market Study.
- (35) Utility Allowance--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, a documented estimate from the utility provider proposed in the Application, or for an existing development an allowance calculated by the Department pursuant to §60.109 of this title (relating to Utility Allowances). 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.
- (36) Work Out Development--A financially distressed Development for which the Owner and/or a primary financing participant is seeking a change in the terms of Department funding or program restrictions-based upon market changes.

(c) Appeals.

Certain programs contain express appeal options. Where not indicated, §1.7 of this chapter (relating to Staff Appeals Process) and §1.8 of this chapter (relating to Board Appeals Process)_include general appeal procedures. In addition, the Department encourages the use of Alternative Dispute Resolution (ADR) methods, as outlined in §1.17 of this chapter.

- §1.32. Underwriting Rules and Guidelines.
- (a) General Provisions.

The DepartmentPursuant to Chapter 2306.148 and 2306.185(b), Texas Government Code, the Department's Governing Board hasis authorized the to adopt underwriting standards as set forth in this section. Furthermore for Housing Credit Allocation, §42(m)(2) of the Internal Revenue Code (IRC) requires the tax credits allocated to a development of these does not exceed the amount necessary to assure feasibility. The rules under its authority under §2306.148, Texas Government Code. The rules provide a mechanism to produce consistent information in the formmeet the requirements of the Texas Government Code and the IRC, resulting in a Credit Underwriting Analysis Report to provide interested parties information the used by the Department's Governing Board relies upon in balancing than necessary and havebased on an independent verification that Developments are economically feasible analysis of development feasibility. The Report should consider all information timely provided by the Applicant. The Report generated 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 consistenta synopsis and reconciliation of the application information submitted by the Applicant. The Report contents will be based solely upon information that is provided in accordance with the time frames provided in the current Qualified Allocation Plan (QAP), Program Rules, or Notice of Funds Availability (NOFA), as appropriate. The Report should also identify the number of revisions and date of most current revision to any information deemed to be relevant by the Underwriter applicable.

(c) Recommendations in the Report.

The conclusion of the Report includes a recommended award of funds or allocation of Housing Tax CreditsCredit Allocation Amount based on the lesser amount calculated by the program limit method, if applicable, gap/DCR method, or the amount requested by the Applicant as further described in paragraphs (1) - (3) of this subsection, and states any feasibility conditions to be placed on the award.

- (1) Program Limit Method. For <u>DevelopmentsApplicants</u> requesting <u>a</u> Housing <u>Tax CreditsCredit</u> <u>Allocation</u>, this method is based upon calculation of Eligible Basis after applying all cost verification measures and program limits as described in this section. The Applicable Percentage used is as defined in the QAP. For <u>DevelopmentsApplicants</u> requesting funding through a Department program other than Housing Tax Credits, this method is based upon calculation of the funding limit based on the current program rules or NOFA at the time of underwriting.
- (2) Gap/DCR Method. This method evaluates the amount of funds needed to fill the gap created by total development cost Total Housing Development Cost less total non-Department-sourced funds or Housing 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 Housing Tax Credits. In making this determination, and based upon specific conditions set forth in the

Department adjustsReport, the permanent loan amount and/or any Department-sourced loans, as necessaryUnderwriter may assume adjustments to the financing structure or make adjustments to any Department financing, such that ithe cumulative DCR conforms to the DCR standards described in this section.

(3) The Amount Requested. The amount of funds that is requested by the Applicant as reflected in the <u>original Application</u> documentation.

(d) Operating Feasibility.

The operating financial feasibility of <u>Developments developments</u> funded by the <u>Department</u> is tested by subtracting operating expenses, including replacement reserves and taxes, from <u>EGIIncome</u> to determine Net Operating Income. <u>This The annual Net Operating Income</u> is divided by the <u>cumulative annual debt service required to be paid</u> 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 (4)(D) 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, which could result in a re-characterization of the Development as feasible based upon specific conditions set forth in the Report.

- (1) Income. In determining the <u>Year 1 proformafirst year stabilized pro forma</u>, 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 subparagraphs (B) and (C) of this paragraph, respectively, are applied unless well-documented support is provided.
 - (A) Rental Income. The Underwriter will update the utility allowance and calculate the appropriate rent on a conservative or Contract Rent basis for comparison to the Applicant's estimate in the Application. To determine the conservative basis, the Underwriter may consider the current rent roll of the subject Development and/or documentation of rents for Comparable Units; this shall be referred to as the "Underwriter's independently verified rents." The conservative basis for a restricted unit is the lesser of the Gross Program Rent less Utility Allowances ("Net Program Rent") or Restricted Market Rent or the Underwriter's independently verified rents. The conservative basis for an unrestricted unit is the lesser of the Market Rent, or Applicant's projected rent where the Applicant's projected rent is reasonable to the Underwriter as supported by documentation of Comparable Units, or the Underwriter's independently verified rents. Where Contract Rents are included, they will be used regardless of the conservative basis derived rent.

Market Rents. The Underwriter reviews the attribute adjustment matrix of 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

- (A) Rental Income. The Underwriter will independently calculate the Pro Forma Rent for comparison to the Applicant's estimate in the Application.
 - (i) Market Rents. The Underwriter will use the Market Analyst's conclusion of adjusted Market Rent by unit, as long as the proposed Market Rent is , if 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 Analysts attribute adjustment matrix should include, at a minimum, adjustments for location, size, amenities, and concessions as more fully supported by the attribute adjustment

matrix of Comparable Units as described in §1.33 of this subchapter (relating to Market Analysis Rules and Guidelines). Independently determined Market Rents by the Underwriter may be used based on rent information gained from direct contact with comparable properties, whether or not used by the Market Analyst, and other market data sources.

(ii) Restricted Market Rent. The Underwriter reviews the attribute adjustment matrix of Comparable Units by unit size and income and rent restrictions 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 Restricted Market Rent by unit, as long as the proposed Restricted Market Rent is reasonably justified and does not exceed the highest existing unadjusted market comparable restricted rent. Random checks of the validity of the Restricted Market Rents may include direct contact with the comparable properties. The Market Analysts 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.

Gross Program Rents less Utility Allowance or

(iii)_____Net Program Rents. 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 Gross 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. Gross Program Rents are reduced byfor the Utility Allowance.same year. If Gross Program Rents are adjusted by the Department after the close of the Application Acceptance Period but prior to publication of the Report, the Underwriter willmay adjust the Applicant's EGI to account for any increase or decrease in Gross Program Rents for the purposes of determining the reasonableness of the Applicant's EGI.

- (I) Units must be individually metered for all utility costs to be paid by the tenant.
- (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 tenantpaid utilities unless the tenant is expected to provide their own appliances, and no eligible appliance costs are included in the development cost breakdownTotal Housing Development Cost schedule.

(v)(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 underwriter will take into consideration the Applicant's intent to request a Contract Rent increase. At the discretion of the Underwriter, the Applicant's proposed rents may be used inas the underwriting-analysisPro Forma Rent with the recommendations of the Report conditioned upon receipt of final approval of such increase.

- (B) 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 \$20 per unit per month range. Exceptions may be made at the discretion of the Underwriter for garage income, pass-through utility payments, pass-through water, sewer and trash 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 within the PMA or SMA.
 - (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 unita Unit and must show that the tenant has a reasonable alternative.
 - (iii) The Applicant's operating expense schedule should reflect an <u>itemized</u> 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 exceptional fee items will generally be heavily discounted.
 - (v) If an additional fee is charged for the use of an amenity, any cost associated with the construction, acquisition, or development of the hard assets needed to produce the additional fee for such amenity must be reduced from Eligible Basis for Tax Credit Developments.
- (C) Vacancy and Collection Loss. The Underwriter generally uses a vacancy rate of 7.5% (5% vacancy plus 2.5% for collection loss) unless). The Underwriter may use other assumptions based on conditions in the Market Analysis reflects a higher or lower established vacancy rate for the immediate market area. Qualified Elderly Developments and 100% project-based rental subsidy Developments 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.
- figureestimate provided by the Applicant is within 5% of the EGI figure calculated by the Underwriter, the Applicant's figureEGI is characterized as reasonable in the Report; however, for purposes of calculating DCR the UnderwriterUnderwriter's pro forma will maintain and use its independent calculation be used unless the Applicant's proformapro forma meets the requirements of paragraph (3) of this subsection.
- (2) Expenses. In determining the Year 1 preformafirst year stabilized pro forma, the Underwriter evaluates the reasonableness of the Applicant's expense estimate by line item comparisons 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. Historical stabilized certified or audited financial statements of the Development or Third Party quotes specific to the Development will reflect the strongest data points to predict future performance. The Department's database TDHCA Database of properties in the same location or region as the proposed Development also provides heavily relied upon data points; the Department's database summary expense data from the TDHCA Database is available on the TDHCA website. Data 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. Estimates of utility savings from green building components, including on-site renewable energy, must be documented by experience of

third parties not related to the an unrelated contractor or component vendor. Finally, well Well documented information provided in the Market Analysis, Appraisal, the Application, and other sources may be considered.

- (A) General and Administrative Expense. General and Administrative ("G&A"). Expense includes all for accounting fees, legal fees, advertising and marketing expenses, office operation, supplies, and equipment expenses. The underwriting tolerance level for this line item is 20%. G&A does not include partnership related expenses such as asset management, accounting or audit fees. Costs of Tenant Services are not included in G&A.
- (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 thea property management agreement contract. Typically, 5% of the Effective Gross Income is used, though higher percentages for rural transactions that are consistent with the TDHCA Database canmay be concluded used. Percentages as low as 3% may be utilized if well documented by a fully executed 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 for direct on-site staff payroll, insurance benefits, and payroll taxes including payroll expenses for repairs and maintenance typical of a conventional comparable development. It does not, however, include direct security payroll or additional supportive services Tenant Services payroll. The underwriting tolerance level for this line item is 10%.
- _(D) Repairs and Maintenance Expense. Repairs and Maintenance Expense includes all for repairs and maintenance, third-party maintenance contracts and supplies. It should not include extraordinary—capitalized expenses that would result from major replacements or renovations. Direct payroll for repairs and maintenance activities are included in payroll expense. The underwriting tolerance level for this line item is 20%.
- (E) Utilities Expense (Gas and Electric). Utilities Expense 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. The underwriting tolerance level for this line item is 30%, development.
- (F) Water, Sewer and Trash Expense. Water, Sewer and Trash Expense ("WST"). WST 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. The underwriting tolerance level for this line item is 30%. development.
- ((G) Insurance Expense. Insurance Expense includes any insurance for the buildings, contents, and general liability but not health or workman's compensation insurance. The underwriting tolerance level for this line item is 30%.
- (H) Property Tax. Property Tax includes all real Real property and personal property taxes but not payroll taxes. The underwriting tolerance level for this line item is 10%.
 - (i) The per unitAn assessed value will be calculated based on the capitalization rate published onby the county taxing authority's websiteauthority. If the county taxing authority does not publish a capitalization rate on the internet, a capitalization rate of 10% will be used or a comparable assessed valuesvalue may be used in evaluating this line item expense.
 - (ii) Property tax exemptions or <u>a</u> "Proposed Payment In Lieu Of Tax" 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 that meets known federal, state and local laws may be applied based on the tax-exempt status of the Development Owner and its Affiliates.

- (I) Reserves. Reserves includeAn annual reserve for replacements of future capitalizablecapital expenses as well as and any ongoing additional operating reserve requirements. The Underwriter includes minimum reserves of \$250 per unit for new constructionNew Construction and Reconstruction developments and \$300 per unit for all other Developmentsdevelopments. The Underwriter may require an amount above \$300 for Developments other than new constructionthe Development based on information provided in the PCA. The Applicant's expense assumption for reserves may be adjusted by the Underwriter if the amount provided by the Applicant is insufficient to fund capital needs as documented by the PCA during the first 15 years of the long term proforma. Higher levels of reserves also may be used if they are documented in the financing commitment letters by a primary lender or syndicator.
- (J) Other Expenses. The Underwriter will include other reasonable and documented expenses, 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. The most common other expenses are described in more detail in clauses (i) (iviii) of this subparagraph.
 - (i) Supportive Tenant Services Expense. Supportive Services Expense includes the documented cost. Cost to the ownerdevelopment of any non-traditional tenant benefit such as payroll for instruction or activities personnel. The Underwriter will not evaluate any selection points for this item. The Underwriter's verification will be limited to assuring any anticipated costs are included. For all transactions supportive services and associated operating expenses. Tenant Services expenses are considered in calculating the Debt Coverage Ratio.
 - (ii) Security Expense. Security Expense includes contract or direct payroll expense for policing the premises of the Development. The Applicant's amount is typically accepted as provided. The Underwriter will require documentation of the need for security expenses that exceed 50% of the anticipated payroll expense estimate discussed in subparagraph (C) of this paragraph.
 - (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 feesthe Department and are considered in calculating the Debt Coverage Ratio.
 - 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 (A) of this paragraph.
- (K) The Department will communicate with and allow for clarification by the Applicant when the overall expense estimate is over 5% greater or less than the Underwriter's estimate. In such a case, the Underwriter will inform the Applicant of the line items that exceed the

tolerance levels indicated in this paragraph, butUnderwriter may request additional documentation supporting some, none or all expense line items. If a rationale acceptable to the Underwriter 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 5% 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 itsUnderwriter's independent calculation will be used unless the Applicant's Year 1 proformafirst year stabilized proforma meets the requirements of paragraph (3) of this subsection.

- (3) Net Operating Income. NOI is the The difference between the EGI and total operating expenses. If the Year 1 first year stabilized NOI figure provided by the Applicant is within 5% of the Year 1 NOI figure calculated by the Underwriter, the Applicant's figure is characterized as reasonable in the Report; however, for purposes of calculating the Year 1 first year stabilized pro forma DCR the Underwriter will maintain and use his independent calculation of NOI unless the Applicant's Year 1 first year stabilized EGI, Year 1 total expenses, and Year 1 NOI are each within 5% of the Underwriter's estimates.
- (4) Debt Coverage Ratio. Debt Coverage RatioDCR is calculated by dividing Net Operating Income by the sum of scheduled loan principal and interest payments for all permanent sources of funds. Loan principal and interest, or "Debt Service," is payments are calculated based on the terms indicated in the submitted-commitmentsterm sheet(s) for financing. Terms generally include the amount-of-initial-principal, the interest rate, amortization period, and repayment period submitted-in-the-Application. Unusual taken into consideration-considered.
 - (A) Interest Rate. The interest rate used should be the rate documented in the commitment letter. Commitmentsterm sheet(s) will be used for debt service calculations. Term sheets indicating a variable interest rate must provide a detailed breakdown of the rate index and component rates comprising the an all-in interest rate. The commitment term sheet(s) must also state the lender's underwriting interest rate, or the Applicant must submit a separate statement executed by from the lender with an estimate of the interest rate as of the date of the such statement. The Underwriter may challenge adjust the underwritten interest rate based on data collected on similarly structured transactions, or rate index history.
 - (B) Amortization Period. The Department generally requires an amortization of not less than thirty (30) years and not more than forty (40) years (fifty {[50]] years for federally sourced loans), or an adjustment to the amortization structure is evaluated is made for the purposes of the analysis and recommended recommendations. In non-Tax Credit transactions a lesser amortization 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 developments with permanent financing structures with balloon payments in less than thirty (30) years, the Underwriter will carry forward Debt Service calculated debt service based on a full amortization and at the interest rate stated in the commitment-term sheet(s).
 - (D) Acceptable Debt Coverage Ratio Range. The acceptable <u>Year 1 DCR rangefirst year stabilized pro forma DCR</u> for all priority or foreclosable lien financing plus the Department's proposed financing <u>fallsmust be</u> between a minimum of 1.15 <u>to-and</u> a maximum of 1.35. HOPE VI and <u>TRDO-</u>USDA-Rural Development transactions may underwrite to a DCR less than 1.15 or greater than 1.35 based upon documentation of acceptance from the lender.

- (i) For Developments other than HOPE VI and TRDO-USDA—Rural Development transactions, if the DCR is less than the minimum, the recommendations of the Report are conditioned upon a reducedmay be based on an assumed reduction to debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclauses (I) (III) of this clause.
 - 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 permanent loan amount for non-TDHCA funded loans based upon the rates and terms in the permanent loan commitment letterterm sheet(s) 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 may be based uponon an assumed increase in-theto debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclauses (I) (III) of this clause.
 - (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 letterterm sheet as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.
- (iii) For Housing Tax Credit Developments developments, a reduction in the recommended TaxHousing Credit allocation Amount may be made based on the gap/DCR method described in subsection (c)(2) of this section.
- (iv) Although adjustments in Debt Service debt service may become a condition of the Report, future changes in income, expenses, and financing terms could allow for an acceptable DCR.
- (5) Long Term Proforma. Pro forma. The Underwriter will create a 30-year operating proforma forma.
 - (A) The baseUnderwriter's first year projection-stabilized projection projection projection of stabilized projection is utilized is the Underwriter's Year 1 unless the Applicant's Year 1 total operating expenses, and Year 1 NOI are each within 5% of the Underwriter's estimates.
 - (B) A 2% annual growth factor is utilized for income and a 3% annual growth factor is utilized for expenses.
 - (C) Adjustments may be made to the Long Term Proforma if sufficientsatisfactory support documentation is provided by the Applicant. Support may include: or as determined by the Underwriter.
 - (v) Documentation with terms for project-based rental assistance or operating subsidy;
 - (vi) A fully executed management contract with clear terms;
 - (viii) Documentation prepared and signed by the Central Appraisal District (CAD) with jurisdiction over the Development indicating the appraisal methodology

- consistently employed by the CAD and a ten-year history, beginning with the Application year, of tax rates for each taxing district with jurisdiction over the Development; and
- Required reserve for replacement schedule prepared and signed by the proposed permanent lender or equity provider. In no instance will the reserve for replacement figure included in the Long Term Proforma be less than the minimum requirements as described in §1.37 of this subchapter (relating to Reserve for Replacement Rules and Guidelines).

(e) <u>Total Housing</u> 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. Total Housing Development Cost. The Department's estimate of the total development cost I Housing 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 New Construction developments, the Underwriter's total cost estimate will be used unless the Applicant's total development cost I otal Housing Development Cost is within 5% of the Underwriter's estimate. The Department's estimate of the total development cost Total Housing Development Cost for acquisition/rehabilitationRehabilitation will be based in accordance with the PCA's estimated cost for the scope of work as defined by the Applicant and §1.36(a)(5) of this subchapter (relating to Property Condition Assessment Guidelines). In the case of a rehabilitation Development, the Underwriter may use a lower tolerance level due to the reliance upon the PCA. If the Applicant's total development cost If the Applicant's 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 Total Housing Development Cost.

- (1) Acquisition Costs. The <u>proposed_underwritten</u> acquisition <u>price_cost_is</u> verified with <u>the_fully</u> executed site <u>control</u> document(s) for the <u>entire proposed siteProperty</u>.
 - (A) Excess Land Acquisition. Where In cases where more land is beingto be acquired than will be utilized for as the siteDevelopment Site and the remainder acreage is not being utilized accessible for use by tenants or dedicated as permanent and maintained green space, the value ascribed to the proposed Development Site will be prorated based on acreage from the total cost reflected in the site controlSite Control document(s). An appraisal containing segregated values for the total acreage, the acreage for the subject siteDevelopment Site and the remainder acreage, or tax assessment value may be tools that are used by the Underwriter in making a proration determination based on relative value; however, the Underwriter will not utilize a prorated value greater than the total amount in the site controlSite Control document(s).
 - (B) Identity of Interest Acquisitions.
 - (i) The acquisition will be considered an identity of interest transaction when the seller is an Affiliate of, a Related Party to, or any owner at any level of the Development Team or permanenta related party lender; and,
 - Is the current owner in whole or in part of the proposed property property;or,
 - (II) Was the owner in whole or in part of the proposed propertyProperty during any period within the thirty-six (36) months prior to the first day of the Application Acceptance Period.
 - (ii) In all identity of interest transactions the Applicant is required to provide subclauses (I) and (II) of this clause.

- (I) The original acquisition cost listed in the submitted settlement statement or, if a settlement statement is not available, the original asset value listed in the most current audited financial statement for the identity of interest owner; and
- (II) If the original acquisition cost evidenced by subclause (I) of this clause is less than the acquisition cost claimed in the application:
 - (-a-) an appraisal that meets the requirements of §1.34 of this subchapter (relating to Appraisal Rules and Guidelines); and
 - (-b-) any other verifiable costs of owning, holding, or improving the Property, excluding seller financing, that when added to the value from subclause (I) of this clause justifies the Applicant's proposed acquisition amount.
 - (-1-)For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include Property taxes, interest expense, capitalized costs of any physical improvements made to the Property that benefit the proposed Development, the cost of rezoning, replatting zoning, platting, and any off-site costs to provide utilities or improve access to the Property that. All allowable holding and improvement costs must directly benefit the proposed Development- by a reduction to hard or soft costs. Additionally, an annual return of 10% may be applied to the original acquisition cost capital investment and documented holding and improvement costs; this return can will be applied from the date the applicable cost is incurred until the date of the Department's Board meeting at which the subject Development's awardGrant, loan and/or Housing Credit Allocation will be considered.
 - (-2-)For transactions which include existing buildings that will be rehabilitated or otherwise maintained retained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the Property, and in the case of TRDO-USDA financed Developments the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure. Additionally, an annual return of 10% may be applied to the original acquisition cost capital investment and documented holding and improvement costs; this return canwill be applied from the date the applicable cost was incurred until the date of the Department's Board meeting at which the subject Development's awardGrant, loan and/or Housing Credit Allocation will be considered. For any period of time during which the existing buildings are occupied or otherwise producing revenue, holding

costs may not include operating expenses, including, but not limited to, property taxes and interest expense.

- (w)(iii) In no instance will the acquisition cost utilized by the Underwriter exceed the lesser of the original acquisition cost evidenced by clause (ii)(I) of this subparagraph plus costs identified in clause (ii)(II)(-b-) of this subparagraph, or the "as-is" value conclusion evidenced by clause (ii)(II)(-a-) of this subparagraph. The resulting acquisition cost will be referred to as the "identity of interest adjusted acquisition cost."
- _(C) Acquisition of Buildings for Tax Credit Properties. In order to make a determination of the appropriate building acquisition value, Building acquisition cost will be included in the underwritten Total Housing Development Cost and/or Eligible Basis if the Applicant will provide and the Underwriter will utilizeprovided an appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter. The building acquisition value utilized by the Underwriter will be equal to the least of the following: The underwritten Total Housing Development Cost and/or Eligible Basis will include the lowest of the values determined based on subparagraphs (i) (iii).
 - (i) The Applicant's claimedstated building acquisition value; cost;
 - (ii) The building acquisition value that results from the proration of the actual acquisition cost or identity of interest adjusted acquisition cost based upon a calculated "as is" improvement value over the total "as is" value provided in the appraisal; or cost reflected in the Site Control document(s), or the Adjusted Acquisition Cost, prorated using the relative land and building values indicated by the applicable appraised value;
 - (iii) The actualTotal acquisition cost reflected in the Site Control document(s), or identity of interest adjusted acquisition cost the Adjusted Acquisition Cost, less the appraised "as-vacant" land value in the appraisal.;
 - (iii)(iv) The Underwriter will use the value that best corresponds to the circumstances presently affecting the Development and that will continue to affect the Development after transfer to the new owner in determining the building value.

 Any value of existing favorable financing will be attributed prorata to the land and buildings.
- (2) Off-Site Costs. Off-Site costs are costs of development upimprovements to the site itselfDevelopment Site 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 on the required application form. The certification from a Third Party engineer must describe the necessity of the off-site improvements, including the relevant requirements of the local jurisdiction with authority over building codes. If off-site costs are included in eligible basis Eligible Basis based on PLR 200916007, a statement of findings from a CPA must—also be provided which describes the facts relevant to the Development and affirmatively certifies that the fact pattern of the development matches the fact pattern in PLR 200916007. A certification from a Third Party engineer must also be provided that describes the circumstances of the necessity of the off-site improvement, including the relevant requirements of the local jurisdiction with authority over building codes Development matches the fact pattern in PLR 200916007.
- (3) Site Work Costs. Project siteSite work costs exceeding \$9,000 per Unit, exclusive of ineligible demolition costs, must be well—documented and certified by a Third Party engineer on the required application form. The Underwriter may require such documentation in cases where the

- site work cost estimates are not consistent with the Underwriter's site evaluation regardless of the per unit threshold. In addition, for Applicants seeking Housing Tax Credits, documentation in keeping with §4950.8(7)(C) of this title (relating to Threshold Criteria) will be utilized in calculating eligible basis Eligible Basis.
- (4) Direct Construction Costs. Direct construction costs are <a href="theta:theta: theta: the
 - (A) New Construction and Reconstruction. The Underwriter will use the Marshall and Swift Residential Cost Handbook or equivalent, other comparable published third-party cost estimating data source and sources, historical final cost certifications of all—previous Housing Tax Credit allocations developments and other acceptable cost data available to the Underwriter to estimate the direct construction cost for a new construction Development. If the Applicant's estimate is more than 5% 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. Generally, the Report.
 - (iv) The "Average Quality" multiple, townhouse, or single family costs, as appropriate, from the Marshall and Swift Residential Cost Handbook or equivalent other comparable published third-party data source, will be used 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. The Underwriter will consider amenities—or, specifications and types of development not included in the Average Quality standard, the Department will take into account these costs.
 - (v) 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 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 subclause (I) of this clause, the uniform state service region in which the Development is to be located; or
 - (III) other Developments by the same Applicant that are similar in design to the subject Development.
 - (B) Rehabilitation including Reconstruction Costs.and Adaptive Reuse. The Underwriter will use cost data provided by the Property Condition Assessment (PCA). In the case where the Applicant has provided a PCA which is inconsistent with the Applicant's figures estimate as proposed in the development cost Total Housing Development Cost schedule and/or the Applicant's scope of work, the Underwriter may request a supplement executed by the PCA provider reconciling 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 initial PCA estimations in lieu of the Applicant's estimates.
- (5) Contingency. All contingencies identified in the Applicant's project cost schedule including any soft cost contingency will be added to Contingency with the total limited to the guidelines detailed in this paragraph. Contingency is limited to a maximum of 7% of direct construction costs plus site work for new construction Developments and off-sites for New Construction and Reconstruction developments and 10% of direct construction costs plus site work for rehabilitation Developments. For Housing Tax Credit Developmentsdevelopments, the percentage is applied to the sum of the eligible direct

- construction costs <u>plus</u>, eligible site work costs <u>and eligible off-site costs</u> in calculating the eligible contingency cost. The Applicant's <u>figure estimate</u> is used by the Underwriter if <u>the figure is</u> less than <u>the 7</u>% or 10%, <u>limit</u>, as applicable.
- (6) Contractor Fee. Contractor fees include general requirements, contractor overhead, and contractor profit. General requirements include, but are not limited to: onsite supervision or construction management, offsite supervision and overhead, jobsite security, equipment rental, storage, temporary utilities and other indirect costs (consistent with costs outlined in Division 1 of the Construction Specifications Institute's MasterFormat system). Contractor fees are limited to a total of 14% on Developments developments with Hard Costs of \$3 million or greater, the lesser of \$420,000 or 16% on Developments developments with Hard Costs less than \$3 million and greater than \$2 million, and the lesser of \$320,000 or 18% on Developments with Hard Costs at \$2 million or less. For tax credit Developments developments, the percentages are applied to the sum of the Eligible Hard Costs in calculating the eligible contractor fees. For Developments also receiving financing from TXTRDO-USDA-RHS, the combination of builder's general requirements, builder's overhead, and builder's profit should not exceed the lower of TDHCA or TXTRDO-USDA-RHS requirements. Additional fees for ineligible costs will be limited to the same percentage of ineligible construction costs Hard Costs but will not be ineligible for tax credit basis purposes included in Eligible Basis.
- (7) Developer Fee. Developer fee claimed must beis multiplied by the appropriate applicable percentage Applicable Percentage depending whether it is attributable to acquisition or rehabilitation basis. Additional fees for ineligible costs will be limited to the same percentage of ineligible development costs Hard Costs (15% for Developments developments with 50 or more units, or 20% for Developments developments with 49 or fewer units) but will not be ineligible for tax credit basis purposes. included in Eligible Basis. All fees to related parties to the owner Affiliates and/or developer Related Parties for work determined by the Underwriter to be typically completed by the developer will be considered part of the Developerdeveloper fee-claimed.
 - (A) For Housing Tax Credit Developmentsdevelopments, the development cost associated with developer fees and Development Consultant (also known as Housing Consultant) fees included in Eligible Basis cannot exceed 15% of the project's Total Eligible Basiseligible costs less developer fees for Developmentsdevelopments proposing 50 units or more and 20% of the project's Total Eligible Basiseligible costs less developer fees for Developmentsdevelopments proposing 49 units or less, as defined in the Qualified Allocation Plan and Rules (QAP).
 - _(B) In the case of a transaction requesting acquisition Tax Credits:
 - the allocation of eligible developer fee in calculating rehabilitation/new constructionRehabilitation/New Construction Housing Tax Credits will not exceed 15% of the rehabilitation/new construction basisRehabilitation/New Construction eligible costs less developer fees for Developmentsdevelopments proposing 50 units or more and 20% of the rehabilitation/new construction basisRehabilitation/New Construction eligible costs less developer fees for Developmentsdevelopments proposing 49 units or less; and
 - (ii) no developer fee attributable to an identity of interest acquisition of the Development will be included in Eligible Basis.
 - (C) For non-<u>Housing</u> Tax Credit <u>Developments developments</u>, the percentage can be up to 15% but is based upon <u>total development costs Total Housing Development Cost</u> less the sum of the fee itself, land costs, the costs of permanent financing, excessive construction period financing described in paragraph (8) of this subsection, reserves, and any <u>other</u>-identity of interest acquisition cost.

- (8) Financing Costs. Eligible construction period interest is limited to the lesser of actual eligible construction period interest, or the interest on one (1) year's fully drawn construction period loan funds at the construction period interest rate indicated in the commitment.term sheet(s). Any excess over this amount is removed to ineligible cost and will not be considered included in the determination of developer feeEligible Basis. Construction period interest on Related-Party construction loans are not included in Eligible Basis.
- (9) Reserves. The Department Underwriter will utilize the amount described in the Applicant's project cost schedule if it is within the range of two (2) to six (6) months of stabilized operating expenses less management fees and reserve for replacements plus debt service. Alternatively, the Underwriter may consider a greater amount proposed by the conventional first lien lender or syndicator if the detail for such greater amount is well documented in the conventional first lien lender or syndicator commitment letter.term sheet(s).
- (10) Other Soft Costs. For Housing 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. Ineligible costs are those that tend to fund future operating activities—and operating reserves. The Underwriter will evaluate and acceptapply the allocation of these soft costs in accordance with the Department's prevailing interpretation of the Internal Revenue Code. If the Underwriter questions the amount or eligibility of any soft costs, the Applicant iswill be given an opportunity to clarify and address the concern prior to removal from Eligible Basiscompletion of the Report.
- (f) <u>Developer Development Team</u> Capacity and <u>Development Plan</u>.

The Department will review personal (1) The Underwriter will evaluate and report on the overall capacity of the Development Team by reviewing:

- (A) Personal credit reports for development sponsors, developer fee recipients and those individuals anticipated to provide guarantee the completion of the Development.(s). The Underwriter will evaluate the credit report and identify any bankruptcy, state or federal tax liens or other relevant credit risks for compliance with eligibility and debarment requirements in the QAP and statute.;
- (B) Quality of construction, Rehabilitation, and ongoing maintenance of previously awarded housing developments by review of construction inspection reports, compliance onsite visits, findings of UPCS violations and other information available to the Underwriter;
- (C) For Housing Tax Credit developments, repeated or ongoing failure to timely submit cost certifications, requests for and clearance of final inspections, and timely response to deficiencies in the cost certification process;
- (D) Adherence to obligations on existing or prior TDHCA funded developments with respect to program rules and documentation.
- (2) While all components of the development plan may technically meet the other individual requirements of this section, a confluence of serious concerns and unmitigated risks identified during the underwriting process will result in an Application being referred to the Committee. The Committee will review any recommendation made under this subsection to deny an Application for a Grant, loan and/or Housing Credit Allocation prior to completion of the Report and posting to the Department's website.

(g) Other Underwriting Considerations.

The Underwriter will evaluate numerous additional <u>feasibility</u> elements as described in <u>subsection</u> (<u>bparagraphs (1) - (3)</u> of <u>this section and those that require further elaboration are identified in this subsection.</u>

- (1) Floodplains. The Underwriter evaluates the site plan, 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
 - (B) The Applicant must identify the cost of flood insurance for the buildings and for the tenant's contents for buildings within the 100-year floodplain; or and certify that the flood insurance will be obtained; and
 - (C) The Development must be designed to comply with the QAP, as proposed.
- (2) The Underwriter will identify in the <u>reportReport</u> any <u>Developments developments</u> funded or known and anticipated to be eligible for funding within one linear mile of the subject.
- (3) **Supportive Housing**. The unique development and operating characteristics of Supportive Housing Developments developments may require special consideration in the following areas:
 - (A) Operating Income. The extremely-low-income tenant population typically targeted 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 the maximum rent limit proposed for the units and equal to any project based rental subsidy rent to be utilized for the Development;
 - (B) Operating Expenses. A Supportive Housing Development may have significantly higher expenses for payroll, management fee, 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 developments provided by the Applicant or otherwise available to the Underwriter;
 - (C) DCR and Long Term Feasibility. Supportive Housing Developments may be exempted from the DCR requirements of subsection (d)(4)(D) of this section if the Development is anticipated to operate without conventional or "must-pay" debt. Applicants must provide evidence of sufficient financial resources to offset any projected 15-year cumulative negative cash flows. Cash Flow. 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. If either a set aside of financial resources or annual fundraising are used to evidence the long term feasibility of a Supportive Housing Development development, a resolution from the Applicant's governing board must be provided confirming their irrevocable commitment to the provision of these funds and activities; and/or
 - (D) <u>Total Housing</u> Development Costs. For Supportive Housing that is styled as <u>efficienciesdesigned with only Efficiency Units</u>, the Underwriter may use "Average Quality" dormitory costs, or costs of other appropriate design styles from the Marshall & Swift Valuation Service, with adjustments for amenities and/or quality as evidenced in the

applicationApplication, as a base cost in evaluating the reasonableness of the Applicant's direct construction cost estimate for new constructionNew 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.

(i) Feasibility Conclusion.

An infeasible Development will not be recommended for <u>fundinga Grant</u>, <u>loan</u> or <u>allocationHousing Credit Allocation</u> unless the Underwriter can determine <u>a plausiblean</u> alternative <u>feasible financing</u>-structure and <u>/or</u> conditions the recommendations of the <u>reportReport</u> upon receipt of documentation supporting <u>thean</u> alternative <u>feasible financing</u> structure. A Development will be characterized as infeasible if paragraph (1) or (2) of this subsection applies. The Development will be characterized as infeasible if one or more of paragraphs (3) <u>and through (54)</u> of this subsection applies unless paragraph (6)(B) of this subsection also applies.

- (1) Gross Capture Rate. The method for determining the Gross Capture Rate for a Development is defined in §1.33(d)(11)(F) of this subchapter. The Underwriter will independently verify all components and conclusions of the Gross Capture Rate and may at their discretion use independently acquired demographic data to calculate demand and may make a determination of the effective Gross Capture Rate based upon an analysis of the Sub-market. The Development:
 - (A) is characterized as a Qualified Elderly Development (including the Elderly section of an Intergenerational Development) and the Gross Capture Rate exceeds 10% for the total proposed units; or
 - (B) is <u>in an Urbanoutside a Rural</u> Area and targets the general population, and the Gross Capture Rate exceeds 10% for the total proposed units; or
 - (C) is in a Rural Area and targets the general population, and the Gross Capture Rate exceeds 30%; or
 - (D) targets Persons with Special Needs Disabilities and the Gross Capture rate Rate exceeds 30%.
 - (E) Developments meeting the requirements of subparagraph (A), (B), (C), or (D) of this paragraph may avoid being characterized as infeasible if clause (i) or (ii) of this subparagraph apply.
 - (i) Replacement Housing. The proposed Development is comprised of Affordable Housing which replaces previously existing Affordable Housing within the Primary Market Area as defined in §1.33 of this subchapter on a Unit for Unit basis, and gives the displaced tenants of the previously existing Affordable Housing a leasing preference.
 - (ii) Existing Housing. The proposed Development is comprised of existing Affordable Housing which is at least 50% occupied and gives displaced existing tenants a leasing preference as stated in the submitted relocation plan.

- (2) Deferred Developer Fee. Developments Applicants requesting an allocation of tax credits cannot repaywhere the estimated deferred developer fee, based on the Underwriter's recommended financing structure, is not repayable from cashflow Cash Flow within the first fifteen (15) years of the long term profermapro forma as described in subsection (d)(5) of this section.
- (3) Restricted Market RentPro Forma Rent. The Restricted Market RentPro Forma Rent for units with rents restricted at 60% of AMGI is less than both the Net Program Rent and Market Rent for units with rents restricted at or below 50% of AMGI unless the Applicant accepts all the Underwriting recommendation Underwriter's recommendation, if any, that all restricted units have rents and incomes restricted at or below the 50% of AMGI level.
- (4) Initial Feasibility. The Year 1 annual total first year stabilized pro forma operating expense divided by the Year 1 first year stabilized pro forma Effective Gross Income is greater than 68% for rural developments 36 units or less and 65% for all other developments.
- (5) Long Term Feasibility. Any year in the first fifteen (15) years of the Long Term ProformaPro forma, as defined in subsection (d)(5) of this section, reflects:
 - (A) negative Cash Flow; or
 - (B) a Debt Coverage Ratio below 1.15.
- (6) **Exceptions**. The infeasibility conclusions may be excepted where either of the following apply.
 - (A) The requirements in this subsection may be waived by the Executive Director of the Department on appealor by the Committee if documentation is submitted by the Applicant to support unique circumstances that would provide mitigation.
 - (B) Developments meeting the requirements of one or more of paragraphseither paragraph (3) (5)or (4) of this subsection will be re-characterized as feasible if one or more of clauses (i) (viv) of this subparagraph apply.
 - (i) The Development will receive Project-based Section 8 Rental Assistance for at least 50% of the units and a firm commitment with terms including contract rentContract Rent and number of units is submitted at application.
 - (ii) The Development will receive rental assistance for at least 50% of the units in association with TRDO-USDA-RD-RHS financing.
 - (iii) The Development will be characterized as public housing as defined by HUD for at least 50% of the units.
 - (iv) The Development will be characterized as Supportive Housing for at least 50% of the units and evidence of adequate financial support for the long term viability of the Development is provided.
 - (v) The Development has other long term project based restrictions on rents for at least 50% of the units that allow rents to increase based upon expenses and the Applicant's proposed rents are at least 10% lower than both the Net Program Rent and Restricted Market Rent.
 - (vi) The units not receiving Project-based Section 8 Rental Assistance or rental assistance in association with USDA-RD-RHS financing, or not characterized as public housing do not propose rents that are less than the Project-based Section 8, USDA-RD-RHS financing, or public housing units.

§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. The Market Analysis must include a statement that the report preparer has read and understood the requirements of this section.

(b) Self-Contained.

A Market Analysis prepared for the Department must allow the reader to understand the market data presented, the analysis of the data, and the conclusions derived from such data. All data presented should reflect the most current information available and the report must provide a parenthetical (intext) citation or footnote describing the data source. The analysis must clearly lead the reader to the same or similar conclusions reached by the Market Analyst. All steps leading to a calculated figure must be presented in the body of the report.

(c) Market Analyst Qualifications.

A Market Analysis submitted to the Department must be prepared and certified by an approved Qualified Market Analyst (§2306.67055.) The Department will maintain an approved Market Analyst list based on the guidelines set forth in paragraphs (1) - (3) of this subsection.

- (1) If not listed as approved by the Department, Market Analysts must submit subparagraphs (A) (F) of this paragraph at least thirty (30) days prior to the first day of the Application Acceptance Period for which the Market Analyst must be approved. To maintain status as an approved Qualified Market Analyst, updates to the items described in subparagraphs (A) (C) of this paragraph must be submitted annually on the first Monday in February for review by the Department.
 - (A) Documentation of good standing from the Texas Comptroller of Public Accounts.
 - (B) A current organization chart or list reflecting all members of the firm who may author or sign the Market Analysis.
 - (C) Resumes for all members of the firm or subcontractors who may author or sign the Market Analysis.
 - (D) General information regarding the firm's experience including references, the number of previous similar assignments and time frames in which previous assignments were completed.
 - (E) 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, as described in this section, in effect for the application round in which each Market Analysis is submitted.
 - (F) A sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the year in which the sample Market Analysis is submitted.
- -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 application round and as time permits, staff 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 Qualified Market Analyst list.

- (A) In and of itself, removal from the list of approved Market Analysts will not invalidate a Market Analysis commissioned prior to the removal date and at least ninety (90) prior to the first day of the applicable Application Acceptance Period.
- (B) To be reinstated as an approved Qualified 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, as described in this section, in effect for the year in which the updated or new sample Market Analysis is submitted.
- (3) The list of approved Qualified Market Analysts is posted on the Department's web site and updated within seventy-two (72) hours of a change in the status of a Market Analyst.

(d) Market Analysis Contents.

A Market Analysis for a rental 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) - (13) of this subsection.

- (1) Title Page. Include Property address or location, effective date of analysis, date report completed, name and address of person authorizing report, and name and address of Market Analyst.
- (2) Letter of Transmittal. The date of the letter must be the date the report was completed. Include Property address or location, description of Property, statement as to purpose and scope of analysis, reference to accompanying Market Analysis report with effective date of analysis and summary of conclusions, date of Property inspection, name of persons inspecting subject Property, and signatures of all Market Analysts authorized to work on the assignment. Include a statement that the report preparer has read and understood the requirements of this section.
- (3) Table of Contents. Number the exhibits included with the report for easy reference.
- (4) Summary Sheet. Include the Department's Market Analysis Summary exhibit.
- (5) Assumptions and Limiting Conditions. Include a description of all assumptions, both general and specific, made by the Market Analyst concerning the Property.
- (6) 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.
- (7) **Statement of Ownership**. Disclose the current owners of record and provide a three (3) year history of ownership for the subject Property.
- (8) Secondary Market Area. All of the Market Analyst's conclusions specific to the subject Development must be based on only one Secondary Market Area definition. The entire PMA, as described in this paragraph, must be contained within the Secondary Market boundaries. The Market Analyst must adhere to the methodology described in this paragraph when determining the secondary market area. (§2306.67055)
 - (A) The Secondary Market Area will be defined by the Market Analyst with:
 - (i) size based on a base year population of no more than 250,000 people inclusive of the Primary Market Area; and

- (ii) boundaries based on U.S. census tracts, ZIP codes, or place, as defined by the U.S. Census Bureau.
- (B) The Market Analyst's definition of the Secondary Market Area must include:
 - a detailed description of why the subject Development is expected to draw a significant number of tenants or homebuyers from the defined SMA;
 - (ii) a complete demographic report for the defined SMA; and
 - (iii) a scaled distance map indicating the SMA boundaries as well as the location of the subject Development and all comparable Developments.
- (9) Primary Market Area. All of the Market Analyst's conclusions specific to the subject Development must be based on only one Primary Market Area definition. The Market Analyst must adhere to the methodology described in this paragraph when determining the market area. (§2306.67055)
 - (A) The Primary Market Area will be defined by the Market Analyst with:
 - (i) size based on a base year population of no more than 100,000 people;
 - (ii) boundaries based on U.S. census tracts, zip codes, or place, as defined by the U.S. Census Bureau; and
 - (iii) the population of the PMA may exceed 100,000 if the amount over the limit is contained within a single census tract or zip code, and if the PMA is defined by census tract or zip code.
 - (B) The Market Analyst's definition of the Primary Market Area must include:
 - (i) a detailed description of why the subject Development is expected to draw a majority of its prospective tenants or homebuyers from the defined PMA;
 - (ii) a complete demographic report for the defined PMA; and
 - (iii) a scaled distance map indicating the PMA boundaries as well as the location of the subject Development and all comparable Developments.
 - (C) Comparable Units. Identify Developments in the PMA with Comparable Units. In Primary Market Areas lacking sufficient rent comparables, it may be necessary for the Market Analyst to collect data from markets with similar characteristics and make quantifiable location adjustments. Provide a data sheet for each Development consisting of:
 - (i) Development name;
 - (ii) Address;
 - (iii) Year of construction and year of rehabilitationRehabilitation, if applicable;
 - (iv) Property condition;
 - (v) Population target;
 - (vi) Unit mix specifying number of Bedrooms, number of baths, net rentable square footage; and
 - (I) monthly rent and utility allowance Utility Allowance; or
 - (II) sales price with terms, marketing period and date of sale;
 - (vii) Description of concessions;
 - (viii) List of unit amenities;
 - (ix) Utility structure;
 - (x) List of common amenities; and
 - (xi) For rental developments only;
 - (I) occupancy; and
 - (II) turnover.
- (10) Market Information:
 - (A) For each of the defined market areas, identify the number of units for each of the categories in clauses (i) (vi) of this subparagraph; the data must be clearly labeled as relating to either the PMA or the SMA, if applicable:
 - (i) total housing;

- (ii) rental developments (all multi-family);
- (iii) Affordable Housing;
- (iv) Comparable Units;
- (v) Unstabilized Comparable Units; and
- (vi) proposed Comparable Units.
- (B) Occupancy. The occupancy rate indicated in the Market Analysis may be used to support both the overall demand conclusion for the proposed Development and the vacancy rate assumption used in underwriting the Development (§1.32(d)(1)(C) of this subchapter relating to Underwriting Rules and Guidelines). State the overall physical occupancy rate for the proposed housing tenure (renter or owner) within the defined market areas by:
 - (i) number of Bedrooms;
 - (i) quality of construction (class);
 - (ii) Targeted Population; and
 - (iii) Comparable Units.
- (C) Absorption. State the absorption trends by quality of construction (class) and absorption rates for Comparable Units.
- (D) Demographic Reports.
 - (i) All demographic reports must include population and household data for a five (5) year period with the year of application as the base year;
 - (ii) All demographic reports must provide sufficient data to enable calculation of income-eligible, age-, size-, and tenure-appropriate household populations; and
 - (iii) For Developments targeting seniors, all demographic reports must provide a detailed breakdown of households by age and by income—; and
 - (iv) A complete copy of all demographic reports relied upon for the demand analysis, including the reference index that indicates the census tracts or zip codes on which the report is based.
- (E) Demand. Provide a comprehensive evaluation of the need for the proposed housing for the Development as a whole and each Unit type by number of Bedrooms proposed and rent restriction category within the defined market areas using the most current census and demographic data available.
 - (i) Demographics. The Market Analyst should use demographic data specific to the characteristics of the households that will be living in the proposed Development. For example, the Market Analyst should use demographic data specific to elderly population for an elderly Development, if available, and should avoid making adjustments from more general demographic data. If adjustment rates are used based on more general data for any of the following they should be clearly identified and documented as to their source in the report.
 - (I) Population. Provide population and household figures, supported by actual demographics, for a five (5) year period with the year of application as the base year.
 - (II) Target. If applicable, adjust the household projections for the Qualified Elderly or special needs population targeted by the proposed Development.
 - (III) Household Size-Appropriate. Adjust the household projections or target household projections, as applicable, for the appropriate household size for the proposed Unit type by number of Bedrooms proposed and rent restriction category based on 1.5 persons per Bedroom (round up).

- (IV) Income Eligible. Adjust the household size appropriate projections for income eligibility based on the income bands for the proposed Unit type by number of Bedrooms proposed and rent restriction category with:
 - (-a-) the lower end of each income band calculated based on the lowest gross rent proposed divided by 35% for the general population and 50% for Qualified Elderly households; and
 - (-b-) the upper end of each income band equal to the applicable gross median income limit for the largest appropriate household size based on 1.5 persons per Bedroom (round up) or one person for efficiency units.
- (V) Tenure-Appropriate. Adjust the income-eligible household projections for tenure (renter or owner). If tenure appropriate income eligible target household data is available, a tenure appropriate adjustment is not necessary.
- (ii) Gross Demand. Gross Demand is defined as the sum of Potential Demand from the PMA, Demand from Other Sources, and Potential Demand from a Secondary Market Area (SMA) to the extent that SMA demand does not exceed 25% of Gross Demand.
- (iii) Potential Demand. Potential Demand is defined as the number of income-eligible, age-, size-, and tenure-appropriate target households in the designated market area at the proposed placed in service date.
 - (I) Maximum eligible income is equal to the applicable gross median income limit for the largest appropriate household size based on 1.5 persons per Bedroom (round up) or one person for efficiency units.
 - (II) For Developments targeting the general population:
 - (-a-) Minimum eligible income is based on a 35% rent to income ratio;
 - (-b-) Appropriate household size is defined as 1.5 persons per Bedroom (rounded up); and
 - (-c-) The tenure-appropriate population for a rental Development is limited to the population of renter households.
 - (III) For Developments consisting solely of single family residences on separate lots with all units having three (3) or more bedrooms:
 - (-a-) Minimum eligible income is based on a 35% rent to income ratio;
 - (-b-) Appropriate household size is defined as 1.5 persons per bedroom (rounded up); and
 - (-c-) Gross Demand includes both renter and owner households.
 - (IV) For Developments targeting the senior population:
 - (-a-) Minimum eligible income is based on a 50% rent to income ratio; and
 - (-b-) Gross Demand includes all household sizes and both renter and owner households.

(iv) Demand from Secondary Market Area:

- (I) Potential Demand from an SMA should be calculated in the same way as Potential Demand from the PMA;
- (II) Potential Demand from an SMA may be included in Gross Demand to the extent that SMA demand does not exceed 25% of Gross Demand; and
- (III) The supply of proposed and unstabilized comparable unitsComparable Units in the SMA must be included in the calculation of the capture rate at the same proportion that Potential Demand from the SMA is included in Gross Demand.

(v) Demand from Other Sources:

- (I) The source of additional demand and the methodology used to calculate the additional demand must be clearly stated;
- (II) Consideration of Demand from Other Sources is at the discretion of the Underwriter;
- (III) Demand from Other Sources must be limited to households that are not included in Potential Demand: and
- (IV) If households with Section 8 vouchers are identified as a source of demand, the Market Study must include:
 - (-a-) Documentation of the number of vouchers administered by the local Housing Authority; and
 - (-b-) A complete demographic report for the area in which the vouchers are distributed.
- (11) 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) (I) of this paragraph. All conclusions must be consistent with the data and analysis presented throughout the Market Analysis.
 - (A) Unit Mix. Provide a best possible unit mix conclusion based on the occupancy rates by Bedroom type within the PMA and target, income-eligible, size-appropriate and tenure-appropriate household demand within the PMA.
 - (B) Rents. Provide a separate—Market Rent and Restricted Market Rent conclusion for each proposed Unit type by number of Bedrooms and rent restriction category. Conclusions of Market Rent or Restricted Market Rent—below the maximum Net Program Rent limit must be well documented as the conclusions may impact the feasibility of the Development under §1.32(i) of this subchapter. Rent Adjustments. In support of the Market Rent and Restricted Market Rent conclusions, provide a separate attribute adjustment matrix for each proposed unit type by number of Bedrooms and rental restriction category.
 - (i) The Department recommends use of HUD Form 92273.
 - (ii) A minimum of three developments must be represented on each attribute adjustment matrix.
 - (iii) Adjustments for concessions must be included, if applicable.
 - (iv) Total adjustments in excess of 15% must be supported with additional narrative.
 - (v) Total adjustments in excess of 25% indicate the Units are not comparable for the purposes of determining Market Rent and Restricted Market Rent conclusions.
 - (C) Effective Gross Income. Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the Applicant's estimates.
 - (D) Demand:
 - (i) State the Gross Demand for each Unit type by number of Bedrooms proposed and rent restriction category (e.g. one-Bedroom units restricted at 50% of AMFI; two-Bedroom units restricted at 60% of AMFI); and
 - (ii) State the Gross Demand for the proposed Development as a whole. If some households are eligible for more than one unit due to overlapping eligible ranges for income or household size, Gross Demand should be adjusted to avoid including households more than once.
 - (E) Relevant Supply. The relevant supplyRelevant Supply of proposed and unstabilized comparable unitsComparable Units includes:
 - (i) The proposed subject Units;
 - (ii) Comparable Units with priority over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision;

- (iii) Comparable Units in previously approved but Unstabilized Developments in the PMA; and
- (iv) Comparable Units in previously approved but Unstabilized Developments in the SMA, in the same proportion as the proportion of Potential Demand from the SMA that is included in Gross Demand.
- (F) Gross Capture Rate. The Gross Capture Rate is defined as the Relevant Supply divided by the Gross Demand. The Market Analyst must calculate a Gross Capture Rate for the subject Development as a whole, as well as for each Unit type by number of Bedrooms and rent restriction categories, and market rate Units, if applicable. Refer to §1.32(i) of this subchapter for feasibility criteria.
- (G) A complete demand and capture rate analysis is required in every Market Study, regardless of the current occupancy level of an existing Development.
- (H) **Absorption**. Project an absorption period for the subject Development to achieve Breakeven Occupancy. State the absorption rate.
- (I) Market Impact. Provide an assessment of the impact the subject Development, as completed, will have on existing Developments supported by Housing Tax Credits in the Primary Market. (§2306.67055)
- (12) **Photographs**. Provide labeled color photographs of the subject Property, the neighborhood, street scenes, and comparables. An aerial photograph is desirable but not mandatory.
- (13) Appendices. Any Third Party reports including demographics relied upon by the Market Analyst must be provided in appendix form. A list of works cited including personal communications also must be provided, and the Modern Language Association (MLA) format is suggested.
- (e) 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 Development and the provisions of the particular program guidelines.
- (f) In the event that the PMA for a subject Development overlaps the PMA's of other proposed or unstabilized comparable Developments, the Underwriter may perform an extended Sub-Market analysis considering the combined PMA's and all proposed and unstabilized units in the extended Sub-Market Area; the Gross Capture Rate from such an extended Sub-Market Area analysis may be used as the basis for a feasibility conclusion.
- (g) 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 Provision.

An appraisal 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. The appraisal must include a statement that the report preparer has read and understood the requirements of this section.

(b) Self-Contained.

An appraisal prepared for the Department 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.

(c) Appraiser Qualifications.

The qualifications of each appraiser are determined on a case-by-case basis by the Director of Real Estate Analysis or review appraiser, based upon the quality of the report itself and the experience and educational background of the appraiser. At minimum, a qualified appraiser must be appropriately certified or licensed by the Texas Appraiser Licensing and Certification Board.

(d) Appraisal Contents.

An appraisal prepared for the Department must be organized in a format that follows a logical progression. In addition to the contents described in USPAP Standards Rule 2, the appraisal must include items addressed in paragraphs (1) - (12) of this subsection.

- (1) Title Page. Include a statement identifying the Department as the client, acknowledging that the Department is granted full authority to rely on the findings of the report, and name and address of person authorizing report.
- (2) Letter of Transmittal. Include 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, tax assessor's parcel number(s) of the site, estimate of marketing period, and signatures of all appraisers authorized to work on the assignment including the appraiser who inspected the property. Include a statement indicating the report preparer has read and understood the requirements of this section.
- (3) Table of Contents. Number the exhibits included with the report for easy reference.
- (4) Disclosure of Competency. Include appraiser's qualifications, detailing education and experience.
- (5) Statement of Ownership of the Subject Property. Discuss all prior sales of the subject property which occurred within the past three (3) years. Any pending agreements of sale, options to buy, or listing of the subject property must be disclosed in the appraisal report.
- (6) 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.
- (7) **Site/Improvement Description**. Discuss the site characteristics including subparagraphs (A) (E) 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 improvements 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, energy efficiency measures, etc. All applicable forms of depreciation should be addressed along with the remaining economic life.
- (E) Environmental Hazards. It is recognized appraisers are not experts 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, asbestoscontaining materials, lead-based paint etc.) noted during the inspection.
- (8) 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 paragraph (7)(A) (E) of this subsection 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 (legally permissible, physically possible, feasible, and maximally productive) must be considered.
- (9) Appraisal Process. It is mandatory that all three approaches, Cost Approach, Sales Comparison Approach and Income Approach, are considered in valuing the property. If an approach is not applicable to a particular property an adequate explanation must be provided. A land value estimate must be provided if the cost approach is not applicable.
 - (A) Cost Approach. This approach should give a clear and concise estimate of the cost to construct the subject improvements. The 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.
 - (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 (3) 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) (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 a description of 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) Sales information should include address, legal description, tax assessor's parcel number(s), sales price, financing considerations and adjustment for cash equivalency, date of sale, recordation of the instrument, parties to the transaction, three (3) 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.

(viii)(ii) The method(s) used in the Sales Comparison Approach 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 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.
- (II) Net Operating Income/Unit of Comparison. The <a href="net-operating-incomeNet-ope
- (C) Income Approach. This section must 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 comparables must be confirmed with the landlord, tenant or agent and individual data sheets must be included. 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 rentsContract Rents should be compared to the market-derived rents. A determination should be made as to whether the contract rentsContract 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 comparables and overall occupancy data for the subject's Primary Market.
- (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. Include historical data regarding the subject's assessment and tax rates and a statement as to whether or not any delinquent taxes exist.
- (v) Capitalization. The appraiser should present the capitalization 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.
- (10) Value Estimates. Reconciliation of final value estimate is required. The Underwriter may request additional valuation information based on unique existing circumstances that are relevant for deriving the market value of the property.
 - (A) All appraisals shall contain a separate estimate of the "as vacant" market value of the underlying land, based upon current sales comparables. The appraiser should consider the fee simple or leased fee interest as appropriate.
 - (B) Appraisal assignments for new construction are required to provide an "as completed" value of the proposed structures. These reports shall provide an "as restricted with favorable financing" value as well as an "unrestricted market" value.
 - (C) 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. The appraiser should consider the fee simple or leased fee interest as appropriate.
 - (D(B) For existing developments with any project-based rental assistance that will remain with the property after the acquisition, the appraisal must include an "as-is as-currently-restricted value" inclusive of the value associated with the rental assistance. If the rental assistance has an impact on the value, such as use of a lower capitalization rate due to the lower risk associated with rental rates and/or occupancy rates on project-based developments, this must be fully explained and supported to the satisfaction of the Underwriter.
 - (C) For existing developments with rent restrictions, the appraisal must include the "as-is asrestricted" value. In particular, the restricted rents should be contemplated when deriving the value based on the income approach.
 - (D) For all other existing developments, the appraisal must include the "as-is" value.

- (E) For any development with favorable financing (generally below market debt) that will remain in place and transfer to the new owner, the appraisal must include a separate value for the existing favorable financing with supporting information.
- (F) If required the appraiser must include a separate assessment of personal property, furniture, fixtures, and equipment (FF&E) and/or intangible items. 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.
- _(11) Marketing Time. 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.
- (12) 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.

(e) Additional Appraisal Concerns.

The appraiser(s) must be aware of Department program rules and guidelines and the appraisal must include analysis of any impact to the subject's value.

§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: E1527-05). 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.) Copies of reports provided to TDHCA which were commissioned by other financial institutions should address TDHCA as a corecipient 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. The ESA report must contain a statement indicating the report preparer has read and understood the requirements of this section.

(b) In addition to ASTM requirements, the report must:

- (1) State if a noise study is recommended for a property in accordance with current HUD guidelines and identify its proximity to industrial zones, major highways, active rail lines, civil and military airfields, or other potential sources of excessive noise;
- (2) 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;
- (3) 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;
- (4) If the subject site includes any improvements or debris from pre-existing improvements, state if testing for asbestos containing materials (ACMs) would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;
- (5) If the subject site includes any improvements or debris from pre-existing improvements, state if testing for Lead Based Paint would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;
- (6) 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 such as the age of pipes and solder in existing improvements; and
- (7) Assess the potential for the presence of Radon on the property, and recommend specific testing if 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 in programs that allow a waiver of the Phase I ESA such as a TXTRDO-USDA-RHS 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.
- (e) Those Developments which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms to the requirements of this subsection.

§1.36. Property Condition Assessment Guidelines.

(a) General Provisions.

The objective of the Property Condition Assessment <u>for Rehabilitation Developments</u> is to provide cost estimates for repairs and replacements, and new construction of additional buildings or amenities, which are: immediately necessary repairs and replacements; improvements proposed by the Applicant as outlined in a scope of work narrative submitted by the Applicant to the PCA provider that is consistent

with the scope of work provided in the Application; and expected to be required throughout the term of the regulatory period and not less than thirty (30) years. For Developments proposing reconstruction, the PCA must only address costs to rehabilitate the existing buildings. 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 2018") except as provided for in subsections (b) and (c) of this section. The PCA report must contain a statement indicating the report preparer has read and understood the requirements of this section. The PCA must include the Department's PCA Cost Schedule Supplement which details all rehabilitation Rehabilitation costs and projected repairs and replacements through at least fifteen (15) years. The PCA must also 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) Statement of Acknowledgement. The PCA provider must affirm in the report that the Applicant's scope of work for improvements and the immediate needs of the rehabilitationRehabilitation are considered and reconciled within the PCA report and the PCA Cost Schedule Supplement; and
- (5) Cost Estimates for Repair and Replacement. 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 consistency of the total immediately necessary and proposed repair and replacement cost estimates with the development Cost schedule and scope of work submitted as an exhibit of the Application.
 - (A) Immediately Necessary Repairs and Replacement. Systems or components which are expected to have a remaining useful life of less than one (1) 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 immediately necessary repair and replacement. The PCA must provide a separate estimate of 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.
 - (B) Proposed Repair, Replacement, or New Construction. If the development plan calls for additional repair, replacement, or new constructionNew Construction above and beyond the immediate repair and replacement described in subparagraph (A) of this paragraph, such items must be identified and the nature or source of obsolescence or improvement to the operations of the Property discussed. The PCA must provide a separate estimate of the costs associated with the repair, replacement, or new construction which is identified as being

- above and beyond the immediate need, citing the basis or the source from which such cost estimate is derived.
- (C) Expected Repair and Replacement Over Time. The term during which the PCA should estimate the cost of expected repair and replacement over time must 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 must estimate the periodic costs which are expected to arise for repairing or replacing each system or component or the property, based on the estimated remaining useful life of such system or component as described in paragraph (1) of this subsection adjusted for completion of repair and replacement immediately necessary and proposed as described in subparagraphs (A) and (B) of this paragraph. The PCA must include a separate 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 which the costs are estimated to be incurred and no less than fifteen (15) years. 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.
- (b) 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, 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;
 - (4) TXTRDO-USDA-RHS guidelines for Capital Needs Assessment; or
 - (5) 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 section, 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 report must contain a statement indicating the report preparer has read and understood the requirements of this section. The PCA should be signed and dated by the report provider not more than six (6) months prior to the date of the application. Application.

§1.37. Reserve for Replacement Rules and Guidelines.

(a) General Provisions.

The Department will require <u>DevelopmentsDevelopment Owners</u> to provide regular maintenance to keep housing sanitary, safe and decent by maintaining a reserve for replacement in accordance with

§2306.186 Texas Government Code. 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 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 Texas Government Code.
 - (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:
 - (B) Be given notice of any asset management findings or reports, transfer of money in reserve accounts Reserve Accounts to fund necessary repairs, and any financial data and other information pursuant to the oversight of the Reserve Account within thirty (30) days of any receipt or determination thereof; and
 - (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, if applicable, 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 Texas Government Code 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 Texas Government Code 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 thirty (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 <u>Development</u> 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 <u>Owner</u> 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 subsection (e)(1) (3) of this section through the date described in subsection (f)(2) of this section through the appointment of an escrow agent as further described in subsection (b)(3) of this section.
- (e) If the Department is the First Lien Lender with respect to the Development, each <u>Development Owner</u> receiving Department assistance for multifamily rental housing shall deposit annually into a Reserve Account through the date described in subsection (f)(2) of this section.
 - (1) For new construction Developments:
 - (A) Not less than \$150 per unit per year for units one (1) to five (5) years old; and
 - (B) Not less than \$200 per unit per year for units six (6) or more years old.
 - (2) For rehabilitation Rehabilitation and Reconstruction 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, <u>Rehabilitation</u> or <u>rehabilitation</u> Developments, the <u>Development</u> 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 thirty (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;
 - (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 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 subsection (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 are replaced as <u>cashflowCash Flow</u> 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 cashflowCash Flow 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.
- (I) 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.

(I)

Attachment B: Preamble and Proposed Repeal §§1.31 - 1.37

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 1, §§1.31 - 1.37, concerning the Real Estate Analysis Division. This repeal is proposed in order to simplify the existing rules for the Housing Trust Fund.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the repeal.

Mr. Irvine has also determined that for each year of the first five-years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to permit the adoption of new rules to enhance the State's ability to provide decent, safe and sanitary housing administered by the Department.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed. The proposed repeal will not impact local employment.

The public comment period will be held between September 26, 2011 to October 19, 2011 to receive input on the repeal of the sections. Written comments may be submitted to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 19, 2011.

The repeal is proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provide the Department with the authority to adopt rules governing the administration of the Department and its programs.

No other statutes, articles, or codes are affected by the proposed repeal.

- *§1.31. General Provisions.*
- §1.32. Underwriting Rules and Guidelines.
- §1.33. Market Analysis Rules and Guidelines.
- §1.34. Appraisal Rules and Guidelines.
- §1.35. Environmental Site Assessment Rules and Guidelines.
- §1.36. Property Condition Assessment Guidelines.
- §1.37. Reserve for Replacement Rules and Guidelines.

HOUSING RESOURCE CENTER BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action regarding a proposed new 10 TAC Chapter 1, §1.24, Foreclosure Data Collection, for public comment and publication in the *Texas Register*.

RECOMMENDED ACTION

Approve the publication of 10 TAC Chapter 1, §1.24 for public comment and use of forms in the proposed rule.

WHEREAS, the 82nd Regular Session of the Texas Legislature passed S.B. 1233 which amended Chapter 52 of the Property Code by adding §51.0022 requiring the collection of certain data regarding foreclosures of residential property across the state,

RESOLVED, that the proposed new 10 TAC Chapter 1, §1.24, Foreclosure Data Collection, is hereby ordered and it is approved, together with the preambles presented to this meeting, for publication in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each of them is hereby authorized, empowered and directed, for and on behalf of the Department, to cause the proposed repeal and the proposed new rule, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The new law requires the Department to promulgate forms to be used by lien holders across the State when filing foreclosure notices against residential properties and by sheriffs and trustees conducting foreclosure sales of residential properties. The only information permitted to be collected by the Department is the zip code of the property. The forms are to be filed with the clerk's office in the county where the notice was filed, or the foreclosure was conducted, and the information on the forms is to be forwarded to the Department by the county clerk no later than 30 days after the forms have been filed with the clerk. The Department is required to submit the information received from the county clerks to the Legislature on a quarterly basis.

This proposed rule will implement the above process and apply only to notices of sale filed on or after January 1, 2012. Upon approval of the Board, the Department will release this rule for a 24-day public comment period from approximately September 26, 2011 to October 19, 2011.

Attachment A: Preamble and Proposed New 10 TAC Chapter 1, §1.24, Foreclosure Data Collection

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 1, §1.24, concerning Foreclosure Data Collection. The purpose of this proposed new section is to implement the requirements of new S.B. 1233 which amended Chapter 52 of the Texas Property Code by adding §51.0022 requiring the collection of certain data regarding foreclosures of residential property across the state. The new law requires the Department to promulgate forms to be used by lien holders across the State when filing foreclosure notices against residential properties and by sheriffs and trustees conducting foreclosure sales of residential properties. The only information permitted to be collected by the Department is the zip code of the property. The forms are to be filed with the clerk's office in the county where the notice was filed, or the foreclosure was conducted. No later than thirty (30) days after the forms have been filed with the clerk, the county clerk completes summary forms to be forwarded to the Department. The Department is required to submit the information received to the Legislature on a quarterly basis. When adopted the new rule will apply only to notices of sale filed on or after January 1, 2012.

Mr. Timothy K. Irvine, Acting Director, has determined that for each year of the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the new section.

Mr. Irvine has also determined that for each year of the first five years the new section is in effect the public benefit anticipated as a result of the new section will be the gathering of information for use by the Texas Legislature regarding the distribution of residential foreclosure activity throughout the State and there will be no economic costs to persons required to comply with the proposed new section.

The proposed new section will not have an adverse economic effect on small businesses or micro-businesses. The proposed new section will not affect a local economy. The proposed sections will not impact local employment.

The public comment period will be accepted through October 19, 2011 to receive input on this proposed new rule. Written comments may be submitted by email to tdhcarulecomments@tdhca.state.tx.us; by mail to Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, ATTN: Elizabeth Yevich, Director, Housing Resource Center; or by FAX to (512) 472-7500. ALL COMMENTS MUST BE RECEIVED BY 5:00 PM October 19, 2011.

The new section is proposed pursuant to the authority of Chapter 2306 of the Texas Government Code, which provide the Department the authority to adopt rules governing the administration of the Department and its programs, and under §51.0022 of the Texas Property Code which requires that the Department promulgate forms for collecting certain data regarding residential foreclosure notices and sales and to report the information to the Legislature.

The proposed new section affects no other code, article or statute.

10 TAC Chapter 1, §1.24, Foreclosure Data Collection

(a) Purpose. This chapter satisfies the requirement of amendments to Chapter Code 51, Property Code, per Senate Bill 1233 of the 82nd Legislative Session. The amendment requires the Texas Department of Housing and Community Affairs (TDHCA) to prescribe forms for the collection of foreclosure data from the county clerks. The information received via these forms will be submitted quarterly to the Texas legislature after January 1, 2012.

(b) Definitions.

- (1) Completed Sale Foreclosure Form -- A form filed when residential real property has been sold through a foreclosure and the substitute trustee's deed, sheriff's deed or other valid conveyance out of foreclosure is filed with the county clerk.
- (2) Notice of Sale Foreclosure Form -- A form filed when a notice of sale of residential real property is filed with the county clerk.
- (3) Summary Form for Completed Sales -- A form filed by the county clerk with TDHCA that lists the Completion of Sale Foreclosure Forms received within the last thirty (30) days by the county clerk.
- (4) Summary Form for Notices of Sale -- A form filed by the county clerk with TDHCA that lists the Notice of Sale Foreclosure Forms received within the last thirty (30) days by the county clerk.
- (5) Residential property -- A residential property is a one-to-four-unit dwelling.
- (c) Reporting to County Clerks.
- (1) When a person files a notice of sale of residential property under Texas Property Code §51.002(b), that person must also submit to the county clerk a Notice of Sale Foreclosure Form that includes at least the information described in subparagraphs (A), (B), (C) and (D) of this paragraph:
- (A) a statement that the property is residential;
- (B) a statement that a notice of sale is being filed on this property;
- (C) the ZIP code of the residential real property:
- (D) the date of submission of the Notice of Sale Foreclosure Form.
- (2) When a person files a substitute trustee's deed, sheriff's deed or other valid conveyance out of foreclosure, that person must also submit to the county clerk a Completed Sale Foreclosure Form that includes at least the information described in subparagraphs (A), (B), (C) and (D) of this paragraph:
- (A) a statement that the property is residential;
- (B) a statement that the property has been sold as a result of foreclosure;
- (C) the ZIP code of the residential real property; and
- (D) the date of submission of the Completed Sale Foreclosure Form.
- (d) Reporting to TDHCA.
- (1) No later than the 30th day after receipt of a Notice of Sale Foreclosure Form or a Completed Sale Foreclosure Form, the county clerk will submit the appropriate summary form to TDHCA. If a Notice of Sale Foreclosure Form is filed with the county clerk, the county clerk will submit a

Summary Form for Notices of Sale to TDHCA. If a Completed Sale Foreclosure Form is filed with the county clerk, the county clerk will submit a Summary Form for Complete Sales.

- (2) The Summary Form for Notices of Sale and Summary Form for Completed Sales shall include at least the information described in subparagraphs (A) and (B) of this paragraph:
- (A) A list of dates on which the Notice of Sale Foreclosure Forms and/or Completed Sale Foreclosure Forms were submitted to the county clerk;
- (B) A list of zip codes of the properties that are listed on the Notice of Sale Foreclosure Forms and/or the Completed Sale Foreclosure Forms.
- (3) Notice of Sale Foreclosure Forms and Completed Sale Foreclosure Forms shall not be sent to TDHCA. Only Summary Forms for Notices of Sale and Summary Forms for Completed Sales will be submitted to TDHCA by county clerks.
- (e) Location of forms.
- (1) The Notice of Sale Foreclosure Forms and/or Completed Sale Foreclosure Forms will be located on TDHCA's website by January 1, 2012. This will be a downloadable form that can be printed. If the county clerk is unable to download the form, he or she may call the Housing Resource Center at TDHCA to request a form be mailed via United States Postal Service (USPS). Persons shall use these foreclosure forms to report only those notices of sale and completed sales filed with the county clerk on or after January 1, 2012.
- (2) The Summary Form for Notices of Sale and Summary Form for Completed Sales will be located on TDHCA's website by January 1, 2012. This will be a Web form submitted online to TDHCA. As an alternative, a downloadable Summary Form for Notices of Sale and Summary Form that can be printed will also be available. If the county clerk is unable to download the forms, he or she may call the Housing Resource Center at TDHCA to request a form be mailed via USPS. County clerks shall use these summary forms to report only those notices of sale and completed sales filed with the county clerk on or after January 1, 2012.
- (f) Submission of forms by persons filing notice of sale or completed sale to county clerk.
- (1) Persons filling a notice of sale or completed sale shall also file the Notice of Sale Foreclosure Forms and/or Completed Sale Foreclosure Forms, as appropriate, with the county clerk. County clerks should follow their own retention schedules in the keeping of these forms.
- (g) Submission of forms by county clerks to TDHCA.
- (1) The executed Summary Form for Notices of Sale and Summary Form for Completed Sales will be accepted from the county clerks' offices via an online Web form. A username and password will be required to submit the Web forms. As an alternative method of submittal, the completed Summary Form for Notices of Sale and Summary Form for Completed Sales may also be downloaded and submitted via email as an attachment or mailed to TDHCA. The email and mail addresses for submission will be provided on the Summary Form for Notices of Sale and Summary Form for Completed Sales.

This proposed new section has been reviewed by legal counsel and found to be within the Department's authority to adopt.

Attachment B: Notice of Sale Foreclosure Form

NOTICE OF SALE FORECLOSURE FORM

Date this form is submitted to county clerk	
Zip code of the property for which the Notice of Sale is filed	

This form is being used to memorialize the filing of a Notice of Sale related to the foreclosure of residential real property in connection with the notices required by Tex. Prop. Code, §51.002.

Attachment C: Completed Sale Foreclosure Form

COMPLETED SALE FORECLOSURE FORM

Date this form is submitted to county clerk	
Zip code of the property for which the substitute trustee's deed, sheriff's deed or other valid conveyance out of foreclosure is filed	ic

This form is being used to memorialize the filing of a substitute trustee's deed, sheriff's deed or other valid conveyance out of foreclosure related to residential real property in connection with the notices required by Tex. Prop. Code, §51.002.

Attachment D: Summary Form for Notices of Sale

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Summary Form for Notices of Sale, 10 TAC 1.24 To be completed by the County Clerk

Submit to the Texas Department of Housing and Community Affairs' Housing Resource Center at countyclerkdatacollection@tdhca.state.tx.us or by mail to PO Box 13941, Austin TX 78711

Date of Submission to TDHCA:		
County Submitting Summary Form:		
If no Notice of Sale Foreclosure Forms were received within the last 30 days, submission of this form is not required.		

	Date form was submitted to County Clerk (mm/dd/yyyy)	Zip Code of Property
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Attachment E: Summary Form for Completed Sales

Summary Form for Completed Sales, 10 TAC 1.24

To be completed by the County Clerk

Submit to the Texas Department of Housing and Community Affairs' Housing Resource Center at countyclerkdatacollection@tdhca.state.tx.us or by mail to PO Box 13941, Austin TX 78711

Date of Submission to TDHCA:	
County Submitting Summary Form:	

If no Completion of Sale Foreclosure Forms were received within the last 30 days, submission of this form is not required.

	Date form was submitted to County Clerk (mm/dd/yyyy)	Zip Code of Property
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COMPLIANCE AND ASSET OVERSIGHT BOARD ACTION REQUEST SEPTEMBER 15, 2011

Presentation, Discussion, and Possible Action regarding proposed amendments to 10 TAC Chapter 60, Subchapter A §§60.101 – 60.129, Compliance Rules, and a proposed new 10 TAC Chapter 60 Subchapter A §60.130 Compliance Rules, regarding Material Amendments to Land Use Restriction Agreements for public comment and publication in the *Texas Register*

RECOMMENDED ACTION

Approve the publication of proposed amendments to 10 TAC Chapter 60, Subchapter A §§60.101 – 60.129, Compliance Rules, and a proposed new 10 TAC Chapter 60 Subchapter A §60.130 Compliance Rules, regarding Material Amendments to Land Use Restriction Agreements for public comment and publication in the *Texas Register*.

RESOLVED, that the proposed amendments to 10 TAC Chapter 60, Subchapter A §\$60.101 – 60.129, Compliance Rules, and a proposed new 10 TAC Chapter 60 Subchapter A §60.130 Compliance Rules, regarding Material Amendments to Land Use Restriction Agreements is hereby ordered and it is approved, together with the preambles presented to this meeting, for publication in the *Texas Register*.

FURTHER RESOLVED, that the Executive Director and his designees be and each of them is hereby authorized, empowered and directed, for and on behalf of the Department, to cause the proposed amendment and the proposed new rule, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The most significant changes to the Compliance Monitoring Rules are outlined below:

The proposed amendments in §60.123 eliminate the "get out of jail free" provisions. These proposed changes bring the Department's Material Noncompliance standards back to where they were before ARRA. However, §60.123 still allows owners to request the Board reinstate their application if they have been terminated for Material Noncompliance.

In §60.102 and §60.103 staff is recommending eliminating the commencement of substantial construction process and replacing it with a Construction Status Report. Staff is recommending that on October 1 of the year following award owners will update the Department with the current status. At risk developments will report quarterly.

Changes are recommended to §60.116. If adopted, staff would not monitor to ensure that social services are being provided at the first onsite monitoring visit. This is often identified as an issue of noncompliance and comment received suggests that it is not practical to provide tenant services until there is greater occupancy at the property. Owners are still required to provide services and must annual certify to compliance with all program requirements.

The proposed rule incorporates the Material Amendments policy adopted by the Board earlier this year with a slight change. The proposed rule requires owners to submit a draft of the notice that will be provided to the public for review.

Attachment A: Preamble and Proposed amendments to 10 TAC Chapter 60, Subchapter A §§60.101 – 60.129, Compliance Rules, and a proposed new 10 TAC Chapter 60 Subchapter A §60.130 Compliance Rules, regarding Material Amendments to Land Use Restriction Agreements for public comment and publication in the *Texas Register*.

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 60, Subchapter A §\$60.101 – 60.129, Compliance Rules, and a proposed new 10 TAC Chapter 60 Subchapter A §60.130 Compliance Rules, regarding Material Amendments to Land Use Restriction Agreements. The purpose of these amendments and this proposed new section is to improve the compliance monitoring functions and provide owners with guidance for complying with Department programs.

Mr. Timothy K. Irvine, Acting Director, has determined that for each year of the first five-year period the proposed amendments and new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendments or new section.

The proposed amendments and new section will not have an adverse economic effect on small businesses or micro-businesses. The proposed amendments and new section will not affect a local economy. The proposed sections will not impact local employment.

The public comment period will be accepted through October 19, 2011 to receive input on this proposed new rule. Written comments may be submitted by email to tdhcarulecomments@tdhca.state.tx.us; by mail to Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, ATTN: Patricia Murphy, Chief of Compliance and Asset Oversight; or by FAX to (512) 472-7500. ALL COMMENTS MUST BE RECEIVED BY 5:00 PM October 19, 2011.

The proposed amendments and new section affects no other code, article or statute.

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 60 COMPLIANCE ADMINISTRATION **SUBCHAPTER A** COMPLIANCE MONITORING

§60.101. Purpose and Overview.

- §60.102. Definitions.
- §60.103. Construction Monitoring.
- §60.104. Recording of Land Use Restriction Agreements (HTC Properties).
- §60.105. Reporting Requirements.
- §60.106. Record Keeping Requirements.
- §60.107. Notices to the Department.
- §60.108. Determination, Documentation and Certification of Annual Income.
- §60.109. Utility Allowances.
- §60.110. Lease Requirements (HTC and HOME Developments).
- <u>§60.111</u>. Annual Recertification for All Programs and Student Requirements for HTC, Exchange, TCAP and BOND Developments.
- §60.112. Managing Additional Income and Rent Restrictions for HTC, Exchange and TCAP Developments
- §60.113. Household Unit Transfer Requirements for All Programs.
- §60.114. Requirements Pertaining to Households with Rental Assistance.
- §60.115. Onsite Monitoring.
- §60.116. Monitoring for Social Services.
- §60.117. Monitoring for Non-Profit Participation or HUB Participation.
- §60.118. Property Condition Standards.
- §60.119. Notice to Owners.
- §60.120. Special Rules Regarding Rents and Rent Limit Violations.
- §60.121. Notices to the Internal Revenue Service (HTC Properties).
- §60.122. Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period.
- §60.123. Material Noncompliance Methodology.
- §60.124. Previous Participation Reviews.
- §60.125. Alternative Dispute Resolution.
- §60.126. Liability.
- §60.127. Applicability.
- §60.128. Temporary Suspension of Previous Participation Reviews.
- §60.129. Temporary Suspension of Other Sections of This Subchapter.
- §60.130. Material Amendments to Land Use Restriction Agreements

§60.101. Purpose and Overview.

- (a) This chapter satisfies the requirement of §42(m)(1)(B)(iii) Internal Revenue Code (Code) to provide a procedure that will be followed for monitoring for noncompliance with the provisions of the Code and to notify the Internal Revenue Service ("IRS") of such noncompliance. This chapter is consistent with requirements established under applicable state and federal laws, rules, and regulations, and the Department will monitor in accordance with this chapter. Nothing in this chapter serves to waive, alter, or amend the requirements of any duly recorded Land Use Restriction Agreement ("LURA"). A party to a LURA wishing to have the LURA amended must submit a formal request to the Department, and the Department will review any such request to determine if it is acceptable and, if acceptable, specify any appropriate requirements for or conditions or limitations on any such amendment. The Department monitors rental Developments receiving assistance under:
- (1) the Housing Tax Credit program ("HTC");
- (2) the HOME Investment Partnerships program ("HOME");

- (3) the Tax Exempt Bond program ("BOND");
- (4) the Housing Trust Fund program ("HTF");
- (5) the Community Development Block Grant Disaster Recovery program ("CDBG");
- (5) (6) the Tax Credit Assistance Program ("TCAP");
- (6) (7) the Tax Credit Exchange Program ("Exchange"); and
- (7) (8) the Neighborhood Stabilization Program ("NSP").
- (b) All Developments monitored by the Department are subject to the Department's enforcement rules, found in Subchapter C of this chapter (relating to Administrative Penalties).
- (c) Compliance monitoring begins with the commencement of construction and continues to the end of the long term Affordability Period. The Compliance and Asset Oversight ("CAO") Division monitors to ensure Owners comply with the program rules and regulations, Chapter 2306, Texas Government Code, the LURA requirements and conditions, and representations imposed by the Application or award of funds by the Department. This chapter does not address forms and other records that may be required of Development Owners by the IRS or other governmental entities, whether for purposes of filing annual returns or supporting Development Owner tax positions during an IRS or other governmental audit.

§60.102. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Other capitalized terms not defined herein are defined in §1.1 of this title (relating to Definitions for Housing Program Activities), the Department's current Qualified Allocation Plan, Chapter 2306 of the Texas Government Code, and 26 USC §42.

- (1) Affordability Period--The Affordability Period commences as specified 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) in the United States Internal Revenue Code of 1986 and continues through the appropriate program's affordability requirements or termination of the LURA, whichever is earlier. The term of the Affordability Period shall be imposed by the LURA or other deed restriction and may be terminated upon foreclosure. The Department reserves the right to extend the Affordability Period for HOME or NSP Developments that fail to meet program requirements. During the Affordability Period the Department shall monitor to ensure compliance with programmatic rules, regulations, and Application representations.
- (2) Architect of Record--The architect licensed in the jurisdiction that the project is located in, who prepares, stamps and signs the construction documents, and is legally recorded as the architect for the project.
- (3) Continuously Occupied--The same household has resided in the Unit for at least twelve (12) months.
- (4) Extended Use Period--With respect to a HTC building, the period beginning on the first day of the Compliance Period and ending the later of:
 - (A) the date specified in the Land Use Restriction Agreement; or
 - (B) the date which is fifteen (15) years after the close of the Compliance Period.
- (5) Housing Quality Standards ("HQS")--The property condition standards described in 24 CFR §982.401 in the Code of Federal Regulations.

- (6) HTC Development--Sometimes referred to as "HTC Property." A Development using Housing Tax Credits allocated by the Department.
- (7) U.S. Department of Housing and Urban Development ("HUD")-regulated Building--The rents and utility allowances of the building are reviewed by HUD-on an annual basis.
 - (8) Material Noncompliance.
- (A) A HTC or Exchange Development located within the state of Texas will be classified by the Department as being in Material Noncompliance status if the noncompliance score for such Development is equal to or exceeds a threshold of 30 points in accordance with the Material Noncompliance provisions, methodology, and point system in §60.123(j)(1) and (k) (m) of this chapter (relating to Material Noncompliance Methodology).
- (B) Non-HTC Developments monitored by the Department with 1 50 Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of 30 points. Non-HTC Developments monitored by the Department with 51 200 Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of 50 points. Non-HTC 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 a threshold of 80 points.
- (C) For all programs, a Development will be in Material Noncompliance if the noncompliance is stated in §60.123 of this chapter to be Material Noncompliance.
- (9) Non-HTC Development--Sometimes referred to as Non-HTC Property. Any Development not utilizing Housing Tax Credits or Exchange funds.
- (10) Owner--An individual, joint venture, partnership, limited partnership, trust, firm, corporation, limited liability company, other form of business organization or cooperative that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing Development, subject to the regulatory powers of the Department and other terms and conditions.
- -(11) Commencement of Substantial Construction--
- (A) The minimum activity necessary to meet the requirements of Commencement of Substantial Construction for new construction Developments will be defined as:
- (i) delivery of an executed partnership agreement with the investor or other documents setting for the legal structure and ownership;
 - (ii) delivery of the executed construction loan and construction loan agreement;
- (iii) fifty percent completion of all onsite "wet" utilities (water, sanitary sewer, and storm sewer plus natural gas (if applicable) and building slab and foundation formwork started);
- (iv) having all infrastructure permits;
- (v) all grading completed (not including landscaping);
- (vi) all Right of Way access; and
- (vii) ten percent of the construction contract amount for the Development expended, adjusted for any change orders and certified by the Architect of Record.
- (B) The minimum activity necessary to meet the requirement of Commencement of Substantial Construction for rehabilitation Developments will be defined as having:
- (i) building permits issued or a clearance from the City stating that building permits are not required;

- (ii) certification that all project documents, material and work items necessary to start and complete the project in the allotted time period have been adequately addressed as of the date of the certification; and
- (iii) certification that work is progressing on at least 20 percent of the units or buildings.
- (1112) Unit Type--Units will be considered different Unit Types if there is any variation in the number of bedroom, bathrooms or a square footage difference equal to or more than one-hundred twenty (120) square feet. *Example 102(1)*: A two bedroom/one bath Unit is considered a different Unit Type than a two bedroom/two bath Unit. A three bedroom/two bath Unit with 1,000 square feet is considered a different Unit Type than a three bedroom/two bath Unit with 1,200 square feet. A one bedroom/one bath Unit with 700 square feet will be considered equivalent to a one bedroom/one bath Unit with 800 square feet.
- (<u>12</u>13) UPCS--Uniform Physical Condition Standards as developed by the Real Estate Assessment Center of HUD.

§60.103. Construction Monitoring.

- (a) The Department will monitor the entire construction phase for all applicable requirements according to the level of risk. After Final Construction during the Affordability Period, the Department will periodically monitor the Development to assure that the initial compliance review was correct.
- (b) The Department will not provide any funding to any Development unless the Owner certifies that the housing Development is, or will be upon completion of construction, in compliance with the following housing laws:
- (1) state and federal fair housing laws, including Chapter 301, Property Code, the Texas Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601, et seq.), and the Fair Housing Amendments of 1988 (42 U.S.C. §§3601, et seq.);
- (2) the Civil Rights Act of 1964 (42 U.S.C. §§2000a, et seq.);
- (3) the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101, et seq.); and
- (4) Section 504, Rehabilitation Act of 1973 (29 U.S.C. §§701, et seq.). (§2306.257)
- (c) On October 1 of the year following a competitive award of Housing Tax Credits, a Construction Status Report consisting of the following must be provided:
- (1) The executed partnership agreement with the investor or other documents setting forth the legal structure and ownership;
- (2) The status of construction financing. If the construction loan has closed, a copy of the loan agreement must be submitted. If the loan has not closed, the anticipated closing date must be provided;
- (3) The construction contract and the most recent AIA G702 and G703 (or equivalent) certified by the Architect of Record; and
- (4) All third party construction inspection reports.
- (d) Developments that have not incurred ten percent of the construction contract amount (not including stored materials), adjusted for any change orders and/or Developments with anticipated construction completion dates within 3 months of the Placed in Service deadline, must report quarterly until construction completion. If construction inspection reports are not available, the Department may use discretion in requiring quarterly reports.

- (c) Evidence of Commencement of Substantial Construction must be submitted no later than the deadline established in the Development's Commitment Notice. Four percent BOND Developments are not required to submit evidence of Commencement of Substantial Construction.
- (d) Copies of any construction reports supplied to a syndicator must be supplied to the Department upon request.
- (e) Copies of any reports issued during construction that indicate changes that affect the representations made during the Application process must be supplied to the Department upon request.
- (ef) Owners are required to submit evidence of final construction within thirty (30) days of completion in a format prescribed by the Department. In addition, the Architect of Record must submit a certification that the Development was built in compliance with all applicable laws and the Engineer of Record (if applicable) must submit a certification that the Development was built in compliance with the design requirements.
- (fg) The Department will conduct a final inspection after receipt of notification of final construction. During the inspection, the Department will confirm that committed amenities have been provided and will inspect for compliance with the applicable laws referenced in subsection (b) of this section. In addition, a UPCS inspection may be completed.
- (gh) Owners will be provided a written notice after the final inspection. If any deficiencies are noted, a ninety (90) day corrective action period will be provided.
- (hi) Forms 8609 and final retainage will not be released until the Owner receives written notice from the Department that all noted deficiencies have been resolved.
- (ij) During any construction inspection, if the Owner and the Department are unable to agree that an identified issue is a violation, the Owner must request Alternative Dispute Resolution ("ADR"). The process for engaging ADR is outlined in §60.125 of this chapter.

§60.104. Recording of Land Use Restriction Agreements (HTC Properties).

(a) After the Department receives the Construction Status Report, the Department will generate a LURA for the Development Owner that will impose the income and rent restrictions identified in the Development's final underwriting report and other representations made in the Application, including but not limited to, specific commitments to provide tenant services, to lease to special needs populations and/or to provide specific amenities. The executed LURA and all exhibits will be sent to the Owner whereupon the Owner will then execute the LURA and have the fully executed document and all exhibits and attachments recorded in the real property records for the county in which the Development is located. The original, recorded LURA must be returned to the Department no later than the end of the first year of the Credit Period. In general, no Housing Tax Credit is allowable for a building unless there is a properly executed and recorded LURA in effect at the end of the first year of the Credit Period, and nothing in this section

negates an Owner's responsibility for full compliance with §42(h)(6) of the Code. The Department will not issue IRS Forms 8609 until it receives the original, properly recorded LURA or has alternative arrangements, acceptable to the Department and approved by the Executive Director in writing in place.

In general, no credit is allowable for a building unless there is a properly executed LURA in effect at the end of the first year of the Credit Period. A draft of the proposed LURA must be provided no later than September 1st of the calendar year in which the Owner intends to have it recorded. The Department cannot guarantee that a draft LURA received after September 1st will be processed in the same calendar year.

- (b) LURAs will impose the rent and income restrictions identified in the Development's final underwriting report.
- (c) The Department will not issue Forms 8609 until it receives the original, properly recorded LURA or has alternative arrangements, acceptable to the Department and its counsel, in place.

§60.105. Reporting Requirements.

- (a) The Department requires reports to be submitted electronically through the Department's web-based Compliance Monitoring and Tracking System ("CMTS") and in the format prescribed by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be filed no later than September 1st of the year following the award. The Department will provide general instruction regarding the electronic transfer of data. Under special circumstances, the Department may, at its discretion, waive the online reporting requirements where a hardship can be demonstrated. In the absence of a written waiver, all Developments are required to submit reports online.
- (b) Each Development is required to submit an Annual Owner's Compliance Report ("AOCR"). Depending on the Development, some or all of the Report must be submitted. The first AOCR is due the second year following the award. For example, if a Development is awarded funds in calendar year 2007, the first report is due in 2009. The AOCR is comprised of <u>five four</u> sections:
- (1) Part A "Owner's Certification of Program Compliance." All Development Owners must annually certify to compliance with applicable program requirements. The AOCR Part A shall include answers to all questions required by Treasury Regulation 1.42-5(b)(1) or the applicable program rules. In addition, Owners are required to report on the race and ethnicity, family composition, age, income, use of rental assistance, disability status, and monthly rental payments of individuals and families applying for and receiving assistance. HTC Developments during the Compliance Period will also be required to provide the name and mailing address of the syndicator in the Annual Owner's Compliance Report;
- (2) Part B "Unit Status Report." All Developments must annually report the information related to individual household income, rent, certification dates and other necessary data to ensure compliance with applicable program regulations;
- (3) Part C "Housing for Persons with Disabilities." The Department must establish a 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. The questions on Part C satisfy this requirement; and

- (4) Part D "Owner's Financial Certification." Developments funded by the Department must annually provide the data requested in the Owner's Financial Certification; and-
- (5) Part E "Form 8703" Tax exempt bond properties must file form 8703 each calendar year of the qualified project period. The form is due to the IRS by March 31 after the close of the calendar year for which the certification is made. The Department requires Tax Exempt Bond Development Owners to submit a draft form 8703 for the preceding calendar year and a copy of the form that was filed for the year before. *Example 105(1)*: Form 8703 for calendar year 2011 is due to the IRS March 31, 2012. Form 8703 for calendar year 2010 was due to the IRS March 31, 2011. On March 1, 2012, Tax Exempt Bond Development Owners must submit to the Department a draft of their form 8703 for calendar year 2011 and a copy of the form 8703 that was submitted to the IRS for calendar year 2010.
- (c) Parts A, B, and C, and E of the Annual Owner's Compliance Report must be provided to the Department no later than March 1st of each year, reporting data current as of December 31st of the previous year (the 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, must be submitted to the Department no later than the last day of April each year.
- (d) Any Development for which the AOCR, Part A, "Owner's Certification of Program Compliance," is not received or is received past the due date will be considered not in compliance with this section. If Part A is incomplete, improperly completed, or is not submitted by the Development Owner, it will be considered not received and not in compliance with this section. The Department will report to the IRS on Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition, any HTC Development that fails to comply with this requirement.
- (e) Department staff will review Part A of the AOCR for compliance with the requirements of the appropriate program. If it appears that the Development is not in compliance based upon the report, the Owner will be given written notice and provided a corrective action period to clarify or correct the report. If the Owner does not respond to the notice, the report will be subject to the sanctions listed in subsections (f) and (g) of this section.
- (f) If any required section, or sections (Parts A, B, C, D or Eor D), of the report are not received on or before the deadline for submission specified in subsection (c) of this section, a notice of noncompliance will be sent to the Owner, specifying a corrective action deadline. If the report is not received on or before the corrective action deadline, the Department shall:
 - (1) For all HTC Developments, issue Form 8823 notifying the IRS of the violation; and
- (2) For all Developments, score the noncompliance in accordance with §60.123 of this chapter (relating to Material Noncompliance Methodology).
- (g) The Department may assess and enforce the following sanctions against an Owner who fails to submit the AOCR on or before March 1st of each year and has multiple, consistent, and/or repeated violations of failure to submit the AOCR by March 1st of each year:
 - (1) a late processing fee in the amount of \$1,000; and/or
- (2) a HTC Development that fails to submit the required AOCR for three (3) consecutive years may be reported to the IRS as no longer in compliance and never expected to comply.

- (h) Periodic Unit Status Reports. All Developments must submit a Quarterly Unit Status report to the Department through the CMTS. Quarterly reports are due in January, April, July, and October on the 10th day of the month. The report must show occupancy as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th. The first quarterly report is due on the first quarterly reporting date after leasing activity commences January 10th.
- (i) Owners are encouraged to continuously maintain current resident data in the Department's CMTS. Under certain circumstances, such as in the event of a natural disaster, the Department may require all Developments to provide current occupancy data through CMTS.
- (j) All rental Developments funded or administered by the Department will be required to submit a current Unit Status Report prior to an onsite monitoring visit.
- (k) Exchange developments must submit form 8609 with lines 7, 8(b), 9(b), 10(a), 10(c) and 10(d) thirty (30) days after the Department issues the executed form(s).

§60.106. Record Keeping Requirements.

- (a) Development Owners must comply with program recordkeeping requirements. Records must include sufficient information to comply with the reporting requirements of §60.105 of this chapter (relating to Reporting Requirements) and any additional programmatic requirements. HTC Development Owners must retain records sufficient to comply with the reporting requirements of Treasury Regulation 1.42-5(b)(1). Records must be kept for each qualified Low Income Unit and building in the Development, commencing with lease up activities and continuing on a monthly basis until the end of the Affordability Period.
- (b) Each Development that is administered by the Department must retain records as required by the specific funding program rules and regulations. In general, retention schedules include but are not limited to the provision of subsections (c) (f) of this section.
- (c) HTC records 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 (§1.42-5(b)(2) of the Code).
- (d) Retention of records for NSP and HOME rental Developments and the CDBG Disaster Recovery program 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.
- (e) Housing Trust Fund (HTF) rental Developments must retain tenant files 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 and Development costs and

documentation, must be retained for at least five (5) years after the Affordability Period terminates.

(f) 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.

§60.107. Notices to the Department.

- (a) If any of the events in paragraphs (1) (3) of this subsection occur, written notice must be provided to the Department within the timeframes as shown in paragraphs (1) (3) of this subsection:
- (1) Any sale, transfer, or exchange of the Development or any portion of the Development. Notification must be provided at least thirty (30) days prior to this event;
- (2) The Development suffers in whole or in part a casualty loss. Notification must be provided within thirty (30) days following the event of loss using the Department's Notice of Casualty Loss (for general casualty losses) or Notice of Disaster Casualty Loss (specific to loss as a result of a Presidentially Declared Disaster); and
- (3) Owners of 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 ninety (90) days of such dates.
- (b) Owners are responsible for maintaining current information (including contact persons, physical addresses, mailing addresses, email addresses, and phone numbers) for the Ownership entity and management company in the Department's Compliance Monitoring and Tracking System ("CMTS"). Treasury Regulations require the Department to notify Housing Tax Credit Owners of upcoming reviews and instances of noncompliance. The Department will rely on the information supplied by the Owner in CMTS to meet this requirement.

§60.108. Determination, Documentation and Certification of Annual Income.

- (a) For all rental programs administered by the Department, annual income shall be determined consistent with the Section 8 Program, using the definitions of annual income described in HUD Handbook 4350.3 as amended from time to time. At the time of program designation as a low income household, Owners must certify and document household income. In general, all low income households must be certified prior to move in.
- (b) The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form as required by the HUD 4350.3.
- (c) The Department requires the use of the TDHCA Income Certification form, unless the property also participates in the Rural Development or a project Based HUD program, in which case, the other program's income certification form will be accepted.

§60.109. Utility Allowances.

(a) The Department will monitor to determine if HTC, HOME, BOND, HTF, CDBG, NSP, TCAP, and Exchange properties comply with published rent limits which include an allowance

for tenant paid utilities. For HTC, TCAP and Exchange buildings, if the residents pay utilities directly to the Owner of the building or to a third party billing company, and the amount of the bill is based on an allocation method or "ratio utility billing system" (RUBS), this monthly amount will be considered a mandatory fee. For HTC, TCAP and Exchange buildings, if the residents pay utilities directly to the Owner of the building or to a third party billing company, and the amount of the bill is based on the tenant's actual consumption, Owner may account for the utility in an allowance. The rent, plus all mandatory fees, plus an allowance for those utilities paid by the resident directly to a utility provider, must be less than the allowable limit. For HOME, BOND, HTF, and NSP, and CDBG buildings, Owners may account for utilities paid directly to the Owner or to a third party billing company in their utility allowance. Where residents are responsible for some, or all, of the utilities--other than telephone, cable, and internet--Development Owners must use a utility allowance that complies with both this section and the applicable program regulations. An Owner may not change utility allowance methods or start charging residents for a utility without written approval from the Department. Example 109(1): A Housing Tax Credit Development has been paying for water and sewer since the beginning of the Compliance Period. In year 8, the owner decides to require residents to pay for water and sewer. Prior written approval from the Department is required. Any such request must include the Utility Allowance Questionnaire found on the Department's website.

- (b) Rural Housing Services ("RHS") buildings or buildings with RHS assisted tenants. The applicable utility allowance for the Development will be determined under the method prescribed by the RHS (or successor agency). No other utility method described in this section can be used by RHS buildings or buildings with RHS assisted tenants.
- (c) HUD-Regulated buildings layered with any Department program. If neither the building nor any tenant in the building receives RHS rental assistance payments, and the rents and the utility allowances of the building are reviewed by HUD on an annual basis (HUD-regulated building), the applicable utility allowance for all rent restricted Units in the building is the applicable HUD utility allowance. No other utility method described in this section can be used by HUD-regulated buildings.
- (d) Other Buildings. For all other rent-restricted Units, Development Owners must use one of the following methods:
- (1) The utility allowance established by the applicable Public Housing Authority ("PHA") for the Section 8 Existing Housing Program. The Department will utilize Texas Local Government Code Chapter 392 to determine which PHA is the most applicable to the Development. If the PHA publishes different schedules based on building type, the Owner is responsible for implementing the correct schedule based on the Development's building type(s). *Example 109(2)(1)*: The applicable PHA publishes a separate utility allowance schedule for Apartments (5+ units), one for Duplex/Townhomes and another for Single Family Homes. The Development consist of twenty buildings, ten of which are Apartments (5+ units) and the other ten buildings are Duplexes. The Owner must use the correct schedule for each building type. In the event the PHA publishes a utility allowance schedule specifically for energy efficient units, the Owner must demonstrate that the building(s) meet the housing authority's specifications for energy efficiency on an ongoing basis. If the property is located in an area that does not have a municipal, county or regional housing authority that publishes a utility allowance schedule for

the Section 8 Existing Housing Program, Owners must select an alternative methodology. If the applicable PHA allowance lists flat fees for any utility, those flat fees must be included in the calculation of the utility allowance if the resident is responsible for that utility. If an Owner chooses to implement a methodology as described in paragraph (2), (3), (4), or (5) of this subsection, for Units occupied by Section 8 voucher holders, the utility allowance remains the applicable PHA utility allowance established by the PHA from which the household's voucher is received.

In general, if the property is located in an area that does not have a municipal, county or regional housing authority that publishes a utility allowance schedule for the Section 8 Existing Housing Program, Owners must select an alternative methodology. In the event the property is located in an area without a clear municipal or county housing authority the Department may permit the use of another housing authority's utility allowance schedule on a case by case basis. Prior approval from the Department would be required and the owner would be required to obtain approval on an annual basis.

- (2) A written estimate from a local utility provider. If there are multiple utility companies that service the Development, the local provider must be a residential utility company that offers service to the residents of the Development requesting the methodology. The Department will use the Texas Electric Choice website: http://www.powertochoose.org/ to verify the availability of service. If the utility company is not listed as a provider in the Development's ZIP code, the request will be denied. Additionally, the estimate must be signed by the utility provider representative and specifically include all "component charges" for providing the utility service. Receipt of the information from the utility provider begins the ninety (90) day period after which the new utility allowance must be used to compute gross rent.
- (3) The HUD Utility Schedule Model Schedule. A utility estimate can be calculated by using Schedule Model the "HUD Utility Schedule" found that can http://www.huduser.org/portal/resources/utilmodel.html (or successor Uniform Locator). The rates used must be no older than the rates in effect sixty (60) days prior to the beginning of the ninety (90) day period in which the Owner intends to implement the allowance. For Owners calculating a utility allowance under this methodology, the model, along with all back-up documentation used in the model, must be submitted to the Department, on a CD, within the timeline described in subsection (f) of this section. The date entered as the "Form Date" on the "Location" tab of the spreadsheet will be the date used to begin the ninety (90) day period after which the new utility allowance must be used to compute gross rent.
- (4) An energy consumption model. The utility consumption estimate must be calculated by a properly licensed mechanical engineer or an individual holding a valid Residential Energy Service Network ("RESNET") or Certified Energy Manager ("CEM") certification. The individual must not be related to the Owner within the meaning of §267(b) or §707(b) of the Code. The utility consumption estimate must, at minimum, take into consideration specific factors that include, but are not limited to, Unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of building location. The ninety (90) day period after which the new utility allowance must be used to compute gross rent will begin sixty (60) days after the end on the last month of the twelve (12) month period for which data was used to compute the estimate.
- (5) An allowance based upon an average of the actual use of similarly constructed and sized Units in the building using actual utility usage data and rates, provided that the Development

Owner has the written permission of the Department. This methodology is referred to as the "Actual Use Method."

- (e) For a Development Owner to use the Actual Use Method they must:
- (1) provide a minimum sample size of usage data for at least five (5) Continuously Occupied Units of each Unit Type or 20 percent of each Unit Type whichever is greater. *Example 109(3)(2)*: A Development has twenty three bedroom/one bath Units, and eighty (80) three bedroom/two bath Units. Each bedroom/bathroom equivalent Unit is within 120 square feet of the same floor area. Data must be supplied for at least five of the three bedroom/one bath Units, and sixteen of the three bedroom/two bath Units. If there are less than five Units of any Unit Type, data for 100 percent of the Unit Type must be provided;
- (2) scan the information in subparagraphs (A) (E) of this paragraph onto a CD and submit it to the Department no later than the beginning of the ninety (90) day period in which the Owner intends to implement the allowance, reflecting data no older than sixty (60) days prior to the ninety (90) day implementation period. *Example 109(4)(3)*: The utility provider releases the information regarding electric usage at Westover Townhomes on February 5, 2010. The data provided is from February 1, 2009 through January 31, 2010. The Owner must submit the information to the Department no later than March 31, 2010 for the information to be valid;
- (A) An Excel spreadsheet listing each Unit for which data was obtained to meet the minimum sample size requirement of a Unit Type, the number of bedrooms, bathrooms and square footage for each Unit, the household's move-in date, the actual kilowatt usage for each Unit for which data was obtained, and the rates in place at the time of the submission;
- (B) A copy of the request to the utility provider (or billing entity for the utility provider) to provide usage data;
- (C) All documentation obtained from the utility provider (or billing entity for the utility provider) and/or copies of actual utility bills gathered from the residents, including all usage data not needed to meet the minimum sample size requirement and any written correspondence from the utility provider;
- (D) The rent roll showing occupancy as of the end of the month for the month in which the data was requested from the utility provider;
 - (E) Documentation of the current utility allowance used by the Development;
- (3) Upon receipt of the required information, the Department will determine if the Development Owner has provided the minimum information necessary to calculate an allowance using the Actual Use Method. If so, the Department shall calculate the utility allowance for each bedroom size using the following guidelines:
- (A) If data is obtained for more than 20 percent or five (5) of each Unit Type, all data will be used to calculate the allowance;
- (B) If more than twelve (12) months of data is provided for any Unit, only the data for the most current twelve (12) months will be averaged;
- (C) The allowance will be calculated by multiplying the average units of measure for the applicable utility (i.e. kilowatts over the last twelve (12) months by the current rate) for all Unit Types within that bedroom size. For example, if sufficient data is supplied for eighteen (18) two bedroom/one bath Units, and twelve (12) two bedroom/two bath Units, the data for all 30 Units will be averaged to calculate the allowance for all two bedroom Units;
- (D) The allowance will be rounded up to the next whole dollar amount. If allowances are calculated for different utilities, each utility's allowance will be rounded up to the next whole dollar amount and then added together for the total allowance;

- (E) If the data submitted indicates zero usage for any month, the data for that Unit will not be used to calculate the Utility Allowance;
- (4) The Department will complete its evaluation and calculation within forty-five (45) days of receipt of all the information requested in paragraph (2) of this subsection.
- (5) Receipt of approval from the Department will begin the ninety (90) day period after which the new utility allowance must be used to compute gross rent; and
- (6) For newly constructed Developments or Developments that have Units which have not been continuously occupied, the Department, on a case by case basis, may use consumption data for Units of similar size and construction in the geographic area to calculate the utility allowance;
- (f) Effective dates. If the Owner uses the methodologies as described in subsection (b), (c), or (d)(1) of this section, any changes to the allowance can be implemented immediately, but must be implemented for rent due ninety (90) days after the change. For methodologies as described in subsection (d)(2) (5) of this section, the allowance cannot be implemented until the estimate is submitted to the Department and is made available to the residents by posting in a common area of the leasing office at the Development. This action must be taken by the beginning of the ninety (90) day period in which the Owner intends to implement the utility allowance. With the exception of the methodology described in subsection (d)(5) of this section, if a response is not received from the Department within the ninety (90) day period, the Owner may temporarily use the submission as a safe harbor until the Department provides written authorization (the Owner cannot assume that the allowance is approved by the Department but can operate in good faith prior to notification). Failure to submit the proposed utility allowance to the Department and make it available to the residents will result in a finding of noncompliance.
- (g) Requirements for Annual Review. Owners utilizing the methods described in subsections (b) and (c) of this section must demonstrate that the utility allowance has been reviewed annually. Any change in the method described in subsection (d)(1) of this section can be implemented immediately, but must be implemented for rent due ninety (90) days after the change. Owners utilizing the methods described in subsection (d)(2) (5) of this section must submit to the Department, once a calendar year, copies of the utility estimate and simultaneously make the estimate available to the residents by posting the estimate in a common area of the leasing office at the Development. Changes in utility allowances cannot be implemented until the estimate has been submitted to the Department and made available to the residents by posting in the leasing office for a ninety (90) day period. The back-up documentation required by the methodology the Owner has chosen must be submitted to the Department for approval no later than October 1st; however, the Department encourages Owners to submit documentation prior to the October 1st deadline in order to ensure that the Department has adequate time to review and respond to the Owner's estimate.
- (h) Combining Methodologies. With the exception of HUD regulated buildings and RHS buildings, Owners may combine any methodology described in this section for each utility service type paid directly by the resident and not by or through the Owner of the building (electric, gas, etc.). For example, if residents are responsible for electricity and gas, an Owner may use the appropriate PHA allowance to determine the gas portion of the allowance and use the Actual Use Method to determine the electric portion of the allowance.

- (i) Increases in Utility Allowances for Developments with HOME funds. Unless otherwise instructed by HUD, the Department will permit owners to implement changes in utility allowance in the same manner as Housing Tax Credit ("HTC") Developments.
- (j) The Owner shall maintain and make available for inspection by the tenant the data upon which the utility allowance schedule is calculated. Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling Unit of the tenant at the convenience of both the Owner and tenant.
- (k) In general, the Department permits Owners to select the method for establishing a utility allowance. However, in accordance with the HOME final Rule 24 CFR §92.252(c) the Department has the right to calculate the utility allowance for HOME rental Developments. In addition, the Department will select the method for establishing the utility allowance for Housing Tax Credit properties whose LURA terminated early.
- (l) If Owners want to utilize the HUD Utility Schedule Model or the Energy Consumption Model to establish the initial utility allowance for the Development, prior to the commencement of leasing activities, the Owner must submit utility allowance documentation for Department approval.

§60.110. Lease Requirements (HTC, NSP, and HOME Developments).

- (a) For HTC Developments, Revenue Ruling 2004-82 prohibits the eviction or termination of tenancy of low income households for other than good cause throughout the entire Affordability Period, and for three (3) years after termination of an extended low-income housing commitment. Owners executing or renewing leases after November 1, 2007 shall specifically state in the lease or in an addendum attached to the lease that evictions or terminations of tenancy for other than good cause are prohibited.
- (b) For HOME and NSP Developments, the HOME Final Rule (and as adopted by Texas NSP) prohibits Owners from evicting low income residents or refusing to renew a lease except for serious or repeated violations of the terms and conditions of the lease, for violations of applicable federal, state or local law, for completion of the tenancy period for transitional housing, or for other good cause. To terminate tenancy, the Owner must serve written notice to the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy. Owners executing or renewing leases after November 1, 2007 shall specifically state in the lease or in an addendum attached to the lease that evictions or non-renewal of leases for other than good cause are prohibited (24 CFR §92.253).
- (c) The Department does not determine if an Owner has good cause or if a resident has violated the lease terms. If there is a challenge to a good cause eviction, that determination will be made by a court of competent jurisdiction or an agreement of the parties in arbitration. The Department will rely on the court decision or the agreement of the parties.
- (d) HTC and BOND Developments must use a lease or lease addendum that requires households to report changes in student status.

(e) Owners of HTC Developments are prohibited from locking out or threatening to lock out any Development resident, or seizing or threatening to seize the personal property of a resident, except by judicial process, for the purposes of performing necessary repairs or construction work, or in cases of emergency. These prohibitions must be included in the lease or lease addendum.

§60.111. Annual Recertification for All Programs and Student Requirements for HTC, Exchange, TCAP and BOND Developments.

- (a) Recertification Requirements for 100 percent low income HTC, Exchange and TCAP Developments:
- (1) Regardless of the requirements stated in a LURA, the Department will not monitor to determine if 100 percent low income HTC Developments perform annual income recertifications. Households will maintain the designation they had at initial certification;
- (2) To comply with HUD reporting requirements, once every calendar year, the Development must collect a self certification from each household that reports the following: the number of household members, age, ethnicity, race, disability status, rental amounts and rental assistance (if any). In addition, the self certification will collect information about student status to establish ongoing compliance with the HTC program. The Development must collect this self certification information on the Department's Annual Eligibility Certification form (AEC) and must maintain the certification in all household files; and
- (3) One-Hundred percent low income HTC Developments that continue to complete annual income recertifications are required to obtain the AEC form described above and maintained it in all household files. The Department will not review recertification documentation during a monitoring review unless noncompliance is identified with the initial certification. Failure to complete the AEC form will result in a noncompliance finding under, "Failure to maintain or provide Annual Eligibility Certification" and scored in the Department's Compliance Status System as applicable.
- (b) Recertification Requirement for Mixed Income HTC, Exchange and TCAP Developments. HTC projects (as defined on Part II question, 8b of IRS form 8609) with Market Units must complete annual income recertifications. See §60.112 of this chapter (relating to Managing Additional Income and Rent Restrictions for HTC, Exchange and TCAP Developments) for maintaining compliance with the Available Unit Rule.
- (c) Student Requirements for HTC, Exchange and TCAP Developments. Changes to student status reported by the household at anytime during their occupancy or on the AEC require the Owner to determine if the household continues to be eligible under the HTC program. During the Compliance Period, if the household is comprised of full-time students, the household must meet a HTC program exception, and supporting documentation must be maintained in the household's file. The Development must have a statement in a lease addendum (or in their lease contract) that requires households to report changes in their student status. During the Compliance Period, Noncompliance with this section will result in the issuance of IRS form 8823 reporting noncompliance under, "Low-income Units occupied by nonqualified full-time students" and scored in the Department's Compliance Status System as applicable. Regardless of the requirements stated in a LURA, after the Compliance Period, the Department will not monitor to determine if households meet the student requirements of the Housing Tax Credit program.

- (d) Recertification Requirements for 100 percent low income BOND Developments. If 100 percent of the Units are set aside for households at 60 percent or 50 percent of Area Median Income, regardless of the requirements in the LURA, recertifications are not required.
- (e) Recertification Requirement for mixed income BOND Developments. If less than 100 percent of the Units are set aside for households at 60 percent or 50 percent Area Median Income, Low Income households must be recertified to establish compliance with the Available Unit Rule. Regardless of the requirements stated in the LURA, Eligible Tenants (as defined in the Development's LURA) do not need to be annually recertified.

Regardless of the requirements stated in a LURA the Department will not monitor to determine if 100 percent income restricted Bond Developments (all units required to be leased to low-income and eligible tenants) perform annual income recertifications. Households will maintain their designation they had at initial certification.

- (f)(e) Student Requirements for 100 percent low income BOND Developments. 100 percent low income Bond Developments must continue to annually screen households for student status. Bond Developments that do not also have Housing Tax Credits The Owner must use the Department's Certification of Student Eligibility form and it must be maintained in the household's file. Bond developments layered with HTCs may use the Annual Eligibility Certification to annually screen for student status. Changes to student status that the household reports at anytime during their occupancy or during annual screening for student status, require the Owner to determine if the household continues to be eligible under the Bond program. If the household is comprised of full-time students then the household must meet a program exception, which must be documented and maintained in the household's file.
- (g) Student requirements for mixed income BOND Developments. Mixed Income Bond Developments must annually screen low income households for student status during the recertification process. If the household is not an eligible student household, it may be possible to re-designate the full-time student household to an Eligible Tenant (ET). The Development must have a statement in a lease addendum (or in their lease contract) that requires households to report changes in their student status. Noncompliance with this section will result in a noncompliance finding under, "Low-income Units occupied by nonqualified full-time students" and scored in the Department's Compliance Status System as applicable.
- (h)(f) Recertification Requirements for HOME Developments.
- (1) For HOME Investment Partnership Developments, in accordance with 24 CFR §92.203 and §92.252 of the HOME Final Rule, regardless of the requirements stated in a LURA, recertification requirements will be monitored as shown in paragraph (2)(A) (F) of this subsection.
- (2) HOME Developments must complete a recertification with verifications of each HOME assisted Unit every sixth year of the Development's affordability period. For purposes of this section the beginning of a HOME Development affordability period is the effective date on the first page of the HOME LURA. For example, a HOME Development with a LURA effective date of May 2001 will have the sixth year of the affordability period determined in *Example 111(1)*:

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(A) Year 1: May 15, 2001 — May April 14, 2002;

(B) Year 2: May 15, 2002 — May April 14, 2003;

(C) Year 3: May 15, 2003 — May April 14, 2004;

(D) Year 4: May 15, 2004 — May April 14, 2005;

(E) Year 5: May 15, 2005 — May April 14, 2006;

(F) Year 6: May 15, 2006 — May April 14, -2007.
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- (3) In the scenario in paragraph (2) of this subsection, all households in HOME Units must be recertified with source documentation between May 15, 2006 to April 14, 2007, even if a household moved in to the Development in 2005. In the intervening years the Development must collect a self certification by the effective date of the original Income Certification from each household that is assisted with HOME funds. For example, a household moved into a HOME unit on June 10, 2010; the households self certification must be completed by June 10, 2011. The form must report the following: the number of household members, age, income and assets, ethnicity, race, disability status, rental amounts and rental assistance (if any). The Development must use the Department's Income Certification form, including the Supplement to the Income Certification, to collect this information and it must be maintained in the household's file. Noncompliance with this section will result in a noncompliance finding of, "Owner failed to maintain or provide tenant annual income recertification" and scored in the Department's Compliance Status System as applicable. If the household reports on their self certification that their household income is above the current 80 percent applicable income limit or there is evidence that the household's written statement failed to completely and accurately provide information about the household's characteristics and/or income, then a recertification with verifications is required.
- (4) Fixed HOME Developments (defined as 100 percent of the Units in the Development are HOME assisted) that contain households with an annual income greater than the 80 percent applicable income limit at recertification must be designated as over income ("OI") and the rent charged must be 30 percent of the household's adjusted income. The Next Available Unit must be leased to a household with an income and rent less than either the Low or High HOME limit depending on what designation the Development needs to maintain compliance with the HOME LURA. Noncompliance with this section will result in a noncompliance finding of "Household income increased above 80 percent at recertification and owner failed to properly determine rent" and scored in the Department's Compliance Status System as applicable.
- (5) Floating HOME Developments with Market Units (defined when only a percentage of the Units are HOME assisted) that contain households with income greater than 80 percent at recertification must be designated as OI and the rent charged will be the lesser of 30 percent of the household's adjusted income or comparable Market rent. The Next Available non HOME Unit on the Development must be leased to a household with income and rent less than either the Low or High HOME limit depending on what designation the Development needs to maintain compliance with the HOME LURA. The OI household may be redesignated as Market once the OI Unit is replaced with another low income Unit and in accordance with the lease terms. A thirty (30) day written notice of a rent increase must be provided to the OI household. Noncompliance with this section will result in a noncompliance finding of, "Household income increased above 80 percent at recertification and owner failed to properly determine rent" and secred in the Department's Compliance Status System as applicable.
- (6) One hundred percent low income HOME Developments layered with other Department affordable housing programs, that contain household's with income greater than 80 percent at

recertification, must be designated as OI under the HOME program. The rent charged must be the lesser of 30 percent of the household's adjusted income or the gross rent allowable under the other program's rent limit. The Development must maintain compliance with all applicable program rent requirements. Noncompliance with this section will result in a noncompliance finding of, "Household income increased above 80 percent at recertification and owner failed to properly determine rent" and scored in the Department's Compliance Status System as applicable.

(i)(g) Recertification Requirements for One-Hundred Percent HTF Developments: Regardless of the requirements stated in a LURA, the Department will not monitor to determine if 100 percent low income HTF Developments performed annual income recertifications. The household will maintain its initial low-income designation at move in and throughout the household's occupancy i.e., Extremely Low Income ("ELI"), Very Low Income ("VLI") and Low Income ("LI") provided that the Owner does not charge gross rent in excess of the applicable rent limit.

(j)(h) Recertification Requirements for HTF Developments with Market units: HTF Developments with Market Units in one or more buildings (as evidenced in their LURA) must perform annual income recertifications of all households residing in HTF Program Units. The HTF program requires Developments to comply with the Available Unit Rule. If a household's income exceeds 140 percent of the recertification limit (highest income tier), the household must be redesignated as OI and the Next Available Unit on the Development must be leased to a household with an income and rent less than the EVI, VLI, and LI limit depending on what designation the Development needs to maintain compliance with the LURA. The OI household may be redesignated in accordance with lease terms as Market once the OI Unit is replaced with another low-income Unit.

(k)(i) Recertification Requirements for CDBG and NSP Developments: CDBG or NSP Developments are not required to perform annual recertifications unless the CDBG and NSP LURAs specify specifically requires recertifications.this requirement.

§60.112. Managing Additional Income and Rent Restrictions for HTC, Exchange and TCAP Developments.

- (a) Under the Code, HTC Development Owners elect a minimum set-aside requirement of 20/50 or 40/60 (20 percent of the Units restricted to the 50 percent income and rent limit, or 40 percent of the Units restricted at the 60 percent income and rent limits). The minimum set-aside elected sets the maximum income and rent limits for the low-income units on the Development. Many Developments have additional income and rent requirements (i.e. 30 percent, 40 percent and 50 percent) that are lower than the minimum set-aside requirement. This requirement is referred to as "additional occupancy restrictions" and is reflected in the Development's Land Use Restriction Agreement ("LURA"). The Department will examine the actual gross rent and income levels of all households to determine if the additional income and rent requirements of the LURA are met.
- (b) For 100 percent HTC Developments that are not required to perform annual recertification, regardless of the requirements stated in the Development's LURA, the additional rent and occupancy restrictions will be monitored as follows:

- (1) Households initially certified at the 30 percent income and rent limits. Households will maintain their designation they had at initial move-in. The Unit will continue to meet the 30 percent set-aside requirement provided that the Owner does not charge gross rent in excess of the 30 percent rent limit. When the household vacates the Unit, the next available Unit on the Development is leased to a household with an income and rent less than the 30 percent limit;
- (2) Households initially certified at the 40 percent income and rent limits. Households will maintain their designation they had at initial move in. The Unit will continue to meet the 40 percent set-aside requirement provided that the Owner does not charge gross rent in excess of the 40 percent rent limit. When the household vacates the Unit, the next available Unit on the Development is leased to a household with an income and rent less than the 40 percent limit; and
- (3) Households initially certified at the 50 percent income and rent limits. Households will maintain their designation they had at initial move in. The Unit will continue to meet the 50 percent set-aside requirement provided that the Owner does not charge gross rent in excess of the 50 percent rent limit. When the household vacates the Unit, the next available Unit on the Development is leased to a household with an income and rent less than the 50 percent limit.
- (c) Mixed Income HTC Developments with Market Units will be monitored as follows:
- (1) The HTC program requires Mixed Income Developments with Market Units to comply with the Available Unit Rule. When a household's income at recertification exceeds 140 percent of the applicable current income limit elected by the minimum set-aside, the owner must comply with the Available Unit Rule and lease the next available unit (same size or smaller) in the building to a low-income household to maintain compliance. For HTC Developments that are required to perform annual recertifications, the additional rent and occupancy restrictions will be monitored as follows:
 - (A) Households initially certified at the 30, 40 or 50 percent income and rent limits;
- (B) Households will maintain the designation they had at initial move in unless the household's income exceeds 140 percent of the highest income tier established by the minimum set-aside. The Unit will continue to meet the designation that had at initial certification provided that the Owner does not charge gross rent in excess of the additional rent and occupancy rent limit;
- (C) The household will not be required to vacate the Unit for other than good cause. When the household vacates the Unit, the next available Unit on the Development must be leased so as to meet the Development's additional rent and occupancy restrictions;
- (D) If the household's income exceeds 140 percent of the highest income tier established by the minimum set-aside the household must be redesignated as over income ("OI") and the Next Available Unit Rule must be followed. *Example 112(1)*: A household was initially certified at the 40 percent income limit at move in. The household's income increases at recertification above the 40 percent income limit to the 50 percent income limit. The Unit will continue to meet the 40 percent set-aside requirement provided that the Owner does not charge rent in excess of the 40 percent rent limit. When the household vacates the Unit, the Next Available Unit on the Development is leased to a household with an income and rent less than the 40 percent limits; and
- (2) This subsection does not require HTC Developments to lease more Units under the additional occupancy restrictions than established in their LURA.

§60.113. Household Unit Transfer Requirements for All Programs.

- (a) Household Transfers for One-Hundred percent HTC, Exchange, and TCAP Developments. For HTC Developments that are 100 percent low-income, a household may transfer to any Unit within the same project, as defined as a multiple building project on Part II, question 8b of the IRS form 8609. If the Owner elected to treat each building as a separate project, as defined on Part II, question 8b of the 8609 form, households must be certified as low-income (determined by the Development's minimum set-aside election) prior to moving to another building on the Development.
- (b) Household Transfers for Mixed Income HTC, Exchange and TCAP Developments. For HTC Developments that are Mixed Income with Market Units, a household may transfer to another building in the same project, as defined as a multiple building project on Part II of the IRS form 8609 if the household was not over income ("OI") at the time of the last annual income recertification. If the Owner elected to treat each building as a separate project, as defined on Part II of the IRS form 8609, households must be certified as low-income (determined by the Development's minimum set-aside election) prior to moving to another building on the Development.
- (c) <u>Household transfers for BOND</u>, HTF, HOME, <u>CDBG</u> and NSP Developments, that are 100 percent low-income, a households may transfer to any Unit within the Development. A certification is not required at the time of transfer. If the Development is required to perform annual income recertifications, the recertification is due on the anniversary date the household originally moved onto the <u>Development.If the Development has Market Units in one or more buildings (as evidenced in their LURA)</u>, a household may transfer to any Unit within the Development as long as the household is income certified for the new Unit prior to transfer. The household must be redesignated under the current income limit for each program requirement(s). If the Development is layered with Housing Tax Credits, default to transfer guidelines under the HTC rules.
- (d) Household Transfers in the Same Building for all Programs. A Household may transfer to a new Unit within the same building. The unit designations will swap status. *Example 113(1)*: Building 1 has 4 low-income Units. Units 1 through 3 are occupied by low-income households and Unit 4 is a vacant low-income unit. The household in Unit 2 moves to Unit 4 and the Unit designations swap status. Unit 2 is now a vacant low-income unit.

§60.114. Requirements Pertaining to Households with Rental Assistance.

- (a) The Department will monitor to ensure Development Owners comply with §2306.269 and §2306.6728, Texas Government Code, regarding residents receiving rental assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. §1437f).
- (b) The policies, standards and sanctions established by this section apply only to:
- (1) multifamily housing developments that receive the following assistance from the Department on or after January 1, 2002 (§2306.185 of the Texas Government Code);
- (A) a loan or grant in an amount greater than 33 percent of the market value of the Development on the date the recipient took legal possession of the Development; or

- (B) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the Development on the date the recipient took legal title to the Development;
- (2) multifamily rental housing Developments that applied for and were awarded housing tax credits after 1992;
- (3) housing developments that benefit from the incentive program under §2306.805 of the Texas Government Code; and
- (4) housing Developments that receive funding from the NSP program or the HOME program (24 CFR §92.252(d)).
- (c) Owners of multifamily rental housing developments described in subsection (b) (a) of this section are prohibited from:
 - (1) excluding an individual or family from admission to the Development because the individual or family participates in the HOME Tenant Based Rental Assistance Program or the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1437f); and
 - (2) using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than 2.5 times the individual's or family's share of the total monthly rent payable to the Owner of the Development. A household participating in the voucher program or receiving any other type of rental assistance may not be required to have a minimum income exceeding \$2,500 per year.
 - (d) To demonstrate compliance with this section, Owners shall:
 - (1) State in their leasing criteria that the Development will comply with state and federal fair housing and antidiscrimination laws;
 - (2) Apply screening criteria uniformly, (rental, credit, and/or criminal history), including employment policies, and in a manner consistent with the Texas and Federal Fair Housing Acts, program guidelines, and the Department's rules;
 - (3) Approve and distribute an Affirmative Marketing Plan that will be used to attract prospective applicants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, national origin, disability, familial status, or religious affiliation. Racial groups to be marketed to may include White, African American, Native American, Alaskan Native, Asian, Native Hawaiians or Other Pacific Islanders. Other groups in the housing market area who may be subject to housing discrimination include, but are not limited to, Hispanic or Latino groups, persons with disabilities, families with children, or persons with different religious affiliations. The Affirmative Marketing Plan must be provided to the property management and onsite staff. Owners are encouraged to use HUD Form 935.2A, and may use any version of this Form as applicable. The Affirmative Marketing Plan must identify the following:
 - (A) Which group(s) the Owner believes are least likely to apply for housing at the Development without special outreach. All Developments must select persons with disabilities as one of the groups identified as least likely to apply. When identifying racial/ethnic minority groups the Development will market to, factors such as the characteristics of the housing's market area should be considered. *Example 114(1)*: An Owner obtains census data showing that 6.5 percent of the city's total population are identified as Asian Americans. However, the Owner's demographic data for the Development shows that zero Asian American households are

represented. The Owner chooses to identify Asian American groups as one of the groups least likely to apply at the Development without special outreach;

- (B) Procedures that will be used by the Owner to inform and solicit applications from persons who are least likely to apply. Specific media and community contacts that reach those groups designated as least likely to apply must be identified (community outreach contacts may include neighborhood, minority, or women's organizations, grass roots faith-based or community-based organizations, labor unions, employers, public and private agencies, disability advocates, or other groups or individuals well known in the community that connect with the identified group(s). *Example 114(2):* An Owner has identified the disabled as least likely to apply and has decided to send letters on a quarterly basis to the Case Manager at a non-profit organization coordinating housing for developmentally disabled adults. Additionally, the Owner will advertise upcoming vacancies in a monthly newsletter circulated by an organization serving the hearing impaired;
- (C) How the Owner will assess the success of Affirmative Marketing efforts. Affirmative Marketing Plans should be reviewed on an annual basis to determine if changes should be made and plans must be updated every five (5) years to fully capture demographic changes in the housing's market area;
- (D) Records of marketing efforts must be maintained for review by the Department during onsite monitoring visits. *Example 114(3):* The Owner keeps copies of all quarterly correspondence mailed to the contacts or community groups identified in the Affirmative Marketing Plan. The letters are dated and addressed and show that the Owner is actively marketing vacancies, or a waiting list to the groups identified in the Owner's plan. Failure to maintain a reasonable Affirmative Marketing Plan and documentation of marketing efforts on an annual basis will result in a finding of noncompliance;
- (E) If a Development does not have any vacant units, Affirmative Marketing is still required and Owners must maintain a waiting list. If a Development does not have any vacancies and the waiting list is closed, Affirmative Marketing is not required; and
- (F) In accordance with 24 CFR §92.253(d) of the HOME Final Rule and as adopted by Texas NSP, Owners of HOME and NSP Developments must maintain a written waiting list and tenant selection criteria. Failure to maintain these documents will result in a finding of noncompliance.

§60.115. Onsite Monitoring.

- (a) The Department may perform an onsite monitoring review of any low income Development, and review and photocopy all documents and records supporting compliance with Departmental programs through the end of the Compliance Period or the end of the period covered by the LURA, whichever is later. The Development Owner shall permit the Department access to the Development premises and records.
- (b) The Department will perform onsite monitoring reviews of each low income Development. The Department will conduct:
- (1) the first review of HTC, Exchange and TCAP Developments by the end of the second calendar year following the year the last building in the Development is placed in service;
 - (2) the first review of all other Developments as leasing commences;
 - (3) subsequent reviews at least once every three years during the Affordability Period;
- (4) a physical inspection of the Development including the exterior of the Development, Development amenities, and an interior inspection of a sample of Units; and

- (5) limited reviews of physical conditions, including follow-up inspections to verify completion of reported corrective action, may be conducted without prior notice (unless access to tenant units is required, in which case at least forty-eight (48) hours notice will be provided).
- (c) The Department will perform onsite file reviews and monitor:
- (1) a sampling of the low income resident files in each Development, and review the income certifications;
- (2) the documentation the Development Owner has received to support the certifications; and
- (3) the rent records and any additional information that the Department deems necessary.
- (d) At times other than onsite reviews, the Department may request for review, in a format designated by the Department, information on tenant income and rent for each Low Income Unit and may require a Development Owner to submit 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.
- (e) The Department will select the Low Income Units and tenant records that are to be inspected and reviewed. Original records are required for review. The Department will not give Development Owners advance notice that a particular Unit, tenant record, or a particular year will be inspected or reviewed. However, the Department will give reasonable notice to the Development Owner that an onsite inspection or a tenant record review will occur so the Development Owner may notify tenants of the inspection or assemble original tenant records for review. If a credible complaint of fraud or other egregious noncompliance is received, the Department reserves the right to conduct unannounced onsite monitoring visits.

§60.116. Monitoring for Social Services.

- (a) If a Development's LURA requires the provision of social services, the Department will confirm this requirement is being met. Owners are required to maintain sufficient documentation to evidence that services are actually being provided. Documentation will be reviewed during onsite visits beginning with the second onsite review, and must be submitted to the Department upon request. Example 116(1): The Owner's LURA requires provision of on-site daycare services. The Owner maintains daily sign in sheets to demonstrate attendance and keeps a roster of the households that are regularly participating in the program. The Owner also keeps copies of all newsletters and fliers mailed out to the Development tenants that reference daycare services. Example 116(2): The Owner's LURA requires a monetary amount to be expended on a monthly basis for supportive services. The Owner maintains a copy of an agreement with a Supportive Service provider and documents the amount expended to evidence compliance with this requirement.
- (b) A substantive modification of the scope of tenant services requires Board approval. Such requests must comply with procedures in §60.130 of this chapter (relating to Material Amendments to Land Use Restriction Agreements). Supportive services must be fully implemented prior to the issuance of IRS forms 8609 for the HTC program. If an owner wishes to change the scope of services provided, prior approval from the Department is necessary. The Department, upon review of the Owner's request and the Development's original application, may also require the Owner to submit a proposed amendment to the LURA. It is not necessary to

obtain prior written approval to change the provider of services unless the scope of services is being changed. Failure to comply with the requirements of this section shall result in a finding of noncompliance.

§60.117. Monitoring for Non-Profit Participation or HUB Participation.

- (a) If a Development's LURA requires the material participation of a non-profit or Historically Underutilized Business ("HUB"), the Department will confirm this requirement is being met throughout the development phase and ongoing operations of the Development. Owners are required to maintain sufficient documentation to evidence that a non-profit or HUB is materially participating. Documentation may be reviewed during onsite visits or must be submitted to the Department upon request.
- (b) If an Owner wishes to change the non-profit, or HUB, prior approval from the Department is necessary. The Annual Owner's Compliance Report also requires Owners to certify to compliance with this requirement. Failure to comply with the requirements of this section shall result in a finding of noncompliance. In addition, the Internal Revenue Service will be notified if the non-profit is not materially participating on a HTC Development during the Compliance Period.
- (c) The Department does not enforce partnership agreements or determine equitable fund distributions of partnerships. These disputes are matters for a court of competent jurisdiction.

§60.118. Property Condition Standards.

- (a) All Developments funded by the Department must be decent, safe, sanitary, in good repair, and suitable for occupancy throughout the Affordability Period. The Department will use HUD's Uniform Physical Condition Standards ("UPCS") to determine compliance with property condition standards. In addition, Developments must comply with all local health, safety, and building codes. The Department may contract with a third party to complete UPCS inspections.
- (b) HTC Development Owners are required by Treasury Regulation 1.42-5 to report (through the Annual Owner's Compliance Report) any local health, safety, or building code violations. HTC Developments that fail to comply with local codes shall be reported to the IRS.
- (c) The Department will evaluate UPCS reports in the following manner:
- (1) A finding of Major Violations will be cited if:
- (A) Life threatening health, safety, or fire safety hazards are reported on the Notification of Exigent and Fire Safety Hazards Observed form and are not corrected within twenty-four (24) hours of the inspection with notification of correction submitted to the Department within seventy-two (72) hours of the inspection. Failure to notify the Department of correction within seventy-two (72) hours of the correction of any exigent health and safety or fire safety hazards listed on the Notification will result in a finding of Major Violations of the Uniform Physical Condition Standards for the Development; or
 - (B) An overall UPCS score of less than 70 percent (69 percent or below) is reported.
- (2) A finding of Pattern of Minor Violations will be assessed if an overall score between 70 percent and 89 percent is reported; or

- (3) Findings of both Major and Minor Violations will be assessed if deficiencies reported meet the criteria for both.
- (d) The Department is required to report any HTC Development that fails to comply with any requirements of the UPCS or local codes at any time (including smoke detectors and blocked egresses) to the IRS on Form 8823. Accordingly, the Department will submit Form 8823 for any UPCS violation. However, if the violation(s) does not meet the conditions described in subsection (c)(1) or (2) of this section, the issue will be noted in the Department's compliance status system as Administrative Reporting and no points will be assigned in the Department's compliance status evaluation of the Development. Non-HTC Developments that do not meet thresholds for Major and Pattern of Minor Violations as described in subsection (c)(1) or (2) of this section and correct all life threatening health, safety, and fire safety hazards noted at the time of inspection as directed in subsection (c)(1)(A) of this section will not receive findings for UPCS inspections. Items noted that do not exceed thresholds for Major and Pattern of Minor Violations must be corrected by submission of an Owner's Certification of Repair within the ninety (90) day corrective action period.
- (e) Acceptable evidence of correction of deficiencies is a certification from an appropriate licensed professional that the item now complies with the inspection standard or other documentation that will allow the Department to reasonably determine when the repair was made and whether the repair sufficiently corrected the violation(s) of UPCS standards (examples of such documentation include work orders, photographs, and/or invoices to third party repair specialists).
- (f) The Department will provide to the Owner in writing a ninety (90) day corrective action period to respond to a notice of noncompliance for violations of the UPCS. The Department will not grant extensions unless up to an additional ninety (90) day extension if there is good cause and the Owner clearly requests an extension during the corrective action period. <u>Under no circumstances</u> will the corrective action period exceed six (6) months.
- (g) 24 CFR §92.251 of the HOME Final Rule requires rental property assisted with HOME funds to be maintained in compliance with all local codes and HQS (24 CFR §982.401). To meet this requirement, beginning the second year after completion of construction or rehabilitation, all HOME rental Development Owners must annually complete an HQS inspection of all HOME assisted Units. Any noted deficiencies must be repaired. The Department will review HQS inspection sheets for all Units for compliance with this requirement during onsite monitoring visits.
- (h) Selection of Units for inspection:
- (1) Vacant Units will not be inspected (alternate Units will be selected) if a Unit has been vacant for fewer than thirty (30) days.
- (2) Units vacant for more than thirty (30) days are assumed to be ready for occupancy and will be inspected. No deficiencies will be cited for inspectable items if utilities are turned off and the inspectable item is present and appears to be in working order.

(i) Property damage that is the direct result of utility damage or malfunction or repair activity relating to such damage that is beyond the Development Owner's control, including, but not limited to, eruption of gas, sewer or storm sewer mains, water mains, and electrical fires, will not be taken into consideration in determining a compliance score, provided that the Development Owner did not negligently or intentionally serve as a proximate cause for the damage.

§60.119. Notice to Owners.

The Department will provide written notice to the Development Owner if the Department does not receive the Annual Owner Compliance Report ("AOCR") 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 of the Code. Owners may request that results of monitoring reviews be emailed if all email addresses in the Contract Monitoring Tracking System are up to date. If Owners request such notices be sent by email, a paper copy will not be mailed by the Department. The notice will specify a correction period of ninety (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 (6) months from the date of the notice to the Development Owner only if there is good cause for granting an extension and the owner requests an extension during the original ninety (90) day corrective action period. 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 for providing the Department with current contact information, including address(es) and phone number(s). The Development Owner must also provide current contact information to the Department as required by §1.22 of this title (relating to Providing Contact Information to the Department).

§60.120. Special Rules Regarding Rents and Rent Limit Violations.

- (a) Rent or Utility Allowance Violations of the maximum allowable limit (HTC). Under the HTC program, the amount of rent paid by the household plus an allowance for utilities, plus any mandatory fees, cannot exceed the maximum applicable limit (as determined by the minimum set-aside elected by the Owner) published by the Department. If it is determined that a HTC Development, during the Compliance Period, collected rent in excess of the rent limit established by the minimum set-aside, the owner must correct the violation by reducing the rent charged. The the Department will report the violation as corrected on January 1st of the year following the violation. the date that the rent plus the utility allowance, plus fees, is less than the applicable limit. The refunding of overcharged rent does not avoid the disallowance of the credit by the IRS.
- (b) Rent or Utility Allowance Violations of additional rent restrictions (HTC). If the Owner agreed to lease Units at rents less than the maximum allowed under the Code (additional occupancy restrictions), the Department will require the Owner to refund to the affected residents the amount of rent that was overcharged. This applies during the entire Affordability Period. The noncompliance event will be considered corrected on the date which is the later of the date the

overcharged rent was refunded/credited to the resident or the date that the rent plus the utility allowance is equal to or less than the applicable limit. *Example 120(1):* For Code §42 purposes, the maximum allowable limit is 60 percent. However, the Owner agreed to lease some Units to households at the 30 percent income and rent limits. It was discovered that the 30 percent households were overcharged rent. The Owner will be required to reduce the current amount of rent charged and refund the excess rents to the households.

- (c) Rent Violations of the maximum allowable limit due to application fees (HTC). Under the HTC program, Owners may not charge tenants any overhead costs as part of the application fee. Owners must only charge the actual cost for application fees as supported by invoices from the screening company the Owner uses. The amount of time Development staff spends on checking an applicant's income, credit history, and landlord references may be included in the Development's application fee. Development Owners may add \$5.50 per Unit for their other out of pocket costs for processing an application without providing documentation. *Example 120(1)*: A Development's out of pocket cost for processing an application is \$17 per adult. The property may charge \$22.50 for the first adult and \$17 for each additional adult. Should an Owner desire to include a higher amount to cover staff time, prior approval is required and wage information and a time study must be supplied to the Department upon request. Documentation of Development costs for application processing or screening fees must be made available during onsite visits or upon request. The Department will review application fee documentation during onsite monitoring visits. If the Department determines from a review of the documentation that the Owner has overcharged residents an application fee, the noncompliance will be reported to the IRS on Forms 8823 under the category Gross rent(s) exceeds tax credit limits. The noncompliance will be corrected on the later of January 1st of the next year or as of the date the application fee is reduced and evidence of a reduced application fee is supplied to the Department. Owners are not required to refund the overcharged fee amount. If the Development refunds the overcharged fee in full or in part, the units will remain out of compliance until January 1st of the next year or until the application fee is reduced.
- (d) Rent or Utility Allowance Violations on Non-HTC Developments. If it is determined that the Development collected rent in excess of the allowable limit, the Department will require the Owner to refund to the affected residents the amount of rent that was overcharged.
- (e) Trust Account to be established. If the Owner is required to refund rent under subsection (b) or (d) of this section and cannot locate the resident, the excess rent collected must be deposited into a trust account for the tenant. The account must remain open for the shorter of a four (4) year period, or until all funds are claimed. If funds are not claimed after the four year period, the unclaimed funds must be remitted to the Texas Comptroller of Public Accounts Unclaimed Property Holder Reporting Section to be dispersed as required by Texas unclaimed property statutes.
- (f) Rent Adjustments for HOME Developments.
- (1) 100 percent HOME assisted Developments. If a household's income exceeds 80 percent at recertification, the owner must charge rent equal to 30 percent of the household's adjusted income.

- (2) HOME Developments with any Market Rate units. If a household's income exceeds 80 percent at recertification, the owner must charge rent equal to the lesser of 30 percent of the household's adjusted income or the comparable Market rent.
- (3) HOME Developments layered with other Department affordable housing programs. If a household's income exceeds 80% at recertification, the owner must charge rent equal to the lesser of 30 percent of the household's adjusted income or the rent allowable under the other program.
- 24 CFR \$92.252 of the HOME Final Rule requires Owners to charge households with an income in excess of 80 percent at recertification, a rent equal to the lesser of 30 percent of the household's adjusted income or the market rent for comparable unassisted Units in the neighborhood. If at recertification the household self-certifies an income in excess of the 80 percent limit, documentation of all income, assets and allowable deductions must be obtained by the Owner. The Department will find a HOME Development in noncompliance with this section if the Owner fails to determine the over income household's adjusted income and maintain documentation of market rents for comparable unassisted Units in the neighborhood.
- (g) Special conditions for NSP and CDBG Developments. To determine if a Unit is rent restricted, the amount of rent paid by the household, plus an allowance for utilities, plus any rental assistance payment must be less than the applicable limit.

§60.121. Notices to the Internal Revenue Service (HTC Properties).

- (a) Even when an event of noncompliance is corrected, the Department is required to file IRS Form 8823 with the IRS. IRS Form 8823 will be filed not later than forty-five (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 indicate on IRS Form 8823 the nature of the noncompliance and will indicate whether the Development Owner has corrected the noncompliance.
- (b) The Department will retain records of noncompliance or failure to certify for six (6) years beyond the Department's filing of the respective IRS Form 8823. The Department will retain the AOCRs and records for three years from the end of the calendar year the Department receives the certifications and records.
- (c) The Department will send the Owner of record copies of any IRS Forms 8823 submitted to the IRS. Copies of Forms 8823 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 in the Annual Owner's Compliance Report.

§60.122. Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period.

(a) HTC properties allocated credit in 1990 and after are required under the Code (§42(h)(6)) to record a LURA restricting the Development for at least thirty (30) years. Various sections of the Code specify monitoring rules State Housing Finance Agencies must implement during the Compliance Period.

- (b) After the Compliance Period, the Department will continue to monitor HTC Developments using the rules detailed in paragraphs (1) (12) of this subsection.
- (1) The frequency and depth of monitoring household income, rents, social services and other requirements of the LURA will be determined based on risk. Factors will include changes in ownership or management, compliance history, timeliness of reports and timeliness of responses to Department request. On site monitoring visits will continue to be conducted approximately every three years, unless the Department determines that a more frequent schedule is necessary.
- (2) In general, the Department will review 10 percent of the low income files. No less than five files and no more than twenty files will be reviewed.
- (2) (3)—At least once every three (3) years the property will be physically inspected including the The exterior of the Development, all building systems and 10 percent of Low Income Units. No less than five but no more than thirty-five of the Development's HTC Low Income Units will be physically inspected to determine compliance with HUD's Uniform Physical Condition Standards.
- (3)—(4)—Each Development shall submit an annual report in the format prescribed by the Department.
- (4)-(5)-Reports to the Department must be submitted electronically as required in §60.105 of this chapter (relating to Reporting Requirements).
- (5) (6) Compliance monitoring fees will continue to be submitted to the Department annually in the amount stated in the LURA.
- (6)—(7)—All HTC households must be income qualified upon initial occupancy of any Low Income Unit. Proper verifications of income are required, and the Department's Income Certification form must be completed unless the Development participates in the Rural Rental Housing Program or a project based HUD program, in which case the other program's certification form will be accepted.
- (7)—(8)—Rents will remain restricted for all HTC Low Income Units. After the Compliance Period, utilities paid to the Owner can be accounted for in the utility allowance. The tenant paid portion of the rent plus the applicable utility allowance must not exceed the applicable limit.
- (8) (9) All additional income and rent restrictions defined in the LURA remain in effect.
- (9) (10) For Additional Use Restrictions, defined in the LURA (such as supportive services, nonprofit participation, elderly, etc), refer to the Development's LURA to determine if compliance is required after the completion of the Compliance Period.
- (10) (11) The Owner shall not terminate the lease or evict low income residents for other than good cause.
- (11)—(12)—The total number of required HTC Low Income Units must be maintained Development wide.
- (12) The Annual Eligibility Certification must be collected for all low income households on an annual basis. See §60.111 of this chapter (relating to Annual Recertifications).
- (c) After the first fifteen (15) years of the Extended Use Period, certain requirements will not be monitored as detailed in paragraphs (1) (5)(4) of this subsection.
- (1) The student restrictions found in §42(i)(3)(D) of the Code. An income qualified household consisting entirely of full time students may occupy a Low Income Unit. If a Development markets to students or leases more than 15% of the total number of units to student households,

the property will be found in noncompliance unless the LURA is amended through the Material Amendments procedures found in §60.130 of this chapter.

- (2) The building's applicable fraction found in the Development's Cost Certification and/or the LURA. Low income occupancy requirements will be monitored Development wide, not building by building.
- (3) Household transfers between buildings restricted by §42(g)(1) of the Code. All households, regardless of HTC income level or 8609 elections designation, will be allowed to transfer between buildings within the Development.
- (4) The Department will not monitor the Development's application fee after the Compliance Period is over.
- (5) Mixed income Developments are not required to conduct annual income recertifications.
- (d) Regardless of the requirements stated in a LURA, the Department will monitor in accordance with this section.
- (e) Unless specifically noted in this section, all requirements of this chapter, the LURA and §42 of the Code remain in effect for the Extended Use Period. These Post-Year fifteen (15) Monitoring Rules apply only to the HTC Developments administered by the Department. Participation in other programs administered by the Department may require additional monitoring to ensure compliance with the requirements of those programs.

§60.123. Material Noncompliance Methodology.

- (a) The Department maintains a compliance history of each monitored Development in the Department's Compliance Status System. Developments with more than one program administered by the Department are scored by program. The Development will be considered in Material Noncompliance if the score for any single program exceeds the Material Noncompliance threshold for that program.
- (b) A Development will not be assigned the scores noted in this section until after the Owner has been provided a written notice of the noncompliance and provided a corrective action deadline to show that either the Development was never in noncompliance or that the noncompliance event has been corrected.
- (c) This section identifies all possible noncompliance events for all programs monitored by the Physical Inspection and Compliance Monitoring Sections of the CAO Division. However, not all issues listed in this section pertain to all Developments. In addition, only certain noncompliance events are reportable on Form 8823. Those events that are reportable under the HTC program on Form 8823 are so indicated in subsections (j) and (k) of this section.
- (d) For HTC Developments, all Forms 8823 issued by the Department will be entered into the Department's Compliance Status System. However, Forms 8823 issued prior to January 1, 1998 will not be considered in determining Material Noncompliance.
- (e) For all programs, a Development will be in Material Noncompliance if the noncompliance event is stated in this section to be Material Noncompliance. The Department may take into consideration the representations of the Owner regarding monitoring notices and Owner

responses; however, unless an Owner can prove otherwise, the compliance records of the Department shall be presumed to be correct.

- (f) All Developments, regardless of status, that are or have been administered, funded, or monitored by the Department, are scored even if the Development no longer actively participates in the program, with the exception of properties in the <u>CDBG disaster recovery and</u> –Federal Deposit Insurance Corporation's ("FDIC") Affordable Housing Disposition Program.
- (g) A Development's score will be reduced by the number of points needed to be one point under the Material Noncompliance threshold provided that:
- -(1) The Development has no previously reported noncompliance events that are uncorrected;
- (2) All newly identified noncompliance events are corrected during the corrective action period;
- (3) All corrective action documentation for the newly identified noncompliance is provided to the Department during the corrective action period; and
- -(4) The Development was not already in Material Noncompliance at the time of its most recent monitoring review.
- (h) If an Owner is unable to correct all issues during the corrective action period, the Owner may supply a corrective action plan for review by the Department that establishes dates that each uncorrected issue will be corrected and evidence of correction will be supplied. Provided that the Department approves the plan and the Owner follows the plan, upon correction of all issues, a Development's score will be reduced by the number of points needed to be one point under the Material Noncompliance threshold provided that:
- -(1) The Development has no previously reported noncompliance events that are uncorrected; and
- -(2) The Development was not already in Material Noncompliance at the time of its most recent review.

(g)(i) Noncompliance events are categorized as either "Development events" or "Unit/building events". Development events of noncompliance affect some or all the buildings in the Development; however, the Development will receive only one score for the noncompliance event rather than a score for each Unit or building. Other noncompliance events are identified individually by Unit and 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 under the HTC program are identified by Unit; however, the building is scored rather than the Unit and the building will receive the noncompliance score if one or more of the Units in that building are in noncompliance.

(h)(j) Uncorrected noncompliance events, if applicable to the Development, will carry the maximum number of points until the noncompliance event has been reported corrected by the Department. Once reported corrected by the Department, the score will be reduced to the "corrected value." Corrected noncompliance will no longer be included in the Development score three (3) years one year after the date the noncompliance was reported corrected by the Department.

(i)(k) Each noncompliance event is assigned a point value. The possible events of noncompliance and associated "corrected" and "uncorrected" points are listed in subsections (j) and (k)-(l) of this section.

(j)(1) Figure: 10 TAC §60.123(ji)(1) lists events of noncompliance that affect the entire Development rather than an individual Unit. The first column of the chart identifies the noncompliance event. The second column identifies the number of points assigned this event while the issue is uncorrected. The Material Noncompliance threshold for a HTC and Exchange Developments is thirty (30) points. The Material Noncompliance threshold for a non-HTC Development with one (1) to fifty (50) Low Income Units is thirty (30) points. The Material Noncompliance threshold for a non-HTC Development with fifty-one to two hundred Low Income Units is fifty points. The Material Noncompliance threshold for non-HTC Developments with two hundred and one or more Low Income Units is eighty points. The third column lists the number of points assigned to the event from the date the issue is corrected until three (3) one (1) years year after correction. The fourth column indicates which programs the noncompliance event applies. The last column indicates if the issue is reportable on Form 8823 for HTC Developments.

Attached Graphic

Figure: 10 TAC §60.123(j)(1)

Noncompliance Event	Uncorrected Points	Corrected Points	Programs	If HTC, on Form 8823?
Major property condition violations	Material Noncompliance	10	All programs	Yes
Pattern of minor property condition violations	10	5	All programs	Yes
Administrative reporting of property condition violations	0	<u>0</u> 0	НТС	Yes
Owner refused to lease to a holder of rental assistance certificate/voucher because of the status of the prospective tenant as such a holder	Material Noncompliance	10	See §60. <u>114</u> 112	Yes
Owner failed to approve and distribute an Affirmative Marketing Plan as required under §60.114 of this chapter	10	3	See §60. <u>114</u> 112	No
Development failed to comply with requirements limiting minimum income standards for Section 8	10	3	See §60. <u>114</u> 112	No

residents				
Development is not	10	0	HTC	Yes
available to general public				105
HUD or DOJ notification	0	0	HTC	Yes
of possible Fair Housing				
Act violation				
Determination of a	Material	10	All programs	Yes
violation under the Fair	Noncompliance			
Housing Act				
Development is out of	Material	NA	All programs	Yes
compliance and never	Noncompliance	correction		
expected to comply/		possible		
Foreclosure				
Owner did not allow on-	Material	5	All programs	Yes
site monitoring review	Noncompliance	_		
LURA not in effect	Material	5	All programs	Yes
	Noncompliance	10		
Development failed to	20	10	HTC Bonds	Yes
meet minimum set aside	10		TITTO	***
No evidence of, or failure	10	3	HTC	Yes
to certify to, material				
participation of a non-				
profit or HUB, if required by the Land Use				
Restriction Agreement				
Development failed to	10	3	All programs	No
meet additional State	10	3	An programs	110
required rent and				
occupancy restrictions				
The Development failed to	10	3	HTC Bonds	No
provide required				
supportive services as				
promised at Application				
The Development failed to	10	3	All programs	No
provide housing to the			_	
elderly as promised at				
Application				
Failure to provide special	10	3	All programs	No
needs housing				
Changes in Eligible Basis	3	NA, No	HTC	Yes
or Applicable Percentage		correction		
		possible		

Failure to submit part or all of the AOCR or failure to submit any other annual, monthly, or quarterly report required by the Department	10	3	All programs	Yes
Utility Allowance not calculated properly	20	10	All programs	Yes
Owner failed to execute required lease provisions, including language required by §60.110of this chapter or exclude prohibited lease language	10	3	HTC, HOME, and NSP	No
Failure to provide annual Housing Quality Standards inspection	10	3	НОМЕ	NA
Development has failed to establish and maintain a reserve account in accordance with §1.37 of this title	Material Noncompliance	10	All programs	No
Development substantially changed the scope of services as presented at initial Application without prior Department approval	10	3	НТС	No
Failure to provide a notary public as promised at Application	10	3	НТС	No
Violations of the Unit Vacancy Rule	3	1	HTC	Yes
Casualty loss	0	0	All programs	Yes
Failure to provide pre- onsite documentation as required	10	3	All programs	No
Failure to provide amenity as required by LURA	<u>10</u>	<u>3</u>	<u>HTC</u>	No
Failure to pay compliance monitoring or asset management fee	<u>10</u>	3	HTC, TCAP, Exchange	<u>No</u>
ChangeinownershipwithoutDepartmentapproval	<u>30</u>	<u>10</u>	All programs	<u>No</u>

(k)(m) Figure: 10 TAC §60.123(k)(m) lists ten events of noncompliance associated with individual Units. The first column of the chart identifies the noncompliance event. The second column identifies the number of points assigned this event while the issue is uncorrected. The Material Noncompliance threshold for a HTC or Exchange Development is thirty (30) points. The Material Noncompliance threshold for a non-HTC property with one (1) to fifty (50) Low Income Units is thirty (30) points. The Material Noncompliance threshold for a non-HTC Development with fifty-one (51) to two hundred (200) Low Income Units is fifty (50) points. The Material Noncompliance threshold for non-HTC properties with two hundred one (201) or more Low Income Units is eighty (80) points. The third column lists the number of points assigned to the event from the date the issue is corrected until three (3) yearsone year after the event is corrected. The fourth column indicates what programs the noncompliance event applies to. The last column indicates if the issue is reportable on Form 8823 for HTC Developments.

Attached Graphic

Figure: 10 TAC §60.123(k)(m)

Noncompliance Event	Uncorrected Points	Corrected Points	Programs	If HTC, on Form 8823?
Unit not leased to Low Income Household	5	1	All programs	Yes
Low Income Units occupied by nonqualified full-time students	3	1	HTC during the compliance period and Bond	Yes
Low Income Units used on transient basis	3	1	HTC Bond	Yes
Household income increased above the recertification limit and an available Unit was rented to a market tenant	3	1	HTC During the compliance period Bonds HOME HTF	Yes
Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	5	1	All programs	Yes
Failure to maintain or provide tenant income certification and documentation	3	1	All programs	Yes
Unit not available for rent	3	1	All programs	Yes
Failure to maintain or provide Annual Eligibility Certification	3	1	All programs	No
Development evicted or terminated the tenancy of a low income tenant for other than good cause	10	3	HTC, HOME, and NSP	Yes

Household income	3	1	HOME	NA
increased above 80% at				
recertification and Owner				
failed to properly				
determine rent				

§60.124. Previous Participation Reviews.

- (a) Prior to providing any Department assistance, executing a Carryover Allocation Agreement, or processing a request for a Qualified Contract, the CAO Division will conduct a previous participation review to determine if the requesting entity controls a Development that is in Material Noncompliance, owes the Department any fees, is sixty (60) days delinquent on a loan payment, has a past due single audit or single audit certification form, or has any unresolved audit or monitoring findings identified by the Contract Monitoring Section of the CAO Division. Previous participation reviews will also be conducted if more than one hundred twenty (120) days elapse between Board approval of an Application and a financing. Assistance includes but is not limited to allocating any Department funds or tax credits, with the exception of CSBG funds, engaging in loan or contract modifications that result in increased funding, approving a modification to a LURA (other than a technical error) and providing incentive awards.
- (b) HTC Developments with any uncorrected issues of noncompliance or with pending notices of noncompliance will not be issued Form 8609s, Low Income Housing Credit Allocation Certifications, until all events of noncompliance are corrected.
- (c) If during the previous participation review an uncorrected issue of noncompliance required by the HOME Final Rule is identified on a HOME Development monitored by the Department, the entity requesting assistance will be notified of the issue and provided five (5) business days to submit all necessary corrective action to cure the violation(s). The notification will be in writing and may be delivered by email. If the requesting entity does not cure the violation(s), the request for assistance will be terminated. If the request for assistance is terminated, the Board has the ability to reinstate the request for assistance for consideration as provided in §60.128(a) of this chapter (relating to Temporary Suspension of Previous Participation Reviews).
- (d) If during the previous participation review, the Department determines that the requesting entity owes the Department any fees, is sixty (60) days delinquent on a loan payment, has a past due single audit or single audit certification form, has unresolved audit or monitoring findings identified by the Contract Monitoring section of the CAO Division, or has control of an existing Development monitored by the Department that is in Material Noncompliance, the entity requesting assistance will be notified of the issue in writing and provided five (5) business days to submit all necessary corrective action, pay the fees, bring the loan current, or otherwise cure the violation(s). If the requesting entity does not cure the issue(s), the request for assistance will be terminated. If the request for assistance is terminated due to Material Noncompliance, the Board has the ability to reinstate the request for assistance for consideration as provided in §60.128(b) of this chapter.
- (e) If during the previous participation review, the Department determines that the requesting entity or any person controlling the requesting entity is on the Department's or the U.S.

Department of Housing and Urban Development's ("HUD") debarred list, the request for assistance will be terminated. A request for assistance properly terminated for this reason cannot be reinstated for consideration. The request for assistance can be re-submitted, however, if the person or entity that is on the debarred list is no longer part of the requesting entity.

- (f) For the purposes of previous participation reviews:
- (1) The Department will not take into consideration the score of a Development that the requesting entity has not controlled for at least three (3) years;
- (2) The Department will not take into consideration the score of a Development for which the Affordability Period ended over three (3) years ago;
- (3) The Department will not take into consideration the score attributed to a Development for noncompliance with the CDBG Disaster Recovery Program or the FDIC's Affordable Housing Disposition Program;
- (4) If a requesting entity no longer controls a Development but has controlled the Development at any time in the last three (3) years, the Department will determine the score for the noncompliance events with a date of noncompliance identified during the time the requesting entity controlled the Development. If the points associated with the noncompliance events identified during the requesting entity's control of the Development exceed the threshold for Material Noncompliance, the request for assistance will be terminated but may be subject to reinstatement by the Board as provided in §60.128 of this chapter.
- (g) Date for determining Material Noncompliance. Previous participation reviews will be conducted prior to the Board meeting when funds will be awarded, or if the request is not subject to Board action, prior to the Department providing the requested assistance. The score in effect at the completion of the previous participation review process (which includes the five (5) business day cure period referenced in subsections (c) and (d) of this section) will be used to determine if the request for assistance will be terminated. Previous participation reviews are not required to be performed if less than one hundred-twenty (120) days have elapsed since the last review, provided there is no change in the organizational structure.
- (h) Treatment of units of government during a previous participation review. If a city, county or local government applies for assistance from the Department, a previous participation review will be conducted. If the city, county or unit of government controls a Development that is in Material Noncompliance, owes the Department any fees, is sixty (60) days delinquent on a loan payment, has a past due single audit or single audit certification form or has unresolved audit or monitoring findings identified by the Contract Monitoring Section of the CAO Division, the process described in subsection (d) of this section will be followed. However, the previous participation of individual elected officials will not be considered provided that they are not the contract executor for the requesting entity.
- (i) Treatment of nonprofits during a previous participation review. If a nonprofit applies, or is associated with, an application for assistance from the Department, a previous participation review will be conducted. If the nonprofit controls a Development that is in Material Noncompliance, owes the Department any fees, is sixty (60) days delinquent on a loan payment, has a past due single audit or single audit certification form or has unresolved audit or monitoring findings identified by the Contract Monitoring Section of the CAO Division, the

process described in subsection (d) of this section will be followed. If it is determined that the Executive Director, Chair of the Audit Committee, Board Chair or any member of the Executive Committee of the nonprofit controls a Development that is in Material Noncompliance, owes the Department any fees, is sixty (60) days delinquent on a loan payment, has a past due single audit or single audit certification form or has unresolved audit or monitoring findings identified by the Contract Monitoring Section of the CAO Division, the process described in subsection (d) of this section will be followed. If within the five (5) business day period, the party with noncompliance resigns from the applicable position of the nonprofit organization requesting assistance, the noncompliance will not be taken into consideration. If it is determined that any member of the Board of the Nonprofit is on the Department's or HUD's debarred list, the request for assistance will be terminated. A request for assistance properly terminated for this reason cannot be reinstated for consideration. The request for assistance can be re-submitted, however, if the person on the debarred list resigns from the applicable nonprofit organization requesting assistance.

(j) Previous participation review for ownership transfers. Consistent with this section, the Department will perform a previous participation review prior to approving any transfer of ownership of a Development or any change in the Owner of a Development. The previous participation review shall be conducted with respect to the Developments controlled by the person coming into ownership, not with respect to the Development or Owner being transferred. If the property being transferred has any uncorrected issues of noncompliance or is in the corrective action period, the proposed incoming owner must provide a corrective action plan identifying dates of correction for any outstanding issues. The Department may deny the transfer of ownership based on financial capacity or lack of adequate relevant experience. The Department may require incoming owners to attend program training.

§60.125. Alternative Dispute Resolution.

- (a) It is the Department's policy to encourage the use of appropriate Alternative Dispute Resolution ("ADR") procedures to assist in resolving disputes under the Department's jurisdiction. 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. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title.
- (b) In all phases of monitoring, (construction and throughout the entire Affordability Period) if a potential issue of noncompliance has been identified, Owners will be provided a written notice of noncompliance. In general, the Department will provide up to a ninety (90) day corrective action period which can and will be extended for an additional ninety (90) days if there is good cause and the Owner requests an extension during the corrective action period.
- (c) Owners must respond to the Department's notice of noncompliance. If an Owner does not respond, this ADR process which is explained in this section cannot be initiated.
- (d) If an Owner does not agree with the Department's assessment of compliance, they should clearly explain their position and provide as much supporting documentation as possible. If the

position is reasonable and well supported, the issue of noncompliance will be cleared with no further action taken, i.e. for HTC properties, Form 8823 will not be filed with the IRS and the issue will not be scored in the Department's compliance status system.

- (e) If an Owner's response indicates disagreement with the Department's assessment of noncompliance, but does not appear to be a valid concern to the Department, staff will notify the Owner in writing of their right to engage in ADR. The Owner must respond in five (5) days and request ADR. In addition, the Owner must request an extension of the corrective action deadline, if one is still available. If the Owner does not respond to the staff's invitation to engage in ADR, the Department's assessment of the violation is final.
- (f) The Department must meet the Treasury Regulation requirement found in §1.42-5 and file Form 8823 within forty-five (45) days after the end of the corrective action period. Therefore, it is possible that the Owner and Department may still be engaged in ADR. In this circumstance, the Form 8823 will be filed. However, it will be sent to the IRS with an explanation that the Owner disagrees with the Department's assessment and is pursuing ADR. All Owner supplied documentation supporting their position will be supplied to the IRS. Although the violation will be reported to the IRS within the required timeframes, it will not be scored in the Department's compliance status system pending outcome of ADR.
- (g) ADR is not an appropriate format for matters regarding interpretations of laws, regulations and rules. ADR can only be used when parties could reach consensus.

§60.126. Liability.

Compliance with the program requirements, including compliance with §42 of the IRC, 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 noncompliance with §42 of the IRC, the Fair Housing Act, §504 of the Rehabilitation Act of 1973, HOME program regulations, BOND program requirements, and all other programs monitored by the Department.

§60.127. Applicability.

Unless otherwise noted, these provisions apply to all Developments administered by the Department.

§60.128. Temporary Suspension of Previous Participation Reviews.

(a) An entity whose request for assistance is terminated under §60.124 of this chapter (relating to Previous Participation Reviews) may request reinstatement of the Application for consideration for approval. This process is separate and distinct from the appeal process outlined in 10 TAC Chapter 1, §1.7 (relating to Staff Appeal Process) or §1.8 (relating to Board Appeals Process). The request must be in writing and must be submitted to the Department within five (5) business days of the date of the Department's letter notifying the requesting entity of the termination/denial. A timely filed request for reinstatement shall be placed on the agenda for the next Board meeting for which it can be properly posted.

- (b) If an Application for assistance was terminated under §60.124 of this chapter, the Board may consider reinstatement of the application only in the event that it determines, after consideration of the relevant, material facts and circumstances that:
- (1) it is in the best interests of the Department and the State to proceed with the award;
- (2) the award will not present undue increased program or financial risk to the Department or State;
- (3) the applicant is not acting in bad faith; and
- (4) the applicant has taken reasonable measures within its power to remedy the cause for the termination.
- (c) Reinstatement of a terminated Application merely makes the Application eligible to be considered and does not, in and of itself, constitute approval.

§60.129. Temporary Suspension of Other Sections of This Subchapter.

- (a) Temporary suspensions of other sections of this subchapter may be granted if the Board finds one or more of the following factors applicable to a Development:
- (1) A natural disaster or other act of God has made the application of this subchapter to a Development infeasible for a period of time and the Governor of Texas or President of the United States has previously made a disaster declaration for the area including the Development during the relevant time period;
- (2) Due to documented shortages in items necessary to complete the requirements of the subchapter, the Owner was unable to meet the subchapter requirements, this would include but not be limited to a shortage of labor, building materials, or public utilities available;
- (3) A federal rule has changed that significantly changed the ability of the Owner to deliver the services required at the time the Development was placed in service or began operation provided, however, that the Board cannot waive the rule itself and the Owner must comply, but the Board may suspend the compliance score related to the violation in this situation; and/or
- (4) A Development has been subjected in part to a governmental action such as partial condemnation through no fault of the Owner, eminent domain, or zoning changes that do not allow corrections of compliance issues required by the Department.
- (b) Under no circumstances can the Board suspend for any period of time compliance with the HOME Final Rule or regulations issued by HUD when required by federal law.
- (c) Under no circumstances can the Board suspend for any period of time Treasury Regulations, IRS publications controlling the submission of Form 8823, or any sections of 26 U.S.C. §42.
- (d) Examples of items the Board could temporarily suspend include the requirement to report online; requirement to use Department approved forms; sampling size requirements for agency calculated utility allowance; or the requirement to repay overcharged rent on a HTF property.

§60.130. Material Amendments to Land Use Restriction Agreements.

(a) If an Owner requests a change in the number of low income units, a change in the income or rent restrictions, a change in the resident population served, a substantive modification in the scope of tenant services, or a delay in the Right of First Refusal requirements, prior to staff

- taking a recommendation to the Board for consideration, the procedures in paragraphs (1) (5) of this subsection must be followed:
- (1) The owner must submit a written request specifying the requested change, the reason the change is necessary, the good cause for the change and if the necessity for the amendment was reasonably foreseeable at the time of application:
- (2) The Owner must supply financial information for the Department to evaluate the financial impact of the change;
- (3) The Department may order a market study to evaluate the request. The study will be paid for by the Owner;
- (4) At least seven (7) business days before the Board meeting when the Owner would like the Board to consider their request, the Owner must hold a public hearing; and
- (5) Ten (10) business days before the public hearing, the Owner must submit a draft notice of the hearing for approval by the Department. The Department will approve or amend the notice within three (3) business days.
- (b) The notice of the hearing and requested change must be provided to each tenant of the Development; the current lender and/or investors, the State Senator and Representative for the district the Development is located in, and the chief elected official for the municipal government if located in a municipality or the county commissioners if for an area outside of a municipality.
- (c) The Department will not approve changes that would violate state or Federal laws including the requirements of IRC §42, The HOME Final Rule, the QAP, Chapter 2306 of the Texas Government Code, , the Fair Housing Act, and for transactions involving Bonds, compliance with their Indenture and Bond issuance documents.
- (d) The request must be accompanied by a mandatory amendment fee in the form of a check in the amount of \$2,500.

EXECUTIVE DIVISION BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion, and possible action to approve the employment of Timothy K. Irvine as Executive Director.

RECOMMENDED ACTION

RESOLVED, that this Board hereby employs Timothy K. Irvine to serve, at this Board's pleasure, as Executive Director of the Texas Department of Housing and Community Affairs at the annual salary specified in the Department's bill pattern in the General Appropriations Act, and

FURTHER RESOLVED, that the presiding officer of this Board, J. Paul Oxer, be and he hereby is authorized, empowered, and directed, for and on behalf of this Board, to take all necessary action to submit this employment to the Governor for his approval as provided for by Tex. Gov't. Code, §2306.036.

BACKGROUND

Tim Irvine became Acting Director effective June 17, 2011. By law, he may serve in this acting capacity for no longer than six (6) months. Tim has been employed by the Department since January 1, 2009. Initially he was Deputy Executive Director, which later became Chief of Staff. In March 2011 he also became General Counsel. He has prior state government management experience as the Executive Director of the Texas Real Estate Commission, the Texas Appraisal Licensing and Certification Board, and the Texas Department of Housing and Community Affairs Manufactured Housing Division and as General Counsel and Director of Enforcement for the Texas Savings and Loan Commission (now Savings and Mortgage Lending). He has prior non-governmental management experience with Texas Commerce Bancshares, Inc., Franklin Federal Bancorp, FSB, and Commonwealth Savings and Commonwealth Mortgage Company and oversaw the legal divisions of each of those organizations. He also has private practice experience with Smith Wright & Weed, and Locke Liddell & Sapp (now Locke Lord, Bissell & Liddell) and federal regulatory experience with the Federal Reserve System.

MULTIFAMILY FINANCE DIVISION BOARD ACTION REQUEST September 15, 2011

Presentation, Discussion and Possible Action regarding the status of the Waiting List and the Consideration of Forward Commitments for Allocations for the 2011 Competitive Housing Tax Credit Application Round

Requested Action

Staff does not recommend the issuance of forward commitments for Allocations from the 2012 State Housing Credit Ceiling for 2011 Applications. However, if the Board determines forwards are warranted, staff recommends that the Board identify the good cause for each possible forward commitment and give staff a proposed list of such potential forward commitments so that those on the list can be fully evaluated prior to any formal forward allocation:

WHEREAS, the Board as permitted under §49.10(c) of the 2011 Qualified Allocation Plan and Rules (the "QAP"), may determine to issue commitments of tax credit authority with respect to Applications from the State Housing Credit Ceiling for the calendar year following the year of issuance, and

WHEREAS, forward commitments made this year will reduce the amount of Housing Tax Credits available in 2012 to other qualified applications that will be submitted for the 2012 Application Round; and

WHEREAS, the scoring process and Department rules were objectively applied to all 2011 Applications and those Applications not recommended for an award did not achieve a competitive score and/or did not meet the requirements of the program; and

WHEREAS, complete program and underwriting evaluations have yet to be performed for developments on the 2011 Waiting List as approved by the Board on July 28, 2011, and

WHEREAS, the Board has heard public comment and determined that certain forward commitments may be appropriate; therefore

It is hereby,

RESOLVED, that the Board makes no award of forward commitments at this time but identifies the following <insert> of the remaining 2011 Applications currently on the Waiting List for future consideration of a forward commitment in order to allow staff time to complete threshold, compliance and underwriting reviews to ensure compliance with Department rules prior to any such commitment; and

FURTHER RESOLVED, that the good cause to consider the awarding of each such possible forward commitment is as follows <insert>.

Background

Consistent with §2306.6711 of the Texas Government Code "...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 waiting list consists of all remaining eligible applications.

The Board approved the 2011 Waiting List at its July 28th meeting. Pursuant to §49.10(c) of the 2011 QAP, "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 QAP does not specifically identify what those discretionary factors may be.

Staff does not recommend the allocation of forward commitments since no such provision for such action exists in the QAP. Generally, Applications that did not score sufficiently to be awarded credits in the application round would be eligible to reapply in 2012 under the terms of the new QAP. Without the reapplication process, the deals that are forward commitment awards out of next year's allocation will not be held to the same standards as other applicants in 2012.

The following issues should be noted:

- 1. As described in §49.10(c) of the 2011 QAP: "Applications that are submitted under the 2011 QAP and granted a Forward Commitment of 2012 Housing Tax Credits are considered by the Board to comply with the 2012 QAP by having satisfied the requirements of this 2011 QAP, except for statutorily required QAP changes."
- 2. As described in §49.10(c)(1) of the 2011 QAP: "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."
- 3. For any Application approved by the Board for a forward commitment, the credit amount awarded will be attributed to the respective region and Set-Asides from the 2012 State Housing Credit Ceiling to ensure adherence to the requirements of §2306.6714 and the Regional Allocation Formula in 2011.
- 4. Any approved Applications will be reviewed to ensure:
 - Compliance with previous participation and that no Material Noncompliance consistent with §49.4(b)(2) and (3) of the 2011 QAP has been identified;
 - A complete eligibility and threshold review has been performed;

- A complete financial feasibility review has been performed;
- Any violations of the "two-mile, one-year" test pursuant to §2306.6711(f) as amended by Senate Bill 1 have not been violated. This statute prohibits the Department from allocating to an Application with a proposed site that is within two miles of any other Application's proposed site awarded in the same calendar year; and
- that 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" consistent with §49.5(b) of the 2011 QAP. The allocation will be counted in the year of the award.

BOARD ACTION SUMMARY MULTIFAMILY FINANCE DIVISION SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action regarding the proposed repeal of 10 TAC Chapter 50, concerning 2010 Housing Tax Credit Program Qualified Allocation Plan and Rules, and a proposed new 10 TAC Chapter 50, concerning 2012 Housing Tax Credit Program Qualified Allocation Plan for publication and public comment in the *Texas Register*.

Requested Action

RESOLVED, that the proposed repeal of current 10 TAC Chapter 50 and proposed new 10 TAC Chapter 50, regarding the Qualified Allocation Plan, is hereby ordered and it is approved, together with the preamble presented to this meeting, for publication in the *Texas Register* for public comment;

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the draft Qualified Allocation Plan, together with the preamble in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

Background

Attached behind this Board Action Item is the 2012 Draft Qualified Allocation Plan ("Draft QAP") which reflects staff's recommendations for revisions to the 2011 QAP for the Board's consideration. The document is shown as a "blackline" of the 2011 QAP – additions are shown as underlined text and deletions are shown as marked through text. The Department historically maintains two years of actual rules in order to finish the current year under the existing rules while implementing the next year's rule early for next year's applicants. Thus, the 2011 QAP will remain in effect but the proposed action will replace the 2010 QAP in its entirety.

The Draft QAP will be posted to the Department's website and published in the *Texas Register*. Public comment will be taken via mail, email or facsimile. There will be consolidated public hearings between September 26th and October 19th to garner public comment. The QAP will be brought before the Board in November for final approval.

The 2012 Draft QAP being recommended by staff contains several material changes from the 2011 QAP and a few changes that are clarification or organizational, namely in the movement of a few sections to the Department's Definitions and Amenities for Housing Program Activities rule. Some of the more noteworthy changes include:

- Revisions to a few of the Definitions as well as the inclusion of new ones;
- Dates for the 2013 program year in the event a two-year QAP is adopted;
- Policy statements for major sections (i.e. Eligibility, Threshold and Selection) as well as policy statements for individual scoring items;
- Movement of the unit and common amenities and tenant supportive services lists to the Definitions and Amenities for Housing Program Activities Department rule;
- Qualification as a High Opportunity Area and the provision of the 30% boost in Eligible Basis;

- New mechanisms for determining tie-breakers;
- Allowing a proration of the credit amount for applications under the State Housing Credit Ceiling for the Experienced Venturor to encourage partnerships with inexperienced Applicants;
- Revisions to the experience requirement in the Threshold Criteria which requires at least development of 150 units, 80 of which need to be in Texas;
- Allowing the Applicant to provide limited technical assistance relating to the creation and/or placing on record of the Neighborhood Organization for purposes of Quantifiable Community Participation and revising the point structure to minimize disparity where no Neighborhood Organizations exist;
- Revising Unit of General Local Government Funding to be more reflective of current economic conditions;
- Increasing the scores on a few items to allow for a new scoring item of Readiness to Proceed. The scoring items that reflect an increase are: State Representative and Senator letters, rent levels of the unit, cost per square foot, tenant services and declared disaster areas;
- Creating a new scoring item based on readiness to proceed due diligence items; and
- Identifying a process for forward commitments.

In addition to the roundtable discussion held on July 19, 2011, staff hosted a Discussion Forum whereby staff's initial proposed changes encompassing eligibility, threshold and selection criteria were posted. Interested registered users of the Forum were allowed the opportunity to provide staff with initial feedback on some of these proposed changes. Additionally, the Department released a preliminary Draft QAP and preliminary draft of the Definitions and Amenities for Housing Program Activities on August 22, 2011. The purpose of the preliminary release was to allow interested persons more time to review proposed changes, outside of the usual 7 day posting requirement for Board meeting materials. In response to the release, staff also received feedback from interested persons for consideration in the final Draft included in this Board presentation. The Draft QAP incorporates a variety of the initial public feedback, includes policy recommendations and administrative changes to improve the Housing Tax Credit program, and maintains compliance with all statutory and Code requirements.

Summary of Significant Recommendations from Staff

This section outlines some of the most significant recommendations being made by staff. Other revisions, details of revisions, formatting adjustments, and streamlining are not summarized, but are reflected in the attached Draft QAP. Citation references are to the numbered sections of the 2012 Draft QAP.

- 1. **§50.2 Definitions** (**Page 3 of 98**). The changes made to this section include new definitions for Central Business District or Downtown District (meant to replace the former definition for Urban Core), High Opportunity Area, Transitional Housing and Target Population. Moreover, staff modified the definitions for Single Room Occupancy (SRO) and Supportive Housing which were mostly meant to indicate a shift in terminology from SRO developments, which is associated more with building type, to Supportive Housing, which is meant to reference a development type that would include, but not be limited to SRO's and various population types. Moreover, a definition for Transitional Housing is also introduced.
- 2. §50.3 Program Calendar (Page 6 of 98). This section includes dates for the 2013 program year in the event a two year QAP is adopted.
- 3. §50.4 Ineligible Applicants, Applications and Developments (Page 9 of 98). This section includes a policy statement reflective of the intent of the entire section, includes the General

Contractor as appropriate into situations that would warrant ineligibility, allows for the replacement of the General Contractor or Guarantor should any of them be identified as ineligible, regulates a cap on the amount of housing tax credits per unit requested, exempts Developments located in a Central Business District or Transit Oriented District that are adjacent to or within 300 feet of an active railroad from being ineligible and also modifies the description for being within the fall line of high voltage transmission lines according to HUD's language. It clarifies which of the required Development Amenities Supportive Housing Developments are exempt from providing. Moreover, it allows for Developments to vary by no more than 20% in the unit maximum percentages listed for each bedroom size provided they submit a publicly adopted resolution by the Governing Body.

- 4. **§50.5(b)** Credit Amount (Page 15 of 98) This section is revised to reflect some of the statutory changes regarding credit cap amounts. Specifically, the inclusion of not allocating more than \$3 million of tax credits to an Applicant in a given Application Round and no more than \$2 million to an Application in a given Application Round. To allow for capacity building, staff included a provision whereby a Principal that is involved solely to fulfill an experience requirement will have a prorated portion of the applicable Development attributed to their cap based on the portion they are benefitting from provided that such Principal may not provide such experience, in this capacity, to more than two (2) other Applications in the current Round.
- 5. §50.5(c) Limitations on the Size of Developments (Page 16 of 98) The restriction on the maximum number of units has been removed. Staff suggests allowing the limitation on the tax credit and/or bond amount to dictate the size of the Development within the constraints of financial feasibility.
- 6. §50.5(d) Limitations on Developments Proposing to Qualify for a 30% Increase in Eligible Basis (Page 17 of 98). This section proposes several revisions. First, it clarifies that the boost will be allowed to the extent it's needed for financial feasibility as determined by the Department. Second, this section allows the boost on Supportive Housing Developments provided they are proposed to be debt free. Third, the boost is allowed for Developments proposed in High Opportunity Areas based on the Department's definition of such an area. Fourth, this section allows the boost for Developments proposed in Central Business Districts or Transit Oriented Districts based on the Department's definition of such areas. This provision was previously in the QAP; however, it was combined with the requirement of a four story or greater Development. Fifth, the section allows the boost for Developments that include the use of Historic Tax Credits that have been removed from eligible basis and lastly, it allows the boost if the Development is proposing to pursue Enterprise Green Communities Certification or LEED certification at the Gold or Platinum rating levels.
- 7. **§50.6(b)(1) Allocation and Award Process (Page 18 of 98).** The nonprofit set-aside section has been modified to state that all Applications that meet the requirements of the set-aside will be will automatically be included in the set-aside unless they elect otherwise and sign a corresponding certification in the Application. The at-risk section is modified to reflect statutory changes and clarifies that an Applicant may not submit an amendment while their Application is under review in order for the Development to qualify for the set-aside. The methodology for award recommendations under the set-asides has been revised to only allow USDA Applications that are not competitive in their respective set-aside to move over and compete within their subregion.

- 8. **§50.6(e) Tie Breakers (Page 21 of 98).** This section removes all of the previous criteria by which tie breakers would have been determined in the event multiple applications receive the same score. Staff suggests the tie breaker be determined based on the lowest average of units per capita in the census tract where the proposed Development is located and all contiguous census tracts, supported by housing tax credits or tax exempt bonds at the time the Application Round begins. A second tie-breaker will be based on each scoring item for the tied Applications compared in descending order. Once an item is identified where one score is greater than the tied Applicants' score, the Applicant with the highest score on that item will win this tie breaker.
- 9. **§50.7(a)(2) Administrative Deficiency Process (Page 23 of 98).** This section has been revised to clarify that the Administrative Deficiency process is meant to clarify, correct or submit non-material missing information to resolve inconsistencies in the original Application. Moreover, any exhibits or forms that are part of the Application along with any supporting documentation will not be accepted by staff even if points were requested in the Self-Score form unless the Applicant provides an explanation satisfactory to staff of why the item is missing and explaining how it was beyond their control.
- 10. §50.8(a)(3) Threshold (Rehabilitation Costs) (Page 32 of 98). This section has been modified to reflect an increase from \$15k/Unit in rehab costs to \$20k/Unit. Additionally, the calculation of the costs excludes off-sites and contingency.
- 11. §50.8(a)(4) Threshold (Experience Certification) (Page 32 of 98). This section has been revised to reflect that one of the principals of the Development Owner, Developer, General Contractor or Experienced Venturor establish that they have experience in at least 150 housing tax credit units, 80 of which must be in Texas through at least five (5) years of those properties' compliance periods. Additionally, the General Contractor (or Principal thereof) must establish that they have prior residential construction experience of at least 36 units in the past five (5) years.
- 12. §50.8(a)(5) Threshold (Certifications Common Amenities) (Page 34 of 98). This section was revised to reflect the following: increased points based on total units required to meet threshold, increased point values on some amenities and the addition of new amenities. The new amenities include: splash pad/water feature play area, common area Wi-Fi and twenty-four hour monitored camera/security system in each building. The list of green building amenities has been revised to include Limited Green Amenities, Enterprise Green Communities and LEED Certification for points under threshold. The list of common amenities is proposed to be moved to the Definitions and Amenities for Housing Program Activities rule. Finally, selection of Unit amenities to meet threshold has been added and is applicable to Tax Exempt Bond Developments only.
- 13. §50.8(a)(6) Threshold (Architectural Drawings) (Page 41 of 98). This section is modified to indicate the site plan will need to identify the location of the required basic amenities and parking spaces as well as the approximate placement of the detention/retention pond.
- 14. §50.8(a)(8)(A) Threshold (Site Control) (Page 41 of 98). This section is revised to indicate that the Applicant must maintain site control within the timeframes established by the Department through the QAP or risk being considered ineligible in the next Application Round. Language regarding the specific requirements and documentation on Identity of Interest Applications was removed and instead referred to the Real Estate Analysis rules.

- 15. §50.8(a)(8)(B) Threshold (Zoning) (Page 43 of 98). This section is revised to remove the requirement that the letter from the chief executive officer confirming there is no zoning for the area containing the proposed Development needs to state the Development is consistent with the consolidated plan or that there is a need for affordable housing in the absence of a consolidated plan. The letter must only state that there is no zoning.
- 16. §50.8(a)(8)(C) Threshold (Financing Requirements) (Page 45 of 98). This section clarifies that if other Department funding is being requested then evidence of a complete and receipted application from that program must be obtained no later than March 1.
- 17. §50.8(a)(9)(B) Threshold (Signage) (Page 47 of 98). This section is proposed to be deleted.
- 18. §50.8(a)(10) Threshold (Development Proposed Ownership Structure). (Page 48 of 98). This section has been modified to require a certification from the Applicant disclosing any developments administered in other states using state or federal programs and also authorizes those parties to release compliance histories to the Department.
- 19. §50.8(a)(14) Threshold (Supplemental Threshold Reports) (Page 50 of 98). This section has been revised to reflect that a Property Condition Assessment is not required on those Developments proposing Reconstruction.
- 20. §50.9(a)(1) Selection (Financial Feasibility) (Page 52 of 98). This section is revised to bifurcate the points associated with the pro forma from the lender based on the level of review that has been performed and points based on the credit history, financial statements and reference checks of the Principal of the Applicant.
- 21. §50.9(a)(2) Selection (Quantifiable Community Participation) (Page 54 of 98). This section is revised to reflect the following:
 - A Neighborhood Organization must provide at least a seventy-two (72) hour notice to persons eligible to join or participate in the affairs of the organization;
 - The Organization needs to have representatives of two or more separate households as participating members and the representatives need to actually live within the Organization's boundaries;
 - The scoring of the letters has been revised to reflect 16 points for Applications where there are no existing Neighborhood Organizations and 14 points for letters that do not provide a reason for support or opposition or are considered unclear in their position. In both of these scenarios the Applicant will be eligible to receive up to 6 points for the Input other than QCP scoring item;
 - An Applicant may provide limited technical assistance in the creation and/or placing on record of a Neighborhood Organization; and
 - If the Department receives input that could be in violation of the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation. Any referrals will be reported to the Board and the status of such referrals will be reflected in any recommendations.

- 22. §50.9(a)(4) Size and Quality of the Units (Page 57 of 98). This scoring item was modified to reflect the movement of the list of unit amenities to the Definitions and Amenities for Housing Program Activities rule.
- 23. §50.9(a)(5) Commitment of Funding by Unit of General Local Government (Page 58 of 98). This section is revised to reflect lower amounts per Unit required to meet the sliding scale point requirements. Specifically, to achieve 18 points the contribution from the Unit of General Local Government must be \$2,000/Unit (or \$1,000 for rural) and to achieve 12 points the contribution from the Unit of General Local Government must be at least \$1,000/Unit (or \$500 for rural). Another change reflects that if using development based rental subsidies it must be the granting of a new rental subsidy with a term of at least 15 years and coming directly from the Unit of General Local Government or Instrumentality thereof.
- 24. §50.9(a)(6) Community Support from State Representative or State Senator (Page 61 of 98). This section is revised to reflect a change in the deadline for a State Representative or State Senator to withdraw their letter of support or opposition from June 1 to May 1. The section further clarifies that once the letter has been submitted, whether in advance of the deadline or not, the letter cannot be withdrawn or changed. Moreover, they are encouraged to not submit their letter earlier than the deadline so as to take into consideration of all constituent comment and other relevant input on the Development.
- 25. §50.9(a)(9) Tenant Services (Page 62 of 98). This section was modified to reflect the movement of the list of tenant services to the Definitions and Amenities for Housing Program Activities rule. Additionally, there is more guidance provided on some of the tenant services listed where appropriate.
- 26. §50.9(a)(11) Readiness to Proceed (Page 63 of 98). This is a new scoring item meant to provide an incentive for a level of due diligence by the Applicant and lender. It includes considerations for due diligence required for New Construction and Rehabilitation Developments.
- 27. §50.9(a)(12) Community Revitalization, Historic Preservation or Mixed Income (Page 65 of 98). This section is revised to reflect the following:
 - The maximum points under this scoring item have been revised from 6 to 7 points and are cumulative; therefore, an Application can qualify under all of them based on the appoints attributable to each one;
 - Clarification that Consolidated Plans and other plans such as Economic Development Plans or city-wide plans do not qualify for purposes of these points;
 - The Plan must be approved or adopted by ordinance, resolution or other vote and documentation must be submitted that includes the following: a map clearly indicating the location of the Development is within the specific geographic areas covered by the plan, a detailed description of how the Development supports at least one goal in the plan and a letter from the Appropriate Local Official affirming that the Development is located within the specific geographic area covered by the plan and that it will contribute to the goals outlined in the plan;
 - Historic buildings that have a historic designation must utilize Historic Tax Credits;
 - Includes Developments that are part of a mixed use planned development and the residential component includes both market rate and low income units;

- Includes Developments proposed in qualified census tracts that is part of a community revitalization plan. This item was previously a stand-alone scoring item and is simply proposed to be merged with this item; however, the point value has increased from 1 to 5 points and allows for at least 2 more points if other criteria in this item are met; and
- Rehabilitation Developments as a sole qualifier is proposed to be removed and New Construction Developments that are part of a Community Revitalization Plan is allowed under the first qualifier in this section.
- 28. §50.9(a)(16) Green Building (Page 67 of 98). The changes to this scoring item mirror those made to threshold.
- 29. §50.9(a)(17) Developments in Census Tracts with Limited Existing HTC Developments (Page 70 of 98). This section is modified to allow full points if a Development is proposed in a census tract that does not have any existing HTC Developments or fewer points if a Development is proposed in a census tract that does not have any existing HTC Developments that serve the same Target Population.
- 30. §50.9(a)(18) Development Location (Page 70 of 98). This section is revised to allow points under one of two criteria: if the Development is proposed to be located in a High Opportunity Area or if the Development is proposed to be located in a Transit Oriented District or Central Business District as such areas are defined by the Department.
- 31. §50.9(a)(19) Economic Development Initiatives (Page 71 of 98). This section proposes the to substitute economic development initiatives adopted by the local government (i.e. TIF or TIRZ) for the various Funds and/or Programs under the previous item (B).
- 32. §50.9(a)(22) Site Characteristics (Page 72 of 98). This section is revised to increase the distance required from the site to the amenity from ¼ mile to ½ mile, increases the number of services/amenities for full points from three (3) to six (6) and includes additional services/amenities.
- 33. §50.9(a) Development Size (Page 73 of 98). This scoring item, previously considered item #22 is proposed to the deleted. This item had allowed for Developments with 36 units or less to receive 3 points; however, staff believes that the majority of the applications that would qualify for points under this item were already prioritized under the At-Risk Set-Aside.
- 34. §50.9(a)(25) Leveraging of Private, State and Federal Resources (Page 75 of 98). Changes to this section mirror those made to §50.9(a)(5), specifically, that development based rental subsidies must include the granting of a new subsidy with a term of at least 15 years.
- 35. §50.9(a)(26) Third Party Funding Outside of Qualified Census Tracts (Page 76 of 98). This section clarifies that funding amounts used under §50.9(a)(5) or (a)(25) may not be used for purposes of qualifying for points associated with this item.
- 36. §50.9(b) Scoring Criteria Imposing Penalties (Page 77 of 98). This section is revised to reflect that penalty points will not be assessed if an affirmative finding from the Board or the Executive Director that the facts which gave rise to the need for the extension associated with Carryover or 10% Test were beyond the reasonable control of the Applicant and could not have

- been reasonably anticipated and adds that a violation of Adherence to Obligations would could result in penalties.
- 37. **§50.10(c) Forward Commitments (Page 80 of 98).** This section is modified to identify a process by which forward commitments may be considered by the Board. Specifically, if the Board believes that an Application should be considered for a forward commitment then they will direct staff to report back with an analysis that takes into consideration the following: final underwriting, previous participation review, how the forward commitment would affect the available credits in the affected region in the following Round, an analysis of the distribution of low income units in the affected region and census tract, and other matters the Board may request.
- 38. §50.12(f) 10% Test (Page 87 of 98). This section removes the submission requirement of a current original plat or survey and evidence of all applicable utilities and replaces them with a certification from a Third Party civil engineer stating that all necessary utilities will be available at the site and that there are no conditions on or affecting the Development that would adversely impact the development of the property as represented in the Application.
- 39. §50.12(g) Commencement of Substantial Construction (Page 88 of 98). This requirement has been removed from the QAP and is addressed in Chapter 60 of the Compliance Administration rules.
- 40. §50.13(b) Amendment Process (Page 90 of 98). This section is revised to reflect that exclusion of any threshold requirements is considered to be a material alteration of a Development.
- 41. **§50.13(c) Extension Requests (Page 92 of 98).** This section is revised to propose that requests for extensions relating to Carryover, 10% Test, or Cost Certification that are submitted at least 30 days in advance of the applicable deadline will not have to pay an extension fee while those submitted after the deadline will be required to pay the extension fee. Moreover, extension requests will be approved by the Executive Director unless, at staff's discretion, the request warrants Board approval.
- 42. §50.14(l) Extension and Amendment Fees (Page 96 of 98). This section is revised to reflect that, as previously noted, extension requests submitted in advance of the deadline will not be required to pay the fee. Similarly, amendment requests that are considered non-material and prior to implementation will not be required to pay the amendment fee while those considered non-material and already implemented will be required to pay the fee.
- 43. §50.14(m) Refund of Fees (Page 96 of 98). This section has been added to reflect that the Executive Director may approve full or partial refunds of fees as noted in the QAP.
- 44. §50.16 Waiver and Amendment of Rules (Page 97 of 98). This section has been modified to allow for waiver requests from an Applicant relating to requirements in the QAP.
- 45. §50.17(b) Department Responsibilities (Page 98 of 98). This section has been modified, consistent with recent statutory changes, to reflect the provision for adoption of a two-year QAP.

Scoring Breakdown in Descending Order of Points for the Draft 2012 QAP

QAP Para.#	Торіс	Total Points	Notes	Legislative and/or Code Citation
1	Financial Feasibility	28 Max	N/A	2306.6710(b)(1)(A)
2	Quantifiable Community Participation (QCP)	24 Max	Range of +24 to 0	2306.6710(b)(1)(B); 2306.6725(a)(2)
3	Income Levels of the Tenants	22 Max	Range 22 to 20	2306.6710(b)(1)(C) and (e); 2306.111(g)(3)(B) and (E); 42(m)(1)(B)(ii)(I)
4	Size and Quality of the Units	20 Max	Size of Units – up to 4 points; Quality of Units – up to 6 points	2306.6710(b)(1)(D); 42(m)(1)(C)(iii)
5	Commitment of Funding by Unit of General Local Government	18 Max	Range 18 to 12	2306.6710(b)(1)(E)
6	State Representative or Senator Input	16 Max	Range of +14 to -14	2306.6710(b)(1)(F); 2306.6725(a)(2)
7	Rent Levels of the Units	14 Max	Range 12 to 2	2306.6710(b)(1)(G)
8	Cost Per Square Foot	12	N/A	2306.6710(b)(1)(H); 42(m)(1)(C)(iii)
9	Tenant Services	10 Max	Range 8 to 1	2306.6710(b)(1)(I); 2306.6725(a)(1)
10	Declared Disaster Areas	8	N/A	2306.6710(b)(1)(J)
11	Readiness to Proceed	7		
12	Revitalization, Historic Preservation or Mixed Income	7 Max	N/A	42(m)(1)(C)(iii); 42(m)(1)(B)(ii)(III); H.R 3221
13	Housing Needs Characteristics	6 Max		
14	Community Input Other Than QCP	6 Max	Range 6 to 0	N/A
15	Pre-Application Incentive Points	6	N/A	2306.6704
16	Green Building	6 Max	Range 6 to 2	N/A
17	Census Tracts with Limited Existing HTC Developments	6 Max	Range 6 to 4	2306.6725(b)(2)
18	Development Location	4	N/A	2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(C)(i) and (vii); 2306.6710(e)(1)
19	Economic Development Initiatives	4	N/A	2306.127
20	Special Housing Needs Populations	4	N/A	42(m)(1)(C)(v)
21	Length of Affordability	4 Max	Range 4 to 2	2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); 42(m)(1)(B)(ii)(II)
22	Site Characteristics	4	Up to 4 points	N/A
23	Sponsor Characteristics	2	N/A	42(m)(1)(C)(iv)
24	Right of First Refusal	1	N/A	2306.6725(b)(1); 42(m)(1)(C)(viii)
25	Leveraging of Private, State and Federal Resources	1	N/A	2306.6725(a)(3)
26	Third Party Funding Outside of QCT	1	N/A	2306.6710(e)(1)
	Penalties	N/A	Range	2306.6710(b)(2)

Attachment 1 Proposed New Chapter 50

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC, Chapter 50, Qualified Allocation Plan §§50.1-50.17. The new sections are proposed in order to implement changes that will improve the 2012 Housing Tax Credit Program.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section as proposed.

Mr. Irvine has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced compliance with formalized policy, all contractual and statutory requirements.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The proposed section will not impact local employment.

The public comment period will be held between September 26, 2011 to April October 19, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2011 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 PM OCTOBER 19, 2011.

The new section is proposed pursuant to the authority of the Texas Government Code, Chapter 2306, which provides the Department the authority to adopt rules governing the administration of the Department and its programs.

The proposed new section affects no other code, article or statute.

§50. Qualified Allocation Plan

Housing Tax Credit Program 20124 Qualified Allocation Plan **Table of Contents**

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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§4950.1. General Program Information.

- (a) Purpose and Authority. 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. Pursuant to Chapter 2306, Subchapter DD, of the Texas Government Code, the Department is authorized to make Housing Tax Credit Allocations for the State of Texas. As required by §42(m)(1) of the Code, the Department developed this Qualified Allocation Plan (QAP) which is set forth in §§5049.1 5049.17 of this chapter. 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. Notwithstanding the fact that these rules may not contemplate unforeseen situations that may arise, the Department would expect to apply a reasonableness standard to the evaluation of Applications for Housing Tax Credits.
- (b) General Rule of Construction. Any requirement to meet code, ordinance, etc. is deemed to be met if an appropriate waiver has been lawfully obtained and is being met.
- (c) Rounding. An Applicant may not, except as specifically requested, round information provided. Staff, in evaluating information, may round up or down as appropriate to the nearest whole number or fraction.
- (d) Unless the context indicates otherwise, a reference to a Development Owner, Developer, General Contractor or Guarantor includes all Persons controlled by or under common Control with any such Person.
- (b) Allocation Goals. It is the policy of this Department and the Board, as expressed through these provisions, to encourage diversity through broad geographic allocation of tax credits within the state, and in accordance with the regional allocation formula to promote maximum utilization of the available tax credit amount and to allocate credits among as many different entities as practicable without diminishing the quality of the housing that is being built.

§4950.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Texas Government Code, Chapter 2306, §42 of the Internal Revenue Code, §1.1 of this title (relating to Definitions), and repeated in the Tax Credit (Procedures) Manual.

- (1) Applicable Percentage— The percentage used to determine the amount of the Housing Tax Credit for any Development (New Construction, Reconstruction, and/or Rehabilitation), as defined more fully in the Code, §42(b).
 - (A) For purposes of the Application, the Applicable Percentage will be projected at:
 - (i) 40 basis points over the current applicable percentage for 70 % present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department, or
 - (ii) 15 basis points over the current applicable percentage for 30 % present value credits, pursuant to §42(b) of the Code for 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 the 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.
- The percentage used to determine the amount of the Housing Tax Credit for any Development (New Construction, Reconstruction, and/or Rehabilitation), as described in §42(b) of the Code. However, where the property has not placed in service or an Agreement and Election Statement has not been executed the Applicable Percentage must be estimated as of the date of the Application submission. For purposes of the Application, the Applicable Percentage must be projected at:
 - (A) not less than 9% through December 31, 2013 for 70% present value credits unless extended by Congress; or
 - (B) fifteen (15) basis points over the current Applicable Percentage for 30% present value credits associated with acquisition and with qualified Tax-Exempt Bond Developments, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department.
- (2) Application Acceptance Period--That period of time during which Applications may be submitted to the Department.
- (3) Area Median Gross Income (AMGI)--Area median gross household income, as determined for all purposes under and in accordance with the requirements of §42 of the Code.
- (4) Carryover Allocation--An allocation of current year tax credit authority by the Department pursuant to the provisions of §42(h)(1)(C) of the Code and Treasury Regulations, §1.42-6.
- (5) Carryover Allocation Document--A document issued by the Department, and executed by the Development Owner, pursuant to §5049.12(e) of this chapter (relating to Carryover).
- (6) <u>Certificate of Reservation--The notice given by the Texas Bond Review Board (TBRB) to an issuer reserving a specific amount of the state ceiling for a specific issue of bonds.</u>
- (7) Central Business District or Downtown District—The area designated by a city with a population of 50,000 or more as that city's Central Business District or Downtown Area which includes one or more commercial buildings of ten (10) stories or more.
- (8) 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 U.S. Department of the Treasury or the Internal Revenue Service (IRS).
- (7) Certificate of Reservation—The notice given by the Texas Bond Review Board (TBRB) to an issuer reserving a specific amount of the state ceiling for a specific issue of bonds.
- (8) Community Revitalization Plan—A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.
- (9) Competitive Housing Tax Credits--Tax credits available from the State Housing Credit Ceiling.

- (10) Determination Notice--A notice issued by the Department to the Development Owner of a Tax-Exempt Bond Development which specifies the Department's determination as to the amount of tax credits that the Development may be eligible to claim pursuant to §42(m)(1)(D) of the Code.
- (11) **Development Site--**The area, or if scattered site, areas, on which the Development is proposed to be located.
- (12) Economically Distressed Area--A county that contains an area that meets the criteria for an economically distressed area under §17.92(1), Texas Water Code, and has adopted and enforces the model rules under §16.343, Texas Water Code.
- (13) Eligible Basis--With respect to a building within a Development, the building's Eligible Basis pursuant to §42(d) of the Code.
- (14) **Existing Residential Development**--Any Development Site which contains existing residential Units at the time the Application is submitted to the Department.
- (15) High Opportunity Area--A Development that is proposed to be located in an area that includes at least three (3) of the following:
 - (A) Within a half-mile of public transportation if such transportation is available in the municipality or county in which the Development is located;
 - (B) In a census tract which has a median income that is above median for that county as of the first day of the Application Acceptance Period;
 - (C) In a census tract that has a 15% or less poverty rate according to the most recent census data (as designated in the Housing Tax Credit Site Demographic Characteristics Report for the current Application Round);
 - (D) In an elementary school attendance zone that has an academic rating, as of the beginning of the Application Acceptance Period, of "Exemplary" or "Recognized," or comparable rating if the rating system changes by the same date as determined by the Texas Education Agency. An elementary attendance zone does not include magnet school or elementary schools with district-wide possibility of enrollment or no defined attendance zones. However, districts with district-wide enrollment and only one elementary school are acceptable.
- (165) Housing Credit Allocation--An allocation by the Department to a Development Owner for a specific Application of Housing Tax Credits in accordance with the provisions of this chapter.
- (176) Housing Credit Allocation Amount--With respect to a Development or a building within a Development, the amount the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the affordability period which the Board allocates to the Development.
- (187) Qualified Nonprofit Organization--An organization that meets the requirements of Texas Government Code §2306.6706 and §2306.6729.
- (4819) Qualified Nonprofit Development--A Development in which a Qualified Nonprofit Organization is to own an interest in the Development directly or through a partnership and materially participates (within the meaning of §469(h) of the Code) in the development and operation of the dDevelopment throughout the Compliance Period.
- (20) Single Room Occupancy(SRO)-- An Efficiency Unit that meets all the requirements of a Unit except that it may, but is not required, to be rented on a month to month basis to facilitate Transitional Housing. Single Room Occupancy units are designed for the residents to live in buildings comprised solely of SRO units. Such buildings have extensive living areas in common and are required to be Supportive Housing and include the provision for substantial supports from the Development Owner or its agent on site.

- (2<u>1</u>49)State Housing Credit Ceiling--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 applicable federal law, including §42(h)(3)(C) of the Code.
- (220) Supportive Housing--Residential rental developments intended for occupancy by individuals or households in need of specialized and specific non-medical services in order to maintain independent living. Supportive housing developments generally require established funding sources outside of project cash flow and are expected to be debt free or have no foreclosable or noncash flow debt. The services offered generally address special attributes of such populations as Transitional Housing for homeless and at risk of homelessness, persons who have experienced domestic violence or single parents or quardians with minor children.
- (23) Target Population--For purposes of this Qualified Allocation Plan, the designation of types of housing populations shall include those Developments that are entirely Qualified Elderly and those that are Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations.
- (241) Tax Credit (Procedures) Manual--The manual produced and amended from time to time by the Department which reiterates the rules and provides guidance for the filing of tax credit related documents.
- (252) Tax-Exempt Bond Development--A Development requesting or having been awarded Housing Tax Credits and 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 §42(h)(4) of the Code, such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.
- (263) Transit Oriented District--A mixed-use residential and commercial area, as designated by the Unit of General Local Government, located within a radius of one-quarter mile from an existing or proposed transit stop, designed to encourage pedestrian activities and maximize access to public transportation.
- (27) Transitional Housing--A Supportive Housing development that includes living Units with more limited individual kitchen and bathroom facilities and is:
 - (A) used exclusively to facilitate the transition of homeless individuals and those at-risk of becoming homeless, to independent living within 24 months; and
 - (B) is owned by a governmental entity or a qualified non-profit which provides temporary housing and supportive services to assist such individuals in, among other things, locating and retaining permanent housing. The limited kitchen and/or bathroom facilities in individual Units must be appropriately augmented by suitable, accessible shared or common facilities.

§4950.3. Program Calendar.

All documentation noted in this section must be submitted to the Department offices located at 221 E. 11th Street, Austin, TX 78701, by 5:00 p.m. (CST) by the date indicated. Any deadline not imposed by statute and including those not specifically listed in the Program Calendar may be extended for good cause by the Executive Director for a period of not more than five (5) calendar days provided; however, that the Applicant requests an extension of the deadline prior to the date of the original deadline. Any extension of non-statutory deadlines made after the original deadline or for longer than 5 days must be requested pursuant to §50.16(a) of this chapter. Extensions for 10% Test, Carryover and Cost Certification shall be made in accordance with §50.13(c) of this chapter (relating to Application Reevaluation).

2012 Program Year Due Date	2013 Program Year <u>Due Date</u>	Documentation Required
12/ <u>19</u> 20/201 <u>1</u> 0	<u>12/17/2012</u>	Application Acceptance Period Begins (Competitive HTC Only).
12/ <u>19</u> 20/201 <u>1</u> 0	<u>12/17/2012</u>	Pre-application Neighborhood Organization Request Date (Competitive HTC Only).
12/3 <u>0</u> 4/201 <u>1</u> 0	12/28/2012	Pre-application Response to Neighborhood Organization Request Date (Competitive HTC Only).
01/ <u>10</u> 07 /201 <u>2</u> 1	01/08/2013	Pre-Application Final Delivery Date (Competitive HTC Only).
01/2 <u>0</u> 4/201 <u>2</u> 4	<u>01/18/2013</u>	Full Application Neighborhood Organization Request Date (Competitive HTC Only). For Tax-Exempt Bond, Rural Rescue, HOME or HTF Applications the request must be sent no later than fourteen (14) days prior to the submission of the Threshold Documentation.
02/15/2011		Experience Certification Delivery Date (For Tax-Exempt Bond Applications the Experience Certification Documentation must be submitted with the Application).
02/2 <u>3</u> 2/201 <u>2</u> 4	02/22/2013	Full Application Response to Neighborhood Organization Request Date (Competitive HTC Only). For Tax-Exempt Bond, HOME or HTF Applications the response should be received no later than seven (7) days prior to the Application submission.
03/01/201 <u>2</u> 4	03/01/2013	Full Application Delivery Date (Competitive HTC Only).
03/01/201 <u>2</u> 4	03/01/2013	Quantifiable Community Participation (QCP) Delivery Date (Competitive HTC Only).
03/01/201 <u>2</u> 4	03/01/2013	Unit of General Local Government Resolutions for Applications applying for TDHCA HOME funds and selecting §5049.9(a)(5) points (must be submitted with Application).
03/01/201 <u>2</u> 4	<u>03/01/2013</u>	Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable). For Tax-Exempt Bond Developments the Third Party Reports must be submitted no later than 60 days prior to the Board meeting at which the tax credits will be considered. The 60 day deadlines are available on the Department's website.

2012 Program Year Due Date	2013 Program Year <u>Due Date</u>	Documentation Required
03/02/201 <u>2</u> 4	03/04/2013	Rural Rescue Application Submission Period (Ends 11/135/20124).
04/01/2011		Input from State Senator or Representative Delivery Date (Competitive HTC Only).
04/0 <u>2</u> 1 /201 <u>2</u> 1	04/01/2013	Market Analysis Delivery Date (Competitive HTC Only).
04/0 <u>2</u> 4/201 <u>2</u> 4	04/01/2013	Resolutions Delivery Date. (For Tax- Exempt Bond Developments all resolutions are due no later than 14 days prior to the Board meeting at which the tax credits will be considered).
<u>05/01/2012</u>	<u>05/01/2013</u>	<u>Final Input from State Representative or State Senator Delivery Date (Competitive HTC Only)</u>
Mid-May	<u>Mid-May</u>	Final Scoring Notices Issued (Competitive HTC Only).
06/01/2011		Withdraw Deadline for State Senator or Representative Letters (Competitive HTC Only).
06/1 <u>3</u> 5/201 <u>2</u> 1	06/12/2013	Application Challenges Deadline (Competitive HTC Only).
Late June	<u>Late June</u>	Release of Eligible Applications for Consideration for Award in July (Competitive HTC Only).
Late July	<u>Late July</u>	Final Awards (Competitive HTC Only).
Mid-August	<u>Mid-August</u>	Commitments are Issued (Competitive HTC Only).
11/01/201 <u>2</u> 1	11/01/2013	Carryover Documentation Delivery Date (Competitive HTC Only).
07/01/201 <u>3</u> 2	07/01/2014	10% Test Documentation Delivery Date (Competitive HTC Only).
07/01/2012		Documentation of Commencement of Substantial Construction Delivery Date (Competitive HTC Only).
12/31/201 <u>4</u> 3	<u>12/31/2015</u>	Placement in Service Deadline (Competitive HTC Only).
Forty-five (45) days prior to Board meeting	Forty-five (45) days prior to Board meeting	Amendment Requests.
Fifteen (15) business days prior to Board meetingThirty (30) days prior to the	Thirty (30) days prior to the deadline, as applicable	Extension Requests.

2012 Program Year Due Date	2013 Program Year Due Date	Documentation Required
<u>deadline, as</u> <u>applicable</u>		
Five (5) business days after the Deficiency Notice date (without incurring point loss or penalty fee)	Five (5) business days after the Deficiency Notice date (without incurring point loss or penalty fee)	Administrative Deficiency Deadline

§4950.4. Ineligible Applicants, Applications and Developments. The purpose of this section is to identify those situations, in which an Applicant, Application or Development would be considered to be ineligible under the Housing Tax Credit program based on, but not limited to, requirements in §42 of the Internal Revenue Code, Texas Government Code Chapter 2306 and other criteria considered important by the Department. If an Applicant or Application is determined by staff to be ineligible based on paragraphs (a) and (b) of this section the Applicant will be sent a notice stating such ineligibility and will be given the opportunity to explain how they believe they are not ineligible. If while the Application is under review the General Contractor or Guarantor is determined by staff or the Applicant to be ineligible under paragraph (a) of this section, the Applicant will be allowed to replace the General Contractor or Guarantor provided such replacement is immediately identified and in place prior to the date by which a Commitment or Determined Notice would be issued provided that the request is made in sufficient time to allow Department staff to conduct its previous participation review and any other necessary an analysis. A proposed replacement and each Principal is required to provide the required previous participation forms.

- (a) Ineligible Applicants. An Applicant is ineligible if any Applicant, Development Owner, Developer General Contractor, or Guarantor involved with the Application:
 - (1) 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 (§2306.6721(c)(2))
 - (2) has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen (15) years preceding the Application deadline; or
 - (3) 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 in which awith any Governmental Entity has issued an order to impose penalties, suspend funding, or take adverse action based on an allegation of:

 (A) financial misconduct; or
 - (B) uncured violation of material laws, rules, or other legal requirements governing activities considered relevant by the Governmental Entity; or
 - (4) has any past due audits and has not submitted those past due audits to the Department in a satisfactory format. 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 or other Applications applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than thirty (30) days after Volume III of the Application is submitted; or (§2306.6703(a)(1))
 - (5) 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, <u>Chief of Staff, General Counsel</u>, a Deputy Executive Director, the Director of <u>Housing Tax Credits</u> <u>Multifamily Finance Production</u>, the <u>Chief of Compliance and Asset Oversight</u>, <u>Director of Portfolio Management and Compliance</u>, the Director of Real Estate Analysis, or a manager over Housing Tax Credits employed by the Department <u>or any person exercising such responsibilities regardless of job title</u>; (§2306.6703(a)(2))
- (6) the Applicant proposes to replace in less than fifteen (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 thirty (30) years or more 100% 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% 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
 - (C) The applicable private activity bonds will be redeemed only in an amount consistent with their proportionate amortization; or
 - (D) If the redemption of the applicable private activity bonds will occur in the first five years of the operation of the Development and complies with §429(h)(4), Internal Revenue Code of 1986:
 - (i) on the date the Certificate of Reservation is issued, the Texas Bond Review Board determines that there is not a waiting list for private activity bonds in the same priority level established under §1372.0321 of the Texas Government Code or, if applicable, in the same uniform state service region, as referenced in §1372.0231, Texas Government Code, that is served by the proposed Development; and
 - (ii) the applicable private activity bonds will be redeemed according to underwriting, if any, established by the Department; (§2306.6703)
- (7) The Development Owner has contracted, or will contract for the proposed Development with, a Developer that:
- (7) (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 (§2306.6721(c)(2); or
- (8) (B) Has breached a contract with a public agency and failed to cure that breach; or
- (9) (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; or
- (108) the Texas Government Code; or
- (119) hear been found by the Board, after holding a hearing before the Board, to warrant ineligibility because of the circumstances surrounding a voluntaryily or involuntaryily termination of involvement in removed from a rent or income restricted multifamily Development by a lender, equity provider, or any other owners or investors as a Principal during the previous ten (10) years, however designated, or any combination thereof or having had if any litigation to effectuate such exit removal has been instituted, and is continuing at the time of Application. *The Department shall be promptly notified by the Applicant of any such circumstances. The Applicant will provide the Department staff with such information as it may reasonably request to evaluate the facts and circumstances surrounding such actual or threatened exitremoval and prepare a report to the Executive Director. The information considered and addressed in the report will include, but not be limited to those identified in subparagraphs (A) - (EP) of this paragraph. The Executive Director will make a determination, based on the report, whether facts and circumstances are present that would support the institution of formal debarment proceedings to determine eligibility. Any debarment determination of ineligibility under this provision shall be for a period that will not exceed five (5) years. No person shall be debarred made

ineligible under this provision except by formal action taken by the Department's Governing Board. Any such matter to be presented for final determination of ineligibility by the Board must include notice from the Department to the affected party not less than fourteen (14) days prior to said Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant ineligibility. The Executive Director's report and the Board's decision shall take into account all relevant factors including, but not limited to the following:

- (A) Whether the Developer or Principal has invested more of its financial resources in the Development than it has received from or in connection with the Development;
- (B) Whether such Developer or Principal had the ability to address the facts and circumstances that ultimately led to the-actual or threatened exit_removal- by other means or whether uncooperative parties or other facts and circumstances beyond its control prevented any other such resolution;
- (C) The contributing or causative effect of circumstances beyond such Applicant's, Development Owner's, Developer's or Guarantor's control, such as significant changes in market conditions or a natural disaster; and
- (D) The compliance history of the Development during the time of the Applicant's, Development Owner's, Developer's or Guarantor's involvement; and-
- (E) Whether such Developer or Principal disclosed to the Department the event of exit as part of the Certification in the current Application.
- (b) Ineligible Applications. The Department will terminate an Application for those issues identified in paragraphs (1) - (11) of this subsection. In addition to termination, the Department may debar a Person for one (1) year from the date of debarment, or until the violation causing the debarment has been remedied, whichever term is longer, if the Department determines that any of these issues identified in paragraphs (1) - (8) of this subsection exist and the facts warrant debarment:
 - (1) The provision of fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation <u>or omission</u> in the Application or other information submitted to the Department at any stage of the evaluation or approval process; or
 - (2) The Applicant, Development Owner, Developer, General Contractor, or Guarantor or anyone that exercises common Control has Controlling ownership interest in the Development Owner, Developer, General Contractor or Guarantor, or any Affiliate that Controls one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with or has repeatedly violated the LURA or if such Material Noncompliance or repeated violation is identified during the Application review or the program rules in effect for such property as further described in Chapter 60 of this title (relating to Compliance Administration); or (§2306.6721(c)(3))
 - (3) The Applicant, Development Owner, Developer, General Contractor, or any Guarantor or anyone that exercises common Control has Controlling ownership interest in the Development Owner, Developer, General Contractor, or Guarantor, or any Affiliate of such entity that is active in the ownership or Control has been a Principal of any entity that failed to make all loan payments to the Department in accordance with the terms of the loan, as amended, or was otherwise in default with any provisions of any loans from the Department; or
 - (4) The Applicant or the Development Owner that <u>exercises common Control</u> is active in the ownership or Control of one or more tax credit properties in the state of Texas has failed to cure any fees described in §5049.14 of this chapter (relating to Program Related Fees) seven (7) days prior to the Board meeting at which the decision for the Application is to be made; or
 - (5) An Applicant or a Related Party and any Person who is active in the construction, Rehabilitation, ownership, or exercises common Control of the proposed Development, including a General Partner or contractor, and a Principal or Affiliate of a General Partner

- or contractor, or an individual employed as a consultant, lobbyist or attorney by an Applicant or a Related Party, violates §2306.1113 relating to Ex Parte Communication as further described in §5049.7 of this chapter (relating to Application Process); or
- (6) It is determined by the Department's Executive Director 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 §2306.6733, Texas Government Code, or a section of Chapter 572, Texas Government Code, in making, advancing, or supporting the Application; or
- (7) The Applicant, Development Owner, Developer, Guarantor, <u>General Contractor</u>, or any Affiliate of such entity whose previous funding contracts or commitments have been partially or fully deobligated during the twelve (12) months prior to the submission of the Application and through the date of final allocation due to a failure to meet contractual obligations; or
- (8) The Applicant, Development Owner, Developer, Guarantor, <u>General Contractor</u>, or any Affiliate of such entity whose pre-development award of non-tax credit funds from the Department has not been repaid <u>in accordance with the terms of repayment</u> for the Development at the time of Carryover Allocation or Bond closing; or
- (9) The Application is submitted after the Application submission deadline (time or date); includes an electronic submission that is unreadable by the Department's computer system; has an entire Volume of the Application missing; is not bookmarked in accordance with the instructions in the Tax Credit (Procedures) Manual; or has a Material Deficiency as defined under §1.1 of this title (relating to Definitions). If an Application is determined ineligible pursuant to this subsection, the Application will be terminated without further consideration and the Applicant will be notified of such termination. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant; or
- (10) 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 (7) business days of the date of the request by the Department, the Department may terminate the Application; or
- (104) If more than 50% of the Developer Fee is deferred as reflected in the Sources and Uses exhibit in the Application or the <u>term sheets</u> commitments from the lender or syndicator and the tax credits are not associated with Tax Exempt Bonds; or
- (11) If more than \$13,000 in housing tax credits per Unit are requested as reflected in the Funding Request in the Application as originally submitted.
- (c) Ineligible Developments. Those Developments identified in paragraphs (1) (14) of this subsection are considered ineligible for funding under the Housing Tax Credit Program:
 - (1) 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 (as provided in the §42(i)(3)(B)(iii) and (iv) of the Code) 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;
 - (2) A property that provides continual or frequent nursing, medical or psychiatric services. Refer to IRS Revenue Ruling 98-47 for clarification of assisted living:
 - (3) 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;
 - (4) Any Qualified Elderly Development with any Units having more than two bedrooms with the exception of up to three employee Units reserved for the use of the manager,

- maintenance, and/or security officer. These employee Units must be specifically designated as such;
- (5) Any Development with any building(s) with four or more stories that does not include an elevator;
- (6) Any Qualified Elderly Development proposing more than 70% two-bedroom Units;
- (7) Any Development that violates §1.15 of this title (relating to Integrated Housing Rule);
- Any Development located in an Urban Area involving New Construction, Reconstruction or Adaptive Reuse of Units (except for a Qualified Elderly Development, a Development composed entirely of single family dwellings, and certain specific types of transitional Supportive housing Developments or as evidenced by a Governing Body through a publicly adopted resolution submitted at Application which specifically provides for unit maximum percentages which vary from those described in subparagraph (A) (D) of this paragraph as long as those percentages do not vary by more than 20% for each bedroom size listed) for the homeless and Single Room Occupancy units, as provided in \$42(i)(3)(B)(iii) and (iv) of the Code) in which any of the designs in subparagraphs (A) (DE) of this paragraph are proposed. For Applications involving a combination of single family detached dwellings and multifamily dwellings, the percentages in this subparagraph do not apply to the single family detached dwellings, but they do apply to the multifamily dwellings. An Application may reflect a total of Units for a given bedroom size greater than the percentages in subparagraphs (A) (DE) of this paragraph to the extent that the increase is only to reach the next highest number divisible by four:
 - (A) More than 30% of the total Units are one bedroom and/or Efficiency Units; or
 - (B) More than 55% of the total Units are two bedroom Units; or
 - (C) More than 40% of the total Units are three bedroom Units; or
 - (D) More than 5% of the total Units in the Development with four or more bedrooms;—or
 - (E) Only two and three bedroom Unit Developments;
- (9) Any Development which is intended to house seniors that is not consistent with the definition of a Qualified Elderly Development;
- (10) Any Development that contains residential Units that is reasonably believed by staff not to clearly meet violates the general public use requirement under Treasury Regulation §1.42-9 unless the Applicant has obtained a private letter ruling that the proposed Development is permitted;
- (11) Development Sites with negative characteristics in subparagraphs (A) (G) of this paragraph will be considered ineligible. If staff identifies what it believes would constitute an unacceptable negative site feature not covered by the those identified in subparagraphs (A) (G) of this paragraph staff may seek Board clarification and, after holding a hearing before the Board, the Board may make a final determination as to whether that feature is unacceptable. Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD or TRDO-USDA are exempt. For purposes of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development Site. The distances are to be measured from the nearest boundary of the Development Site to the boundary of the negative characteristic. all boundaries of the Development Site to all boundaries of the property containing the negative characteristic. If none of these negative characteristics features exist, the Applicant must sign a certification to that effect. The negative characteristics include:
 - (A) Developments located adjacent to or within 300 feet of junkyards;
 - (B) Developments located adjacent to or within 300 feet of active railroad tracks, unless the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail; (Existing Rural Developments funded through TRDO-USDA and Developments located in a Central Business District or Transit Oriented District are exempt);
 - (C) Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants, refinery blast zones, etc.;
 - (D) Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills;

- (E) Developments where the buildings are located within the <u>easement of any overhead</u> <u>high voltage transmission line or inside the engineered fall distance of any support structure for high voltage transmission lines, radio antennae, satellite towers, etc. <u>This does not apply to local service electric lines and poles; "fall line" of high voltage transmission power lines;</u></u>
- (F) Developments where the buildings are located within the accident zones or clear zones for commercial or military airports; or
- (G) Development is located adjacent to or within 300 feet of a sexually-oriented business. For purposes of this paragraph, a sexually-oriented business shall be defined as stated in §243.002 of the Texas Government Code.
- Twoone Mile Same Year Rule. Staff will not recommend an allocation in the same Application Round if the Developments are, or will be, located less than twoone linear miles apart as determined by the Department. If the Board forward commits credits from the following year's State Housing Credit Ceiling, the Development is considered to be in the calendar year in which the Board votes, not in the year of the State Housing Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million. For purposes of this chapter, any two sites not more than twoone linear miles apart are deemed to be "in a single community." (§2306.6711(f)) This restriction does not apply to the allocation of Housing Tax Credits to Developments financed through the Tax-Exempt Bond program, including the Tax-Exempt Bond Development Applications under review and existing Tax-Exempt Bond Developments in the Department's portfolio. and (§2306.67021)
- (13) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department, based on the evaluation factors identified in the Site Evaluation form, augmented by any other inspections or other documented findings of the Department. The Department will advise the Applicant if it makes an initial finding that a proposed site is unacceptable and provide the applicant with a reasonable opportunity to address any identified concerns. If in the Department's reasonable judgment the Applicant is not able to address adequately the Department's concerns regarding the site, the Department staff will issue a determination that the site is unacceptable. If not appealed in accordance with §5049.10(d) of this chapter (relating to Appeals Process), this determination becomes final.
- Mandatory Development Amenities. These amenities must be at no charge to the tenants. All New Construction, Reconstruction or Adaptive Reuse Units must provide each and all of the amenities in subparagraphs (A) (NM) of this paragraph. Rehabilitation Developments must provide the amenities in subparagraphs (C) (NM) of this paragraph unless expressly identified as not required. (§2306.187) Supportive Housing Developments are not required to provide the amenities in subparagraphs (B), (F) or (G) of this paragraph; however, access must be provided to a comparable amenity in a common area. Deviations for good cause, by which one or more of the foregoing will not be provided, must be approved prior to award and the request for such deviation must be included in the Application. The Executive Director may issue such approvals. Requests not approved may be appealed to the Board in accordance with §5049.10(d) of this chapter. These amenities must be at no charge to the tenants.
 - (A) All New Construction Units must be wired with RG-6/U COAX or better and CAT3 phone cable or better, wired to each bedroom, dining room and living room;
 - (B) Laundry Connections;
 - (C) Blinds or window coverings for all windows;
 - (D) Screens on all operable windows;
 - (E) Disposal and Energy-Star rated dishwasher (not required for TRDO-USDA or SROSupportive Housing Developments; Rehabilitation Developments exempt from dishwasher if one was not originally in the UDINITY;

- (F) Energy-Star rated refrigerator;
- (G) Oven/Range;
- (H) Exhaust/vent fans (vented to the outside) in bathrooms;
- (I) Energy-Star rated ceiling fans in living areas and bedrooms;
- (J) Energy-Star rated lighting in all Units which may include compact fluorescent bulbs;
- (K) Plumbing fixtures (toilets and faucets) must meet design standards at 30 TAC §290.252;
- (L) All Units must <u>have central heating and be</u> air-conditioninged (Packaged Terminal Air Conditioners meet this requirement for Supportive Housing Developments); and
- (M) Fire sprinklers in all Units where required by local code; and-
- (N) Adequate parking spaces as required by local code, including any variances granted by the local municipality.

§49<u>50</u>.5. Site and Development Restrictions. The purpose of this section is to identify specific restrictions on a proposed Development submitted under the State Housing Credit Ceiling or Tax Exempt Bond Developments, as applicable.

- (a) Floodplain. Any Development proposing New Construction or Reconstruction and located within the one-hundred (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 one-hundred (100) year floodplain. No buildings or roads that are part of a Development proposing Rehabilitation (excluding Reconstruction) with the exception of Developments with existing and ongoing federal funding assistance from HUD or TRDO-USDA, will be permitted in the one-hundred (100) year floodplain unless they already meet the requirements established in this subsection for New Construction, or if the Unit of General Local Government has undertaken mitigation efforts and can establish that the property is no longer within the one-hundred (100) year floodplain.
- (b) Credit Amount. (§2306.6711(b)) An Applicant may not request more than \$2 million in annual tax credits for any given Application. The Department shall not allocate more than \$2 million of tax credits in any given Application Roundto any Applicant, Developer, Related Party, Affiliate or Guarantor (unless the Guarantor is also the General Contractor, and is not a Principal of the Applicant, Developer, Related Party or Affiliate of the Development Owner) No more than \$2 million in annual tax credits will be allocated to an individual Application in the current Application Round and no more than \$3 million in annual tax credits will be allocated to an individual Applicant in the current Application Round, no matter how many Applications there are in which that Applicant is involved. For purposes of applying this cap, the entire amount of the tax credit allocation will be applied to the Applicant and each Affiliate except in the following circumstances. An Applicant that cannot otherwise meet the experience requirements set forth in §50.8(4) of this chapter may enter into a joint venture relationship (or other comparable legal structure involving multiple owners) with one or more experienced individuals or a business organization in which they are involved (such individuals or organizations being referred to as the "Experienced Venturor"). When working with an Experienced Venturor, an Applicant may, by agreement, provide the Experienced Venturor with the ability to approve certain matters related to the Development but the Principal(s) of the Applicant must retain Control. The full amount of the Application will still be attributed to the Applicant. The amount of tax credit allocation imputed to an Experience Venturor for purposes of the above-described caps will be a pro rata amount based on the greater of the Experienced Venturor's interest in cash flow or other economic distributions from the Applicant (other than Developer Fee) or the Experienced Venturor's share of developer fee, whether deferred or not. An Experienced Venturor may participate in no more than two (2) other Applications in an Application Round on

this basis, but this does not restrict the number of other Applications in which they may participate as Applicant or Affiliate which are subject to the \$3 million cap. Tax-Exempt Bond Development Applications are not subject to this limitation and Tax-Exempt Bond Development Applications will not count towards the total limit on tax credits per Applicant. Competitive Housing Tax Credits approved by the Board during the 20124 calendar year, including commitments from the 20124 Credit Ceiling and forward commitments from the 201324 Credit Ceiling, are applied to the credit cap limitation for the 20124 Application Round. In order to evaluate this \$32 million limitation, nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors must provide the documentation required in the Application with regard to this requirement. All entities that share a Principal are Affiliates. For purposes of determining the \$32 million limitation of tax credits, a Person is not deemed to be an Affiliate solely because it:

- (1) raises or provides equity;
- (2) provides "qualified commercial financing";
- is a Qualified Nonprofit Organization or other not-for-profit entity that is providing solely loan funds, grant funds or social services; or
- (4) receives fees as a Development Consultant or Developer that do not exceed 10% of the Developer Fee (or 20% for Qualified Nonprofit Developments) to be paid or \$150,000, whichever is greater; or
- (5) is acting as a General Contractor and is providing a required construction guarantee because of that role.

(c) Limitations on the Size of Developments.

- (1) The minimum Development size will be 16 Units.
- (2) Developments in Rural Areas involving any New Construction or Adaptive Reuse (excluding New Construction of non-residential buildings) will be limited to 80 Units. Rehabilitation Developments (excluding Reconstruction) do not have a limitation as to the number of Units.
- (3) Urban Developments involving any New Construction or Adaptive Reuse (excluding New Construction of non-residential buildings), in the Competitive Housing Tax Credit Application Round will be limited to 252 total Units, wherein the maximum Department administered Units will be limited to 200 Units. Tax Exempt Bond Developments will be limited to 252 restricted and total Units. These maximum Unit limitations also apply to those Developments which involve a combination of Rehabilitation, Reconstruction, and New Construction. Only Developments that consist solely of acquisition/Rehabilitation or Rehabilitation may exceed the maximum Unit restrictions.
- (34) <u>Rural Developments</u> <u>For Applications</u> that are proposing an additional phase to an existing tax credit Development; that are otherwise adjacent to an existing tax credit Development; or that are proposing a Development on a contiguous site to another Application awarded in the same program year, the combined Unit total for the existing and proposed Developments may not exceed the maximum allowable Development size set forth in this subsection unless:
 - (A) the first phase of the Development has been completed and has maintained occupancy of at least 90% for a minimum six (6) month period as reflected in the submitted rent roll; or
 - (B) a resolution from the Governing Body of the city or county, in which the proposed Development is located, dated no more than one (1) year old from the date the Application is submitted. Such resolution must state that there is a need for additional Units and that the Governing Body has reviewed a market study, the conclusion of which supports the need for additional Units. The resolution must be submitted to the Department by the Resolution Delivery Date as indicated in §4950.3 of this chapter (relating to Program Calendar); or
 - (C) the proposed Development is intended to provide replacement of previously existing affordable Units on the Development Site or that were originally located within a one mile radius from the Development Site; provided, however, the combined number of

Units in the proposed Development may not exceed the number of Units being replaced. Documentation of such replacement units must be provided.

- (d) Developments Proposing to Qualify for a 30% increase in Eligible Basis. Staff will evaluate Applications for a only recommend a 30% increase in Eligible Basis if provided they meet the criteria identified in paragraphs (1) or (2) of this subsection and staff will recommend a 30% increase in Eligible Basis to the extent needed and if determined to be infeasible without it, as evaluated by the Real Estate Analysis division (paragraphs (2) and (3) of this subsection does not apply to Tax-Exempt Bond Applications).:
 - The Development is located in a Qualified Census Tract (QCT) (as determined by the Secretary of HUD) that has less than 30% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. Developments located in a QCT that has in excess of 30% Housing Tax Credit Units per households in the tract are not eligible to qualify for a 30% increase in Eligible Basis, which would otherwise be available for the Development Site pursuant to §42(d)(5)(C) of the Code, unless the Development is proposing only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings). Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. The eleven (11) digit census tract number must be clearly marked on the map. These ineligible Qualified Census Tracts are outlined in the 2011 Housing Tax Credit Site Demographic Characteristics Report for the current Application Round; or
 - (2) The Development qualifies for and receives Renewable Energy Tax Credits. For purposes of this paragraph, the Application will be required to include an architect's letter or signed third party contractor bid as evidence that the Applicant will be eligible to request Renewable Energy Tax Credits in its income tax filings. In addition, the architect's letter or signed third party contractor bid must include a statement that the increased cost differential of the Renewable Energy items over non Renewable Energy alternatives exceeds the value of the energy tax credits to be received. The Applicant will be required to show proof of receipt of the Renewable Energy Tax Credits at the time of Cost Certification. Any amenities as it relates to this item must benefit the entire Development; or
 - (23) Pursuant to the authority granted by H.R. 3221, tThe Development meets one of the criteria described in subparagraphs (A) (FD) of this paragraph (pursuant to the authority granted by H.R. 3221):
 - (A) Any Rural Development;
 - (B) Developments proposing <u>entirely</u> <u>at least 50% of the total number of Units for Supportive Housing and that such Development is expected to be debt free or have no foreclosable or non-cash flow debt;</u>
 - (C) Developments proposing to provide 10% of the Low-Income Units, that will serve individuals and families at or below 30% of AMGI, in excess of those that are in §49.9(a)(3) of this chapter (relating to Selection Criteria); or
 - (C) <u>Developments proposed to be located in a Transit Oriented District or Central Business District as defined in §50.2(7) of this chapter (relating to Definitions);</u>
 - (D) Developments proposed in a hHigh exponentially aAreas as defined in \$50.2(16) of this chapter (relating to Definitions); as provided in clauses (i) (iii) of this subparagraph:
 - (i) A four story or greater Development with structural parking that is proposed to be located within one-quarter mile of existing major bus transfer centers, regional or local commuter rail transportation stations, and/or Transit Oriented Districts that are accessible to all residents including Persons with Disabilities; or
 - (ii) A Development that is proposed to be located in a census tract which has an AMGI that is higher than the AMGI of the county or place in which the census tract is located as of the first day of the Application Acceptance Period; or

- (iii) A Development that is proposed in a census tract that has no greater than 10% poverty population according to the most recent census data (these census tracts are designated in the 2011 Housing Tax Credit Site Demographic Characteristics Report).
 - (E) The Development qualifies for and receives LEED Certification (Gold or Platinum) or Enterprise Green Community Certification. The Applicant will be required to show proof of the Green Certification at Cost Certification:
 - (F) The Development qualifies for and receives Historic Tax Credits and the Application reflects that such credits have been removed from Eligible Basis. The Applicant will be required to show proof of the Historic Tax Credits at Cost Certification.
- (4) The Development proposing to build in an area impacted by a disaster for which federal legislation providing additional credits has been enacted.

§49<u>50</u>.6. Allocation <u>and Award Process</u>. The purpose of this section is to identify the statutory setasides for Applications competing under the State Housing Credit Ceiling, the methodology by which awards under the Ceiling are made as well as the general process for Housing Tax Credit Allocations.

- (a) Regional Allocation Formula. This formula, developed by the Department, establishes separate targeted tax credit amounts for Rural Areas and Urban Areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published on the Department's website. The regional allocation for Rural Areas is referred to as the Rural Regional Allocation and the regional allocation for Urban Areas is referred to as the Urban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition. The Regional Allocation target will reflect that at least 20% of the State Housing Credit Ceiling for each calendar year shall be allocated to Developments in Rural Areas with a minimum of \$500,000 for each Uniform State Service Region. (§2306.111(d)(3); §2306.1115)
- (b) Allocation 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))
 - Nonprofit Set-Aside. 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 §42(h)(5) of the Code. Qualified Nonprofit Organizations must have the Controlling interest in the Development Owner applying for this Set-Aside. If the Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the Managing General Partner. If the 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 ... An Applicant that meets the requirements to be in the Qualified Non-Profit Set-Aside is deemed to be applying under that set-aside unless their Application specifically includes an affirmative election to not be treated under that set-aside and a certification that they will not receive tax benefits that would materially change the financial aspects of the Development as underwritten by the Department. A participating non-profit, regardless of whether it is applying under the set-aside or not, may be reported to the Internal Revenue Service as being involved. (§2306.6729 and §2306.6706(b))
 - (2) USDA Set-Aside. At least 5% of the State Housing Credit Ceiling for each calendar year shall be allocated to Rural Developments which are financed through TRDO-USDA. (§2306.111(d)(2)) If an Application in this Set-Aside involves Rehabilitation it will be attributed to and come from the At-Risk Development Set-Aside; if an Application in this Set-Aside involves New Construction it will be attributed to and come from the applicable Uniform State Service Region. Developments financed through TRDO-USDA's §538

Guaranteed Rural Rental Housing Program, in whole or in part, will not be considered under this Set-Aside. Any Rehabilitation or Reconstruction of an existing §515 Development that retains the §515 Ioan and restrictions will be considered under the At-Risk Development and TRDO-USDA Set-Asides, unless such Development is also financed through TRDO-USDA's §538 Guaranteed Rural Rental Housing Program. Commitments of 20124 Competitive Housing Tax Credits issued by the Board in 20124 will be applied to each Set-Aside, Rural Regional Allocation, Urban Regional Allocation and/or TRDO-USDA Set-Aside for the 20124 Application Round as appropriate;

- (3) At-Risk Set-Aside. At least 15% of the State Housing Credit Ceiling for each calendar year will be allocated under the At-Risk Development Set-Aside and will be deducted from the State Housing Credit Ceiling prior to the application of the regional formula required under subsection (a) of this section. Through this Set-Aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of Developments identified as At-Risk Developments. (§2306.6714) Up to 5% of the State Credit Ceiling associated with this Set-Aside may be given priority to Rehabilitation Developments funded with TRDO. An At-Risk Development is a Development that: (§2306.6702)
 - (A) Has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under at least one of the following federal laws, as applicable:
 - (i) Section 221(d)(3) and (5), National Housing Act (12 U.S.C. §17151);
 - (ii) Section 236, National Housing Act (12 U.S.C. §1715z-1);
 - (iii) Section 202, Housing Act of 1959 (12 U.S.C. §1701q);
 - (iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. §1701s);
 - (v) The Section 8 Additional Assistance Program for housing Developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;
 - (vi) The Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;
 - (vii) Sections 514 516, Housing Act of 1949 (42 U.S.C. §§1484 1486); or
 - (viii) Section 42, of the Internal Revenue Code of 1986 (26 U.S.C. §42); or and
 - (iv) Section 538, Housing Act of 1949 only if the Development involves the Rehabilitation of an existing property that has received and will continue to receive as part of the financing of the Development federal assistance provided under §515 of the Housing Act of 1949; 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 (2) 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;
 - (D) Developments must be at risk of losing affordability from the financial benefits available to the Development and must retain or renew all possible financial benefit if available, and at least maintain existing affordability to qualify as an At-Risk Development;
 - (E) Nearing expiration on a requirement to maintain affordability includes Developments eligible to request a qualified contract under §42 of the Code. Evidence must be provided in the form of a copy of the recorded LURA, the first years' IRS Forms 8609

- for all buildings showing Part II completed and, if applicable, documentation from the original application regarding the right of first refusal.
- (F) An amendment submitted to the Department while the Application is under review that would enable the Development to qualify as an At-Risk Development will not be accepted.
- (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 Set-Asides, Rural Regional Allocation and Urban Regional Allocation, the Department may redistribute the credits amongst the different regions and Set-Asides based on the need to most closely achieve regional allocation goals and the level of demand exhibited in the Uniform State Service Regions during the Application Round. However, if there are any tax credits set aside for Developments in a Rural Area in a specific Uniform State Service Region that remain after the allocation under paragraph (d) of this section §49.7(g)(3) of this chapter (relating to Application Process), those tax credits shall be made available in any other Rural Area in the state, first, and then to Developments in Urban areas of any uniform state service region. (§2306.111(d)(3)) As described in subsection (b)(1) and (2) 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.
- (dg) Subsequent Evaluation and Methodology for Award Recommendations under the State Housing Credit Ceiling to the Board. 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 as most competitive and that meet the requirements of Eligibility and Threshold. However, an Application may be reviewed by the Real Estate Analysis Division prior to the completion of the Eligibility and Threshold reviews. The procedure identified in paragraphs (1) (6) of this subsection will also be used in making recommendations to the Board:
 - (1) Applications with the highest scores in the TRDO-USDA Allocation until the minimum requirements stated in §5049.6(b)(2) of this chapter (relating to USDA Set-Aside) are attained. If an Application in this Set-Aside involves Rehabilitation it will be attributed to, and come from the, At-Risk Set-Aside; if an Application in this Set-Aside involves New Construction it will be attributed to and come from the applicable Uniform State Service Region;
 - (2) Applications with the highest scores in the At-Risk Set-Aside Statewide until the minimum requirements stated in §5049.6(b)(3) of this chapter (relating to At-Risk Set-Aside) of this chapter are attained;
 - (3) Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments in each of the 26 sub-regions, regardless of Set-Aside, in accordance with the requirements under §5049.6(a) of this chapter (relating to Regional Allocation Formula), without exceeding the credit amounts available for a Rural Regional Allocation and Urban Regional Allocation in each region. To the extent that Applications in the At-Risk and TRDO-USDA Set-Asides are not competitive enough within their respective Set-Asides, they will also be able to compete, with no Set-Aside preference, within their appropriate sub-region;
 - (4) If there are any tax credits set-aside for Developments in a Rural Area in a specific Uniform State Service Region that remain after allocation under paragraph (3) of this subsection those tax credits shall then be made available in any other Rural Area in the state to the Application in the most underserved Rural sub-region as compared to the Region's Rural Allocation. (§2306.111(d)(3)) This will be referred to as the Rural collapse;
 - (5) If there are any tax credits remaining in any sub-region after the Rural collapse, in the Rural Regional Allocation or Urban Regional Allocation, they then will be combined and

- made available to the Application in the most underserved sub-region as compared to the sub-region's allocation. This will be referred to as the statewide collapse;
- Staff will ensure that at least 10% of the State Housing Credit Ceiling is allocated to Qualified Nonprofit Organizations to satisfy the Nonprofit Set-Aside. If 10% is not met through the existing competitive process, then the Department will add the highest scoring Application by a Qualified Nonprofit Organization statewide until the 10% Nonprofit Set-Aside is met. Staff will ensure that at least 20% of the State Housing Credit Ceiling is allocated to Rural Developments. If this 20% minimum is not met through the existing competitive process, then the Department will add the highest scoring Rural Development Application statewide until the 20% Rural Development Set-Aside is met. Selection for each of the Set-Asides will take precedence over selection for the Rural Regional Allocation and Urban Regional Allocation. Funds for the Rural Regional Allocation or Urban Regional Allocation within a region, for which there are no eligible feasible Applications, will be redistributed as provided in §5049.6(c) of this chapter (relating to Redistribution of Credits). If the Department determines that an allocation recommendation would cause a violation of the \$2 million limits described in \$5049.5(b) of this chapter (relating to Credit Amount), the Department will make its recommendation by selecting the Development(s) that most effectively satisfy 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 Competitive Housing Tax Credits are allocated within the period required by law. (§2306.6710(a) - (f); §2306.111)

(eb) Tie Breaker Factors.

- (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 Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit eCommitment.
 - (A) Applications located in a census tract, including all contiguous census tracts, that has the lowest average of units per capita, supported by Housing Tax Credits or Tax Exempt Bonds at the time the Application Round begins will win the first tie breaker. Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.
 - (B) Each scoring item for the tied Applications will be compared in descending order until an item is identified where one Applicant's score is greater than the score of the tied Applicants and the Applicant with the highest score on that item will win this tie breaker. The Application located in the municipality or, if located outside a municipality, the county that has the lowest state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins as reflected in the Reference Manual will win this second tier tie breaker.
 - (C) The amount of requested tax credits per square foot of Net Rentable Area (the lower credits per square foot has preference).
 - (D) Developments that are intended for eventual tenant ownership. Such Developments must utilize a detached single family site plan and building design and have a business plan describing how the Development is intended to convert to tenant ownership at the end of the 15-year compliance period.
- (2) This paragraph identifies how ties will be handled when dealing with the restrictions on location identified in §5049.8(2)(B) of this chapter (relating to One Mile Three Year Rule),

and in dealing with any issues relating to capture rate calculation. When two Tax-Exempt Bond Developments would violate one of these restrictions, and only one Development can be selected, the Department will utilize the Certificate of Reservation docket number issued by the Texas Bond Review Board (TBRB) 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 paragraph (1) of this subsection. When a Tax-Exempt Bond Development and a Competitive Housing Tax Credit Application in the Application Round would both violate a restriction, the following determination will be used:

- (A) Tax-Exempt Bond Developments that receive their Certificate of Reservation from the TBRB on or before April 3029, 20121 will take precedence over the Housing Tax Credit Applications in the 20121 Application Round;
- (B) Housing Tax Credit Applications approved by the Board for tax credits in July 20124 will take precedence over the Tax-Exempt Bond Developments that received their Certificate of Reservation from the TBRB on or between May 12, 20124 and July 3129, 20124; and
- (C) After July 3129, 20121, a Tax-Exempt Bond Development with a Certificate of Reservation from the TBRB will take precedence over any Housing Tax Credit Application from the 20121 Application Round on the waiting list. However, if no Certificate of Reservation has been issued by the date the Board approves an allocation to a Development from the waiting list of Applications in the 20121 Application Round or a forward commitment, then the waiting list Application or forward commitment will be eligible for its allocation.
- (fe) Staff Recommendations. (§2306.1112 and §2306.6731) In accordance with the QAP and other applicable Department rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee for that committee to. Recommendations of staff_recommend_to the Board_will be the recommendations of that Committee except as otherwise disclosed. That committee, in making its recommendations, is not constrained to whether the proposed award meets legal and regulatory requirements and may, as it deems appropriate provide information about other factors and concerns. The committee, if it is not unanimous, shall report opposing minority views.

§49<u>50</u>.7. Application Process. The purpose of this section is to outline the process by which Housing Tax Credit Applications are accepted and reviewed by the Department.

- (a) General. The application process has two parts, a pre-application which is voluntary <u>but creates</u> an opportunity for a greater score on the required Application and applies only to Applications submitted under the State Housing Credit Ceiling and an Application which is mandatory. An Applicant that does not provide an Application on or before the deadlines provided for herein is not eligible to be placed on the list of eligible Applicants to which awards of tax credits may be made. Pre-applications and Applications submitted to the Department are subject to restrictions on *Ex Parte* Communications as further described in paragraph (1) and paragraph (2) of this subsection, and the Administrative Deficiency process as further described in paragraph (2) of this subsection.
 - (1) Ex Parte Communications. (§2306.1113) An ex parte communication occurs, when an Applicant initiates substantive contact (other than permitted social contact) with a board member, or vice versa, in a setting other than a duly posted and convened public meeting, in any manner not specifically permitted by §2306.1113(b). Such action is prohibited. For Applicants seeking funding after initial awards have been made, such as waiting list Applicants, the ex parte communication prohibition remains in effect. The ex parte provision does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present, provided that all matters related to the Applications be considered by the Board will not be discussed.

- (A) During the period beginning on the first date of the Application Acceptance Period and ending on the date the Board makes a final decision with respect to the approval of any Application in that Application Round, except for communications that actually occur in properly posted open meetings, as permitted by §2306.1113 of the Texas Government Code a member of the Board may not communicate with any other Board member or with the following Persons:
 - (i) an Applicant or Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a General Partner, Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist, or attorney by an Applicant or a Related Party.
- (B) During the period beginning on the first date of the Application Acceptance Period and ending on the date the Board makes a final decision with respect to the approval of any Application in that Application Round, an employee of the Department may communicate about any Application with the following Persons:
 - (i) the Applicant or a Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Partner or General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a Principal or Affiliate of a General Partner or General Contractor;
 - (II) employed as a consultant, lobbyist or attorney by the Applicant or a Related Party.
- (C) A communication under paragraph (2) of this subsection may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:
 - the communication must be restricted to technical or administrative matters directly affecting the Application;
 - (ii) the communication must occur or be received on the premises of the Department during established business hours; and
 - (iii) a record of the communication must be maintained and included with the Application for purposes of Board review and must contain the following information:
 - (I) the date, time, and means of communication;
 - (II) the names and position titles of the Persons involved in the communication and, if applicable, the Person's relationship to the Applicant;
 - (III) the subject matter of the communication; and
 - (IV) a summary of any action taken as a result of the communication.
- (D) Notwithstanding subparagraph (A) or (B) of this paragraph, a Board member or Department employee may communicate without restriction with a Person listed in subparagraph (A) or (B) of this paragraph during any Board meeting or public hearing held with respect to the Application, but not during a recess or other non-record portion of the meeting or hearing.
- (E) Subparagraph (A) of this paragraph does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present, provided that all matters related to Applications to be considered by the Board will not be discussed.

- (2) Administrative Deficiency Process. The purpose of the Administrative Deficiency process is to allow the Applicant an opportunity to provide clarification, or correction to or nonmaterial missing information (i.e. not rising to the level of a Material Deficiency) to resolve inconsistencies in the original Application, information originally submitted in the Application. For example, if exhibits and other information required under §49.8 of this chapter (relating to Threshold Criteria) are not originally submitted in the Application (i.e. financing commitment missing entirely from the Application) staff will recommend termination of the Application. However, for information missing in part from the Application (i.e. financing commitment is submitted but it is not executed by the lender) staff will request the missing or corrected information via an Administrative Deficiency. For Any exhibits or forms that are part of the Uniform Application and supporting documentation will not be accepted by staff even if points were requested in the Applicant's Self Scoring Form unless the Applicant provides an explanation satisfactory to staff of why the item is missing and explaining how it was beyond their control. other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form. For information missing in part from the Application (i.e. the letter from the Appropriate Local Official does not include all required information) sStaff will request the missing information via an Administrative Deficiency and will make a recommendation to award points provided the information submitted in response to the Administrative Deficiency is submitted in the time frames specified therein and addresses the issues to the reasonable satisfaction of staff. ory to the Department.
 - Administrative Deficiencies for Applications submitted under the State Housing (A) Credit Ceiling and Rural Rescue Applications. If an Application contains Administrative Deficiencies which, in the determination of the Department staff, require clarification. or the request of non-material missing information to resolve inconsistencies in the original Application of information submitted at the time of the Application, the Department staff may request such information in the form of an clarification or correction of such Administrative Deficiencyies. Because the review for Eligibility, Selection, Threshold Criteria, Quantifiable Community Participation (QCP) and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these reviews. The Department staff will request the information clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt of the e-mail within twenty-four (24) hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not resolved clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then five (5) points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not resolved clarified or corrected by 5:00 p.m. on the seventh business day following the date of the deficiency notice, 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 and may also be sent in response to reviews on post award submissions. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not add any Set-Asides, increase the requested credit amount, revise the Unit mix (both income levels and bedroom mixes), or adjust their

- self-score except in response to a direct request from the Department as a result of an Administrative Deficiency or by approved amendment of an Application after a commitment or allocation of tax credits as further described in §4950.13(b) of this chapter (relating to BeardApplication Reevaluation) (§2306.6708). This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division during their review. To the extent that the review of Administrative Deficiency documentation during the review alters the score assigned to the Application, Applicants will be re-notified of their final adjusted score.
- Administrative Deficiencies for Tax Exempt Bond Applications. If an Application contains deficiencies which, in the determination of the Department staff, require clarification, or non-material missing information to resolve inconsistencies in the original Application of information submitted at the time of the Application, the Department staff may request such information in the form of an clarification or correction of such Administrative Deficiencyies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these reviews. The Department staff will request the information clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt of the e-mail within twenty-four (24) hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. All Administrative Deficiencies shall be resolved clarified or corrected to the satisfaction of the Department within five (5) business days. Failure to resolve all outstanding deficiencies by 5:00 p.m. on the fifth business day following the date of the deficiency notice will result in a penalty fee of \$500 for each business day the deficiency remains unresolved. Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice will be terminated. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any termination pursuant to §4950.4 of this chapter (relating to Ineligibility). 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 and may also be sent in response to reviews on post award submissions. The Application will not be presented to the Board for consideration until all outstanding fees have been paid. This Administrative Deficiency process applies equally to the Real Estate Analysis Division review and feasibility evaluation and the same penalty and termination will be assessed.
- (b) Pre-application Submission. The purpose of the pre-application process is to enable Applicants interested in pursuing the Application to assess generally who else is interested in submitting Applications and the nature of their proposed Development. Based on an understanding of the potential competition they can make a better and more informed decision whether they wish to proceed to prepare and submit an Application.
 - (1) As used herein a "complete pre-application" means a pre-application that meets all of the Department's criteria for an Application with all required information and exhibits provided pursuant to the application checklist provided in the Tax Credit (Procedures) Manual.
 - (2) The pre-application must be submitted in accordance with the Application Acceptance Period and Pre-application Final Delivery Date as identified in §5049.3 in this chapter (relating to Program Calendar).
 - (3) To submit the complete pre-application the Applicant must deliver one (1) CD-R containing a PDF copy and Excel copy of the complete pre-application to the Department prior to the Pre-application Final Delivery Date.

- (4) The pre-application must be accompanied by a paper certification with an original signature in the form provided in the pre-application. Furthermore, the pre-application must be a single file, individually bookmarked at each of the required volumes and exhibits presented in the order as required in the application-checklistTax Credit (Procedures) Manual.
- (5) If a pre-application is not submitted to the Department on or before the applicable deadline indicated in §5049.3 of this chapter, the Applicant will be deemed to have not made a pre-application.
- (6) The required pre-application fee as described in §5049.14 of this chapter (relating to Program Related Fees) must be submitted with the pre-application in order for the pre-application to be accepted by the Department.
- (7) Only one pre-application may be submitted by an Applicant for each site. Prior to the pre-application deadline 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.
- (8) 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, *\frac{1}{2}\text{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. The rejection of a pre-application shall not preclude an Applicant from submitting an Application with respect to a particular Development or site at the appropriate time.
- (c) Pre-application Threshold Criteria. The Pre-application Threshold Criteria include:
 - (1) Submission of a pre-application;
 - (2) Evidence of Site Control through March 1, 20124 as evidenced by the documentation required under §5049.8(8)(A) of this chapter (relating to Threshold Criteria); and
 - (3) Evidence in the form of a certification that all of the notifications required under this paragraph have been made. (§2306.6704)
 - (A) The Applicant must request a list of Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site as follows:
 - No later than the Pre-application Neighborhood Organization Request Date (i) identified in §5049.3 of this chapter, the Applicant must e-mail, fax or mail with registered receipt (email or fax to be "receipt confirmed") a completed "Neighborhood Organization Request" letter as provided in the pre-application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in an area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format;
 - (ii) If no reply letter is received from the local elected officials by the Preapplication Response to Neighborhood Organization Request Date, then the Applicant must certify to that fact in the pre-application;
 - (iii) The Applicant must list in the pre-application all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as provided by the local elected officials, or that the Applicant has knowledge of (regardless of whether the organization is on record with the county or state) as of the pre-application submission.

- (B) Not later than the date the pre-application is submitted, notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism in the format required in the "Pre-application Notification Template" provided in the pre-application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials, however, are required to notify county officials. Evidence of notification is required in the form of a certification provided in the pre-application, although it is encouraged that Applicants retain proof of delivery of the notifications, to the persons or entities prescribed in clauses (i) (ix) of this subparagraph, in the event that the Department requires proof of notification. Evidence of proof of delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of receipt by the recipient for facsimile and electronic mail. Officials to be notified are those officials in office at the time the pre-application is submitted.
 - (i) Neighborhood Organizations on record with the state or county whose boundaries include the proposed Development Site;
 - (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) Mayor 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.
- (C) 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) Whether the Development proposes New Construction, Reconstruction, Adaptive Reuse, or Rehabilitation;
 - (v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, high-rise etc.) and population being served (general or 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 approximate percentage of Units that are market rate;
 - (viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and any market rate Units, if applicable. 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.
- (D) Pre-applications not meeting the Pre-application Threshold Criteria identified in this subsection will be terminated and the Applicant will receive a written notice to that effect. 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.

- (d) Pre-application Results. Only pre-applications which have satisfied all of the Pre-application Threshold Criteria requirements set forth in subsection (c) of this section and §5049.9(a)(134) of this chapter, 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.
- (e) **Application Submission**. An Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application in order to be considered for Housing Tax Credits.
 - (1) As used herein a "complete application" means an Application that meets all of the Department's criteria for an Application with all required information and exhibits provided pursuant to the application checklist provided in the Tax Credit (Procedures) Manual.
 - (2) For Applications submitted under the State Housing Credit Ceiling, the Application must be submitted by the Full Application Delivery Date as identified in §5049.3 of this chapter. The Full Application Delivery Date for Tax-Exempt Bond Developments is triggered by the Certificate of Reservation issued by the Texas Bond Review Board and is further defined in §5049.11 of this chapter (relating to Tax-Exempt Bond Developments).
 - (3) To submit the complete application the Applicant must deliver one (1) CD-R containing a PDF copy and Excel copy of the complete application to the Department.
 - (4) The Application must be accompanied by a paper certification with an original signature in the form provided in the Application. Furthermore, the Application must be a single file, individually bookmarked at each of the required volumes and exhibits presented in the order as required by the application checklist Tax Credit (Procedures) Manual.
 - (5) If an Application is not submitted to the Department on or before the applicable deadline indicated in paragraph (1) of this subsection, the Applicant will be deemed to have not made an Application.
 - (6) The required Application fee as described in §5049.14 of this chapter must be submitted with the Application in order for the Application to be accepted by the Department.
 - (7) Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, an Applicant may withdraw an 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.
- (f) Evaluation Process. Applications submitted for consideration (including Tax Exempt Bond Developments) will be reviewed according to the Eeligibility, Tthreshold and for competitive applications under the State Housing Credit Ceiling, for Selection Criteria. An Application, during any of these stages of review, may be determined to be ineligible as further described in §5049.4 of this chapter. Applicants will be notified in these instances.
- (g) Subsequent Evaluation and Methodology for Award Recommendations to the Board. 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 as most competitive and that meet the requirements of Eligibility and Threshold. However, an Application may be reviewed by the Real Estate Analysis Division prior to the completion of the Eligibility and Threshold reviews. The procedure identified in paragraphs (1)—(6) of this subsection will also be used in making recommendations to the Board:
 - (1) Applications with the highest scores in the TRDO-USDA Allocation until the minimum requirements stated in §49.6(b)(2) of this chapter (relating to USDA Set-Aside) are attained. If an Application in this Set-Aside involves Rehabilitation it will be attributed to, and come from the, At-Risk Set-Aside; if an Application in this Set-Aside involves New Construction it will be attributed to and come from the applicable Uniform State Service Region;

- (2) Applications with the highest scores in the At-Risk Set-Aside Statewide until the minimum requirements stated in §49.6(b)(3) of this chapter (relating to At-Risk Set-Aside) of this chapter are attained:
- (3) Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments in each of the 26 sub regions, regardless of Set Aside, in accordance with the requirements under §49.6(a) of this chapter (relating to Regional Allocation Formula), without exceeding the credit amounts available for a Rural Regional Allocation and Urban Regional Allocation in each region. To the extent that Applications in the At-Risk and TRDO-USDA Set-Asides are not competitive enough within their respective Set-Asides, they will also be able to compete, with no Set-Aside preference, within their appropriate sub-region;
- (4) If there are any tax credits set-aside for Developments in a Rural Area in a specific Uniform State Service Region that remain after allocation under paragraph (3) of this subsection those tax credits shall then be made available in any other Rural Area in the state to the Application in the most underserved Rural sub-region as compared to the Region's Rural Allocation. (§2306.111(d)(3)) This will be referred to as the Rural collapse;
- (5) If there are any tax credits remaining in any sub-region after the Rural collapse, in the Rural Regional Allocation or Urban Regional Allocation, they then will be combined and made available to the Application in the most underserved sub-region as compared to the sub-region's allocation. This will be referred to as the statewide collapse;
- Staff will ensure that at least 10% of the State Housing Credit Ceiling is allocated to Qualified Nonprofit Organizations to satisfy the Nonprofit Set-Aside. If 10% is not met through the existing competitive process, then the Department will add the highest scoring Application by a Qualified Nonprofit Organization statewide until the 10% Nonprofit Set-Aside is met. Staff will ensure that at least 20% of the State Housing Credit Ceiling is allocated to Rural Developments. If this 20% minimum is not met through the existing competitive process, then the Department will add the highest scoring Rural Development Application statewide until the 20% Rural Development Set-Aside is met. Selection for each of the Set-Asides will take precedence over selection for the Rural Regional Allocation and Urban Regional Allocation, Funds for the Rural Regional Allocation or Urban Regional Allocation within a region, for which there are no eligible feasible Applications, will be redistributed as provided in §49.6(c) of this chapter (relating to Redistribution of Credits). If the Department determines that an allocation recommendation would cause a violation of the \$2 million limit described in §49.5(b) of this chapter (relating to Credit Amount), the Department will make its recommendation by selecting the Development(s) that most effectively satisfy 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 Competitive Housing Tax Credits are allocated within the period required by law. (§2306.6710(a) - (f); §2306.111)
- (gh) Underwriting Evaluation. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate allocation of Housing Tax Credits. In making this determination, the Department will use §1.32 of this title the (relating to Underwriting Rules and Guidelines) found in §1.32 of this title. 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.
- (hi) 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 in accordance with Chapter 60 of this title (relating to Compliance Administration), and will be evaluated in detail for eligibility under §5049.4 of this chapter.

- (ij) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its agentssigns. Such inspection will evaluate the Development Site based upon the criteria set forth in the Site Evaluation form. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, 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 TRDO-USDA Set-Aside, the Department may rely on the physical site inspection performed by TRDO-USDA.
- (jk) Application Process for Rural Rescue Applications under the 20132 Credit Ceiling. The Rural Rescue Applications will be reviewed according to the process outlined in this subsection.
 - (1) Submission Requirements. Rural Rescue Applications may be submitted during the Rural Rescue Application Submission Period as identified in §5049.3 of this chapter. A complete Application must be submitted at least sixty (60) days prior to the date of the Board meeting at which the Applicant would like the Board to act on the proposed Development. Applications must include the full Application Fee as further described in §5049.14 of this chapter. Applicants must submit documents in accordance with the application checklist provided in the Tax Credit (Procedures) Manual for all Volumes, including Volume IV.
 - (A) Applications will be processed on a first-come, first-served basis. Applications unable to meet all Administrative Deficiency and underwriting requirements within thirty (30) days of the request by the Department, will remain under consideration, but will lose their submission status and the next Application in line will be moved ahead in order to expedite those Applications ready to proceed. Applications for Rural Rescue will be processed and evaluated as described in this paragraph. Applications will be reviewed to ensure that the Application is eligible as a rural "rescue" Development as described in paragraph (2) of this subsection.
 - (B) Prior to the Development being recommended to the Board, TRDO-USDA shall provide the Department with a copy of the physical site inspection report performed by TRDO-USDA, if applicable.
 - (2) Eligibility and Threshold Review. All Rural Rescue Applications will be reviewed pursuant to §5049.8 and §5049.9 of this chapter. Additional eligibility requirements include the criteria listed in subparagraphs (A) (C) of this paragraph. Applications found to be ineligible will be notified.
 - (A) Applications must be funded through TRDO-USDA;
 - (B) Applications must be able to provide evidence that the loan:
 - (i) has been foreclosed and is in the TRDO-USDA inventory; or
 - (ii) is being foreclosed; or
 - (iii) is being accelerated; or
 - (iv) is in imminent danger of foreclosure or acceleration; or
 - (v) is for an Application in which two adjacent parcels are involved, of which at least one parcel qualifies under clauses (i) (iv) of this subparagraph and for which the Application is submitted under one ownership structure, one financing plan and for which there are no market rate units; and
 - (C) Applicants must be identified as in compliance with TRDO-USDA regulations with all other properties.
 - (3) Selection Criteria Review. All Rural Rescue Applications will be evaluated against the Selection Criteria pursuant to §5049.9 of this chapter and a score will be assigned to the

Application. The minimum score for Selection Criteria as identified in §5049.9(a) of this chapter is not required to be achieved to be eligible.

- (4) Credit Ceiling and Applicability of this chapter. All Rural Rescue Applicants will receive their credit allocation out of the 20132 Credit Ceiling and therefore, will be subject to the rules and guidelines identified in the 20132 Qualified Allocation Plan (QAP). However, because the 20132 QAP will not be in effect during the time period that the Rural Rescue Applications can be submitted, Applications submitted and eligible under the Rural Rescue Set-Aside will be considered to have satisfied the requirements of the 20132 QAP by having satisfied the requirements of the 201214 QAP, to the extent permitted by statute.
- (5) Procedures for Recommendation to the Board. Consistent with subsection (c) of this section, staff will make its recommendation to the Committee. The Committee will make Commitment recommendations to the Board. Staff will provide the Board with a written, documented recommendation which will address at a minimum the financial and programmatic viability of each Application and a breakdown of which Selection Criteria were met by the Applicant. The Board will make its decision based on §5049.10(a) of this chapter (relating to Board Decisions). Any award made to a Rural Rescue Development will be credited against the TRDO-USDA Set-Aside for the 20121 Application Round, as required under §50.6(d)(3) subsection (g)(3) of this sectionchapter.
- (6) Limitation on Allocation. No more than \$350,000 in credits will be forward committed from the 20121 State Housing Credit Ceiling. To the extent Applications are received that exceed the maximum limitation; staff will prepare the award for Board consideration noting for the Board that the award would require a waiver of this limitation.

§5049.8. Threshold Criteria.

The Threshold Criteria listed in this section are The purpose of this section is to identify the mandatory requirements that must be submitted at the time of the original Application submission unless specifically indicated otherwise. If any of the Threshold Criteria indicated below are not resolved, clarified or corrected to the satisfaction of the Department, through the Administrative Deficiency process, the Application will be terminated.

- (1) Submission of the Application. Includes the entire Uniform Application and any other supplemental forms which may be required by the Department and in the format prescribed by the Department. (§2306.1111)
- (2) Governing Body Resolutions. The following resolutions, if applicable to the proposed Development, must be submitted by the Resolutions Delivery Date as indicated in §5049.3 of this chapter (relating to Program Calendar) and may not be more than one year old from the beginning of the Application Acceptance Period or for Tax-Exempt Bond Developments from the date the Volume 1 is submitted to the Department.
 - (A) Twice the State Average. If the Development is located in a municipality or in a valid Extra Territorial Jurisdiction (ETJ) of a municipality, or if located completely outside a municipality or ETJ, 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 Certificate of Reservation is issued by the Texas Bond Review Board) the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality (including, in the case of an ETJ, the municipality to which the ETJ pertains) or county containing the Development. Such approval must reference this rule and authorize an allocation of Housing Tax Credits for the Development; (§2306.6703(a)(4))

- (B) One Mile Three Year Rule. If the Applicant proposes to construct a Development proposing New Construction or Adaptive Reuse (excluding New Construction of non-residential buildings) that is located one linear mile (measured by a straight line on a map) or less from a Development that: (§2306.6703(a)(3))
 - (i) Serves the same type of household as the new Development, regardless of whether the Development serves families, elderly individuals, or another type of household; and
 - (ii) has received an allocation of Housing Tax Credits or private activity bonds for any 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
 - (iii) has not been withdrawn or terminated from the Housing Tax Credit Program;
 - (iv) an Application is not ineligible under this paragraph if:
 - 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. §§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. §§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 Governing Body, of the Unit of General 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) (C) of this paragraph.
 - (v) In determining when an existing Development received an allocation 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. In dealing with ties between two or more Developments as it relates to this rule, refer to §50.6(e)49.9(b) of this chapter (relating to Allocation and Awards ProcessSelection Criteria).
- (C) Developments in Certain Census Tracts. Staff will not recommend and the Board will not allocate Housing Tax Credits for a Competitive Housing Tax Credit or Tax-Exempt Bond Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as established by the U.S. Census Bureau for the most recent Decennial Census unless:
 - (i) The Development is in a Place whose population is less than 100,000;
 - (ii) The Applicant proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or
 - (iii) Submits to the Department an approval of the Development referencing this rule in the form of a resolution from the Governing Body of the appropriate municipality or county containing the Development. These ineligible census tracts are outlined in the 2011 Housing Tax Credit Site Demographic Characteristics Report for the current Application Round.
- (3) Rehabilitation Costs. Developments involving Rehabilitation must establish <u>a scope of work</u> that the Rehabilitation—will substantially improve the <u>interiors of all Units and exterior deferred maintenance</u>, at a minimum, condition of the housing and will involve at least \$20,00015,000 per Unit in direct hHard eCosts (excluding off-sites and contingency including site work, contingency, contractor profit, overhead, and general requirements) unless financed with TRDO-USDA in which case the minimum is \$12,0009,000.

- (4) Experience Requirement Certification. The purpose of the experience requirement is for someone with a controlling interest in the Development to demonstrate they have experience in the aspects of development, including but not limited to the housing tax credit process, construction, lease-up and stabilization. Evidence must be provided in the Application that meets the criteria as stated in subparagraphs (A) (C) of this paragraph. An Applicant may submit their experience documentation prior to the Application deadline and the Department will attempt to review and respond within thirty (30) days of submission regarding approval of the experience requirement. No later than the Experience Certification Delivery Date as indicated in \$49.3 of this chapter, an Applicant must submit the documents required in this section to obtain the required certification. Upon receipt of the evidence required under this section, a certification from the Department will be provided to the Applicant for inclusion in its Application(s). Experience must meet the criteria of both subparagraphs (A) and (B) of this paragraph with evidence of such provided as stated in subparagraphs (C) and (D) of this paragraph.
 - (A) One of the Principals of the Development Owner, General Partner, Developer or the General Contractor must provide evidence reasonably acceptable to the Department that they have acquired actual experience through previous participation in and subsequent completion of comparable residential units (single family, multifamily) as demonstrated by the submission of a housing tax credit Application, receipt of award, submission of post award activities (Commitment, Carryover, 10% test, etc.), construction oversight, lease-up, stabilization, and receipt of IRS Forms 8609. Executive Directors of non-profits and public housing authorities may qualify for this experience requirement; and
 - (B) The Principal requesting the certificate must have experience with the same type of construction as the Application is proposing (single family, multifamily, new construction, rehabilitation, etc.) and have acquired their experience in connection with a development with at least 80% as many units as the Units in the Development for which Application is being made, in no event less than 36 units. The Department will, in issuing an Experience Certificate, state any limitations. Persons who establish that they have participated in the development of 200 units or more will not be further restricted by size. Experience of multiple parties may not be aggregated. Rehabilitation experience must have been substantial and involved at least \$15,000 of direct cost per Unit.
 - (C) Evidence for experience must clearly indicate that:
 - (i) the Principal was a Principal of the Development Owner, General Partner or Developer (of the Development submitted as experience) during the complete specified timeframe and process as identified in subparagraph (A) of this paragraph; and
 - (ii) the Development has been completed (as evidenced by the number of Units completed); and
 - (iii) 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
 - (D) One or more of the following documents must be submitted as evidence of completion of the development:
 - (A) A Principal of the Developer, Development Owner, General Contractor or Experienced Venturor must establish that they have experience in administering housing tax credit properties with a combined total of 150 units or more (80 units of which must be in Texas) through at least five (5) years of those properties' compliance periods. This capability must be maintained continuously throughout the Compliance Period although the persons providing such experience may be changed to other qualified persons. The Principal of the Developer, Development Owner, General Contractor or Experienced Venturor must not have a record of a score rising to the level of Material Noncompliance, as defined in Chapter 60 of this title (relating to Compliance Administration), in any developments operated in Texas by the

<u>Applicant under any Department programs whether corrected or not during the past five (5)</u> years. Acceptable documentation to meet this requirement shall include:

- (i) An experience certificate issued by the Department in the past three (3) years; or
- (ii) Any of the items in subclauses (I) (IX) of this clause:
 - (i) American Institute of Architects (AIA) Document A111 Standard Form of Agreement between Owner & Contractor;
 - (ii) AlA Document G704 Certificate of Substantial Completion;
 - (iii) AIA Document G702 Application and Certificate for Payment;
 - (iv) Certificate of Occupancy;
 - (v) IRS Form 8609, (only one for per development is required);
 - (vi) HUD Form 9822;
 - (viii) Development agreements;
 - (viii II) 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), General Contractor, Experienced Venturor, Developer or their Principals have the required experience.
- (B) If the Developer or Development Owner will use a Third Party General Contractor the Principal of the General Contractor must have prior residential construction experience involving 36 or more residential units in the past five (5) years. Acceptable documentation to meet this requirement shall include:
 - (I) American Institute of Architects (AIA) Document A111 Standard Form of Agreement between Owner & Contractor;
 - (II) Ala Document G704 Certificate of Substantial Completion;
 - (III) AIA Document G702 Application and Certificate for Payment:
 - (IV) Certificate of Occupancy;
 - (V) IRS Form 8609, (only one for per development is required); or
 - (VI) HUD Form 9822.
- (C) The Developer or Development Owner may act as the General Contractor only if a Principal or the Developer or Development Owner has prior residential construction experience involving 36 or more residential units in the past five (5) years. Acceptable documentation to meet this requirement shall include those listed in paragraph (B)(I) (VI) of this subparagraph.
- (D) The Principals used to support this experience are not required to be maintained throughout the development of the property, but any replacement must provide evidence of the experience required herein. Any change in the General Partner must be made pursuant to §50.13(d) of this chapter (relating to Ownership Transfers).
- (E) If a Principal is determined by the Department to not have the required experience, an acceptable replacement for that Principal must be identified prior to the date the award is made by the Board.
- (F) Neither the Applicant nor any Principal may be involved in another affordable housing transaction, in any state, that assisted with low-income housing tax credits with issues of noncompliance that required the issuance of IRS Form 8823 and remained uncorrected for more than three (3) months at any time in the preceding five (5) years.
- (G) Notwithstanding the foregoing, no person may be used to establish such required experience if that Person or an Affiliate of that Person would not be eligible to be an Applicant themselves.
- (5) Certifications. The "Certification Form" provided in the Application confirming the following items:

- A certification of the basic common amenities selected for the Development. All (A) Developments must meet at least the minimum threshold of points based on the total number of Units in the Development. These points are not associated with the Selection Criteria points in §5049.9(a) of this chapter. The amenities selected must be made available for the benefit of all tenants and must be made available during normal business hours. 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 satisfy theis threshold requirement. All amenities must meet accessibility standards. Spaces for activities must be sized appropriately to serve the Target Population of the Development. Developments proposing Rehabilitation (excluding Reconstruction) or proposing Single Room Occupancy will receive 1.5 points for each point item (do not round). Applications for non-contiguous scattered site housing, excluding non-contiguous single family sites, will have the threshold test applied based on the number of Units per individual site, and will have to identify in the LURA which amenities are at each individual site. must submit a separate certification for each individual site under control by the Applicant. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §49.13(b) of this chapter (relating to Amendments) 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, Determination Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.
 - (i) Applications must meet a minimum threshold of points as follows:
 - (I) Total Units equal are less than 16, 1 point is required; to meet Threshold;
 - (II) Total Units are 17 to 4024, 43 points are required to meet Threshold;
 - (III) Total Units are 25 to 40, 4 points are required to meet Threshold;
 - (IIIV) Total Units are 41 to 76, 7 points are required to meet Threshold;
 - (IV) Total Units are 77 to 99, 10 points are required to meet Threshold;
 - (VI) Total Units are 100 to 149, 143 points are required to meet Threshold;
 - (VII) Total Units are 150 to 199, 186 points are required to meet Threshold; or
 - (VIII) Total Units are 200 or more, 2219 points are required to meet Threshold;

[THE SECTION BELOW WILL BE MOVED TO THE GENERAL RULE AS MODIFIED]

- (ii) The amenities include those items listed in subclauses (I) (XXVIII) of this clause. All DevelopmentsBoth general population 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 subparagraphs (D) and (F) of this paragraph. 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. The Applicant is instructed to review Chapter 60 of this title (relating to Compliance Administration) for detailed definitions and standards as it relates to the amenities listed in this subparagraph;
 - (I) Full perimeter fencing (2 points);
 - (II) Controlled gate access (2 points);
 - (III) Gazebo w/sitting area (1 point);
 - (IV) Accessible walking/jogging path separate from a sidewalk <u>and in addition to required accessible routes to Units or other amenities (1 point);</u>
 - (V) Community laundry room with at least one washer and dryer for each 25 Units (43 points);
 - (VI) Barbecue grill and picnic table-at least one of each for every 50 Units (1 point);
 - (VII) Covered pavilion that includes barbecue grills and tables (2 points);
 - (VIII) Swimming pool. Must be a built-in (not above ground style) swimming pool that is at least 150 square feet in area (minimum 10x15 feet). For developments of 100 Units or more, must be at least 300 square feet in area

- (minimum 15x20 feet) or two pools (of 150 square feet) shall be provided. (3 points);
- (IX) Splash pad/water feature play area (1 point);
- (IX) Furnished fitness center. Equipped with fitness equipment options with at least one option per every 40 Units or partial increment of 40 Units: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, sauna, stair-climber or other similar equipment. Equipment shall be designated for commercial use. All Developments must have at least two equipment options but are not required to have more than five equipment options regardless of number of Units. (23 points);
- (X) Equipped and functioning business center or equipped computer learning center. Must be equipped with 1 computer for every 30 Units loaded with basic programs, 1 laser printer for every 3 computers (minimum of one printer) and at least one scanner which may be integrated with printer (23 points):
- (XI) Furnished Community room (24 points);
- (XII) Library with an accessible sitting area (separate from the community room) (1 point);
- (XIII) Enclosed community sun porch or covered community porch/patio <u>(must be all-weather construction; excludes open arbor-type structures)</u> (2 points);
- (XIV) Service coordinator office in addition to leasing offices (1 point);
- (XV) Senior Activity Room (Arts and Crafts, etc.) (21 points);
- (XVI) Health Screening Room (1 point);
- (XVII) Secured Entry (elevator buildings only) (applicable only if all Unit entries are facing the building's interior or otherwise commonly secured) (12 points);
- (XVIII) Horseshoe pit, putting green or shuffleboard court (1 point);
- (XIX) Community Dining Room w/full or warming kitchen <u>furnished with adequate</u> tables and seating. (3 points);
- (XX) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot (1 point); Can only select this item if (XXI) of this clause is not selected;
- (XXI) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each (2 points) Can only select this item if (XX) of this clause is not selected;
- (XXII) Sport Court (Tennis, Basketball or Volleyball) (2 points);
- (XXIII) Furnished and staffed Children's Activity Center that must have age appropriate furnishings and equipment. Appropriate levels of staffing must be provided during after-school hours and during school vacations (3 points);
- (XXIV) Community Theater Room equipped with a 52 inch or larger screen with surround sound equipment; DVD player; and theater seating (3 points);
- (XXV) Dog Park <u>area that is fully enclosed and intended for tenant owned dogs to run off leash (12 points)</u>; or
- (XXVI) Common area Wi-Fi (1 point);
- (XXVII) Twenty-four hour camera/security system in each building (3 points);
- (XXVI<u>I</u>I) Green_Building_Certifications. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Points may be selected from only one of three categories:

 <u>Limited Green Amenities, Enterprise Green Communities and Leadership in Energy and Environmental Design (LEED).amenities that include the following:</u>
- (-a-) <u>Limited Green Amenities (2 points)</u>. The following items constitute the minimum requirements for demonstrating green building of housing tax credit Developments. Six (6) of the nine (9) items listed under subclause (-1-)

through (-9-) of this clause must be met in order to qualify for the maximum points under this item.

- (-1-) At least 20% of the water needed annually for site irrigation is from a rain water harvesting/collection system and/or locally approved greywater collection system. This can include rainwater harvested from gutters and downspouts to a storage tank or cistern where it can be treated or filtered for potable uses; untreated rainwater may be used for non-potable uses.
- (-2-) Native trees and plants installed that are appropriate to the Development Site's soil and microclimate to allow for shading in the summer and heat gain in the winter.
- (-3-) Install water-conserving fixtures that meet the EPA's WaterSense Label. Such fixtures must include low-flow or high efficiency toilets, bathroom lavatory faucets, showerheads and kitchen faucets. Rehabilitation Developments may install compliant faucet aerators instead of replacing the entire faucets.
- (-4-) All of the HVAC condenser units are located so they are fully shaded 75% of the time during summer months (i.e. May through August).
- (-5-) Install Energy-Star qualified hot water heaters or install those that are part of an overall Energy-Star efficient system.
- (-6-) Install individual or sub-metered utility meters. Rehabilitation Developments may claim sub-meter only if not already sub-metered at the time of Application.
- (-7-) Healthy finish materials including the use of paints, stains, adhesives and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standard.
- (-8-) Install daylight sensor, motion sensors or timers on all exterior lighting and install fixtures that include automatic switching on timers or photocell controls for all lighting not intended for 24-hour operation or required for security.
- (-9-) Recycling service provided throughout the compliance period.
- (-b-) Enterprise Green Communities. (4 points). The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at http://www.greencommunitiesonline.org.
- (-c-) LEED (maximum of 6 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification and points will be award based on the rating level achieved.
 - (-1-) LEED Certified (2 points);
 - (-2-) LEED Silver (3 points);
 - (-3-) LEED Gold (4 points); or
 - (-4-) LEED Platinum (6 points).
 - (-a-) Development Energy Savings (1 point for each item):
 - (-1-) at least 50% of the water needed annually for site irrigation is from a rain water harvesting/collection system and/or locally approved gray water collection system; or
 - (-2-) native trees and plants installed that are appropriate to the site's soils and microclimate and located to allow for shading in the summer and heat gain in the winter;
 - (-b-) Tenant Energy Savings (2 points for each item):

- (-1-) On-site photovoltaic panels or wind driven turbines for generating at least 5kW of electricity that are incorporated into the engineered structural design of the roof(s) and neither of which protrude from any roof structure by more than 8 feet and are designed and wired to supplement the Development's electric power. Photographs and data sheets of the proposed equipment must be submitted with the Application;
- (-2-) If the glazing area on the north- and south-facing walls of the building is at least 50% greater than the sum of the glazing area on the east- and west-facing walls; and the east-west axis of the building is within 15 degrees of due east-west;
- (-3-) If the east-west axis of the building oriented within 15 degrees of due east-west utilizes a narrow floor plate (less than 40 feet) and single loaded corridors and open floor plan to optimize daylight penetration and passive ventilation:
- (-4-) 100% of HVAC condenser units are located so they are fully shaded 75% of the time during summer months (May through August);
- (-5-) Solar screens or solar film on all East, West, and South Windows with building oriented to east-west axis within 15 degrees of due east-west; applies only to rehabilitation where windows are not replaced with Energy Star rated windows;
- (-6-) Install low-flow or high efficiency toilets that exceed State requirements;
- (-7-) Install bathroom lavatory faucets, showerheads and kitchen faucets that exceed the State standard. All fixtures throughout the Development must meet the standard at the time of Application. Rehabilitation Developments may install compliant faucet aerators instead of replacing entire faucets;
- (-8-) Provide solar water heaters designed to provide at least 25% of the average energy used to heat domestic water throughout the entire Development;
- (9) Sub-metered utility meters for any utility in a Rehabilitation Development which was not already sub-metered at the time of Application;
- (-10-) If the Development uses Energy-Star qualified windows and glass doors exclusively; insulation, and air barriers greater than or equal to Energy Star air barrier and insulation criteria; and Energy Star rated HVAC, and domestic hot water heaters, and insulation that exceeds Energy Star standards;
- (-11-) If the Development promotes energy efficiency by demonstrating a certified HERS score of 85 or lower;
- (-12-) Thermally and draft efficient doors (SHGC of 0.40 or lower (for doors with glass) and U-value specified by climate zone according to the 2006 IECC) (2 points); or
- (-13-) Recycling service provided throughout the compliance period; (-c-) Other Green Features/Indoor Health (1 point for each item):
 - (-1-) Renewable materials, provide at least one of the following: bamboo flooring, wool carpet, lineleum flooring, straw board cabinetry, poplar OSB, or cotton batt insulation;
 - (-2-) Healthy flooring, provide at least one of the following for 50% of flooring: finished concrete or ceramic tile resilient flooring material that is Floor Score Certified, applied with a Floor Score Certified adhesive and comes with a minimum seven (7) year wear through warranty; or

- (3-) Healthy finish materials, use paints, stains, adhesives, and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standard:
- (-d-) LEED (Leadership in Energy and Environmental Design) Certification. If at the time of Cost Certification a LEED Certification (Certified, Silver, Gold or Platinum levels) for the Development is obtained then the maximum points allowed under this paragraph will be awarded and none of the green building amenities selected under this paragraph will need to be substantiated. Conversely, if at the time of Cost Certification a LEED Certification has not been obtained then the Applicant will be required to prove up 6 points under this subparagraph;

[THE SECTION ABOVE WILL BE MOVED TO THE GENERAL RULE AS MODIFIED]

(iii) Unit Amenities (Tax Exempt Bond Developments Only). The Development must include enough amenities to meet the minimum threshold of 14 points. The amenity and quality feature shall be for every Unit at no extra charge to the tenant as certified to in the Application. The amenities and corresponding point structure is provided in §1.1 of this title (relating to Definitions). The amenities will be required to be identified in the LURA. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of 3 points and Supportive Housing Developments will start with a base score of 5 points.

- (B) A certification that the Development will meet the minimum threshold for size of Units as provided in clauses (i) (v) of this subparagraph. These minimum requirements are not associated with the points in §5049.9(a)(4) of this chapter. Developments proposing Rehabilitation (excluding Reconstruction) or Single Room Occupancy Supportive Housing Developments will not be subject to the requirements of this subparagraph.
 - (i) 550 square feet for an Efficiency Unit;
 - (ii) 650 square feet for a one Bedroom Unit that is not in a Qualified Elderly Development; 550 square feet for a one Bedroom Unit in a Qualified Elderly Development;
 - (iii) 900 square feet for a two Bedroom Unit that is not in a Qualified Elderly Development; 700 square feet for a two Bedroom Unit in a Qualified Elderly Development;
 - (iv) 1,000 square feet for a three Bedroom Unit; and
 - (v) 1,200 square feet for a four Bedroom Unit;
- (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 to the most recent version of the International Building Code.
- (D) A certification that the Applicant is <u>and will remain</u> 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. §§3601 et seq.), the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. §§2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. §§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 time to time) produced by the International Code Council and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

- (E) A certification that the Applicant has read and understands the Department's fair housing educational materials posted on the Department's website as of the beginning of the Application Acceptance Period.
- (FE) 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 until the Cost Certification is submitted, in a format prescribed by the Department and provided at the time a Commitment is received, on the percentage of businesses with which the Applicant has contracted that qualify as Minority Owned Businesses. (§2306.6734)
- (GF) Pursuant to §2306.6722 of the Texas Government Code, any Development supported with a Housing Tax Credit allocation shall comply with the accessibility standards that are required under §504, Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 C.F.R. Part 8, Subpart C. The Applicant must provide a certification from the Development engineer, an accredited architect or Department-approved third party accessibility specialist, that the Development will comply with the accessibility standards that are required under §504, Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 C.F.R. Part 8, Subpart C, and this subparagraph. (§2306.6722 and §2306.6730)
- (HG) For Developments involving New Construction (excluding New Construction of non-residential buildings) where some Units are two-stories or single family design 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 and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A similar certification will also be required after the Development is completed from an inspector, architect, or accessibility specialist.
- (H) A certification that the Development will be equipped with energy saving devices that meet the standard statewide energy code adopted by the state energy conservation office, unless historic preservation codes permit otherwise for a Development involving historic preservation. The measures must be certified by the Development architect as being included in the design of each tax credit Unit at the time the 10% Test Documentation is submitted and in actual construction upon Cost Certification. (§2306.6725(b)(1))
- (I) A certification that the Development will be built by a 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.
- (山) A certification that the Development Owner agrees to establish a reserve account consistent with §2306.186 of the Texas Government Code and as further described in §1.37 of this title (relating to Reserve for Replacement Rules and Guidelines).
- (JK) A certification that the Applicant, Developer, or any employee or agent of the Applicant has not formed a Neighborhood Organization for purposes of §5049.9(a)(2) of this chapter, has not given money or a gift to cause the Neighborhood Organization to take its position of support or opposition, nor has provided any assistance to a Neighborhood Organization outside of the assistance allowed under §5049.9(a)(2)(A)(viii) to meet the requirements under §5049.9(a)(2) of this chapter as it relates to the Applicant's Application or any other Application under consideration in the current Application Round 2011.

- (<u>KL</u>) <u>A certification that it the Development will Oo</u>perate in accordance with the requirements pertaining to rental assistance in Chapter 60 of this title.
- (LM) A certification that the Development Owner will contract with a Management Company throughout the Compliance Period that will perform criminal background checks on all adult tenants, head and co-head of households.
- (MA) A certification that the Development Owner will affirmatively market to veterans through direct marketing or contracts with veteran's organizations. The Development Owner will be required to identify how they will affirmatively market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.
- (NO) A certification as to whether that the Applicant, Development Owner, Developer or Guarantor involved with the Application has not been voluntarily or involuntarily had their involvement in removed from a rent or income restricted multifamily Development terminated by a lender, equity provider, or other investors or owners as a Principal during the previous ten (10) years, however designated, or any combination thereof or if any litigation to effectuate such exit removal has been instituted and is continuing at the time of Application. If such a termination of involvement occurred the facts and circumstances shall be fully disclosed. If an Applicant or Developer signs the certification and fails to disclose a discloseable matter, and the Department learns at a later date that an removalexit did take place as described, then the Application maywill be terminated and any Allocation made will be rescinded. The disclosure of an exit does not, in and of itself, result in the Applicant or Application being deemed ineligible. Only if the Executive Director determines that the disclosed matter warrants ineligibility, a report of the matter and that recommendation shall be presented to the Board for a final determination. The Board may impose reasonable constraints, including time constraints, as a part of its determination. Any such matter to be presented for final determination of ineligibility by the Board must include notice from the Department to the affected party not less than fourteen (14) days prior to said Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant ineligibility.
- (6) Architectural Drawings. 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 as well as all other Developments unless specifically stated otherwise, must provide all of the items identified in subparagraphs (A) (C) of this paragraph. For Developments involving Rehabilitation for which the Unit configurations are not being altered, only the items identified in subparagraphs (A) and (C) of this paragraph are required:
 - (A) 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) Is consistent with the number of buildings and building type/unit mix specified in the "Building/Unit Configuration" provided in the Application;
 - (iii) Identifies all residential and common buildings; and
 - (iv) Clearly delineates the flood plain boundary lines and shows all easements;
 - (v) Indicates placement of detention/retention pond(s); and
 - (vi) Indicates the location of the required basic amenities and parking spaces:
 - (B) <u>Building Ff</u>loor 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 square footage of the common areas. Adaptive Reuse Developments, are only required to provide building plans delineating each Unit by number, type and area consistent with those in the "Rent Schedule" and pictures of each

- elevation of the existing building depicting the height of each floor and percentage estimate of the exterior composition. For Rehabilitation Developments in which the Unit configurations are not being altered then building floor plans are not required; however, photographs of elevations must be submitted and if elevations are proposed to be altered then before and after renovation drawings must be submitted; and
- (C) Unit floor plans for each type of Unit. The Net Rentable Areas these Unit floor plans represent should be consistent with those shown in the "Rent Schedule" and "Building/Unit Configuration" provided in the Application. Adaptive Reuse Developments, are only required to provide Unit floor plans for each distinct typical Unit type (i.e. one-bedroom, two-bedroom) and for all Unit types that vary in Net Rentable Area by 10% from the typical Unit.

(7) Development Costs, Corresponding Credit Request and Syndication Information.

- (A) The Development Cost Schedule, as provided in the Application, must include the contact information for the person providing the cost estimate for the construction costs (direct hard costs (including site work). All Developments must submit the "Development Cost Schedule" provided in the Application. This exhibit must have been prepared and executed not more than six (6) months prior to the close of the Application Acceptance Period.
- (B) 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.
- (C) If projected site work costs (excluding ineligible demolition costs) include unusual or extraordinary items or exceed \$9,000 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.

(8) Readiness to Proceed.

- (A) Site Control. Evidence that the of Site Control in the name of the Development Owner has or has, and will have at all times while the Application or any Commitment or Determination Notice is pending the ability to compel legal title to a developable interest in the Development Site, i.e., site control. If by the timeframes required in this chapter or any extension thereof as approved by the Department, Applicant fails to have the ability to compel legal title to such a developable interest, that Applicant shall be ineligible for participation in the next Application Round. This is an appealable matter. 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 of the sellers of the proposed Property for the thirty-six (36) months prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development team must be identified at the time of Application (not required at Ppre-application). One of the following items described in clauses (i) (iii) of this subparagraph must be provided:
 - (i) A recorded warranty deed with corresponding executed settlement statement, unless required to submit items under clause (iv) of this subparagraph; or
 - (ii) A contract for lease (the minimum term of the lease must be at least forty-five (45) years) which is valid for the entire period the Development is under consideration for tax credits; or
 - (iii) A contract for sale, an exclusive option to purchase or a lease which is valid for the entire period the Development is under consideration for tax credits by the same Development Owner, Applicant or Affiliate as indicated at pre-application. For Tax Exempt Bond Development Applications, site control must be valid through December 1, 20119 with option to extend through March 1, 20121 (Applications submitted for lottery) or ninety (90) days from the date of the Certificate of Reservation with the option to extend through the scheduled TDHCA Board meeting at which the award of Housing Tax Credits will be considered (Applications not submitted for lottery). The potential expiration of Site Control does not warrant the Application being presented

- to the TDHCA Board prior to the scheduled meeting. Proof of consideration, as specified in the contract, must be submitted and the expiration date and closing date deadline must be identified.
- (iv) If the acquisition can be characterized as an identity of interest transaction, as described in §1.32 of this title (relating to Underwriting Rules and Guidelines) then the Applicant will be required to meet the documentation requirements as further described in §1.32 of this title. subclauses (I) (III) of this clause must be provided:
 - (I) Documentation of the original acquisition cost in the form of a settlement statement or, if a settlement statement is not available, the seller's most recent audited financial statement specifically indicating the asset value for the Development Site; and
 - (II) If the original acquisition cost evidenced by subclause (I) of this clause is less than the acquisition cost claimed in the Application;
 - (-a-) An appraisal meeting the requirements of paragraph (14)(D) of this section; and
 - (-b-) Any other verifiable costs of owning, holding, or improving the Property that, when added to the value from subclause (I) of this clause, justifies the Applicant's proposed acquisition amount.
 - (-1-) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include property taxes, interest expense, capitalized costs of any physical improvements made to the property that benefit the proposed Development, the cost of rezoning, replatting and any off-site costs to provide utilities or improve access to the property that benefit the proposed Development. Additionally, an annual return of 10% may be applied to the original acquisition cost and documented holding and improvement costs; this return can be applied from the date the applicable cost is incurred until the date of the Department's Board meeting at which the subject Development's award will be considered.
 - (-2-) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the property, and the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the property and avoid foreclosure. Additionally, an annual return of 10% may be applied to the original acquisition cost and documented holding and improvement costs; this return can be applied from the date the applicable cost was incurred until the date of the Department's Board meeting at which the subject Development's award will be considered. For any period of time during which the existing buildings are occupied or otherwise producing revenue, holding costs may not include operating expenses, including, but not limited to, property taxes and interest expense.
 - (III) In no instance will the acquisition cost utilized by the underwriter exceed the lesser of the original acquisition cost evidenced by subclause (I) of this clause plus costs identified in subclause (II)(b) of this clause, or the "as is" value conclusion evidenced by subclause (II)(a) of this clause. The resulting acquisition cost will be referred to as the "identity of interest adjusted acquisition cost."
- (B) Zoning. Evidence from the appropriate local municipal authority that satisfies one of clauses (i) (iii) of this subparagraph. Documentation may be from more than one department of the municipal authority and must have been prepared and executed not more than six (6) months prior to the close of the Application Acceptance Period. (§2306.6705(5))

- (i) For New Construction, Adaptive Reuse or Reconstruction Developments, a letter from the chief executive officer of the Unit of General Local Government or another local official with appropriate jurisdiction stating that:
 - (I) The Development is located within the boundaries of a Unit of General Local Government which does not have a zoning ordinance.; and either subclause (II) or (III) of this clause;
 - (II) The letter must state that the Development is consistent with a local consolidated plan, comprehensive plan, or other local planning document that addresses affordable housing; or
 - (III) The letter must state that there is a need for affordable housing, if no such planning document exists;
- (ii) For New Construction, Adaptive Reuse or Reconstruction Developments, a letter from the chief executive officer of the Unit of General Local Government 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
 - (II) The Applicant is in the process of seeking the appropriate zoning and has signed and provided to the Unit of General Local Government a release agreeing to hold the Unit of General Local Government and all other parties harmless in the event that the appropriate zoning is denied. (§2306.6705(5)(B)) Documentation of final approval of appropriate zoning must be submitted to the Department with the Commitment or Determination Notice. No extensions may be requested to the deadline for submitting evidence of final approval of appropriate zoning.
- (iii) For Rehabilitation Developments, documentation of current zoning is required. If the property is currently <u>conforming but with an overlay that would make it</u> a non-conforming use as presently zoned, a letter from the chief executive officer of the Unit of General Local Government or another local official with appropriate jurisdiction which addresses the items in subclauses (I) (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) Financing Requirements.

- Evidence of <u>all necessary</u> 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. Any local, state or federal financing identified in this section which restricts household incomes at any AMGI lower than restrictions required pursuant to this chapter must be identified in the "Rent Schedule" and the local, state or federal income restrictions must include corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g) of the Code. The income and corresponding rent restrictions will be imposed by the Housing Tax Credit LURA and monitored throughout the extended use period. 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 subclauses (I) (IV) of this clause:
 - (I) Financing is in place as evidenced by:
 - (-a-) A valid and binding loan agreement; and
 - (-b-) Deed(s) of trust in the name of the Development Owner as grantor; or
 - (-c-) For TRDO-USDA §515 Developments involving, an executed TRDO-USDA letter indicating TRDO-USDA has received a notification of the tax credit Application; or
 - (II) Commitment or tIerm 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 includes the following as identified in items (-a-) - (-d-) of this subclause:

- (-a-) Has been executed by the lender; and
- (-b-) A minimum loan term of fifteen (15) years with at least a thirty (30) year amortization; and
- (-c-) An expiration date; and
- (-d-) All the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate, any required Guarantors, and anticipated developer fees paid during construction and anticipated deferred developer fees. Such term sheet a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; however, the term sheet must state the level of due diligence that has been performed as of the date of the term sheet; or
- (III) Any federal, state or local gap financing, whether of soft or hard debt, must be identified at the time of Application as evidenced by:
 - (-a-) A term sheet—or commitment from the lending agency which clearly describes the amount and terms of the funding must be submitted. If applying for points under §5049.9(a)(5) of this chapter then documentation must be submitted as required by the deadlines stated therein; and
 - (-b-) Evidence of <u>a complete and receipted</u> application for funding from another Department program <u>must be obtained no later than March 1 (or for Tax Exempt Bond Developments at the time the Volume 1 is submitted). <u>is not required except as indicated on the Uniform Application, as long as the The Department funding is <u>must be</u> on a concurrent funding period with <u>current tax credit the Application Round submitted and the Applicant clearly indicates that such an Application has been filed as required by the application checklist in the Tax Credit (Procedures) Manual; and</u></u></u>
- (IV) If the Development will be financed through more than 5% of Development Owner contributions, provide a letter from a 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 six (6) months prior to the close of the Application Acceptance Period;
- (ii) 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; and (§2306.6705(1))
- (iii) Provide a term sheet or 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, anticipated developer fees paid during construction and anticipated deferred developer fees, syndicator consulting fees and other syndication costs. No syndication costs should be included in the Eligible Basis. (§2306.6705(2) and (3))

- (D) Tax Assessment and Title. Provide the documents in clauses (i) and (ii) of this subparagraph:
 - (i) A current valuation report from the county tax appraisal district and documentation of the current total property tax rate for the Development Site (unless the site is located on land that is not subject to federal, state or local property taxes); and
 - (ii) A copy of:
 - (I) The current title policy (or title status report if on Tribal Land) including a legal description which shows that the ownership (or leasehold) of the Development Site is vested in the name of the Development Owner; or
 - (II) <u>AA</u> current title commitment including a legal description, with the proposed insured matching the name of the Development Owner and the title of the Development Site vested in the name of the seller or lessor as indicated on the sales contract, option or lease;
 - (III) If the title policy, title status report, or commitment is more than six (6) months old as of the day the Application Acceptance Period closes, then a letter from the title company/Bureau of Indian Affairs indicating that nothing further has transpired on the policy, title status report or commitment must be provided.

(9) Notifications.

- (A) Evidence in the form of a certification that the Applicant met the requirements and deadlines identified in clauses (i) (iii) of this subparagraph. Notification must not be older than three (3) months from the first day of the Application Acceptance Period. (§2306.6705(9)) If evidence of these notifications was submitted with the pre-application for the same Application and satisfied the Department's review of Pre-application Threshold, then no additional notification is required at Application. However, renotification is required by tax credit Applicants who have submitted a change in the Application, whether from pre-application to Application or as a result of an Administrative Deficiency that reflects a total Unit increase of greater than 10%, a total increase of greater than 10% for any given level of AMGI, or a change to the population being served (elderly or general). 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.), notifications and proof thereof must not be older than three (3) months prior to the date the Volume III of the Application is submitted.
 - (i) The Applicant must request a list of Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:
 - (I) No later than the Full Application Neighborhood Organization Request Date as identified in §5049.3 of this chapter, the Applicant must e-mail, fax or mail with registered receipt a completed "Neighborhood Organization Request" letter as provided in the Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format;
 - (II) If no reply letter is received from the local elected officials by the Full Application Response to Neighborhood Organization Request Date, then the

- Applicant must certify to that fact in the certification form provided in the Application;
- (III) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of (regardless of whether the organization is on record with the county or state) as of the submission of the Application, in the certification form provided in the Application.
- (ii) No later than the date the Application is submitted, notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism e-mail, fax or mail with registered receipt in the format required in the "Application Notification Template" provided in the Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials, however, are required to notify county officials. Evidence of notification is required in the form of a certification provided in the Application, although it is encouraged that Applicants retain proof of delivery of the notifications, to the persons or entities prescribed in subclauses (I) (IX) of this clause, in the event that the Department requires proof of notification. Evidence of proof of delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of receipt by recipient for facsimile and electronic mail. Officials to be notified are those officials in office at the time the Application is submitted.
 - (I) Neighborhood Organizations on record with the state or county whose boundaries include the proposed Development Site as identified in clause (i)(III) of this subparagraph;
 - (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) Mayor 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.
- (iii) 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 (TDHCA);
 - (IV) Statement of whether the Development proposes New Construction, Reconstruction, Adaptive Reuse or Rehabilitation;
 - (V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, high-rise etc.) and population being served (family or elderly);
 - (VI) The approximate total number of Units and approximate total number of lowincome Units:
 - (VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the approximate percentage of Units that are market rate:
 - (VIII) The number of Units and proposed rents (less utility allowances) for the lowincome 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

- Application, which are subject to change as annual changes in the Area Median Gross income occur; and
- (IX) The expected completion date if credits are awarded.
- Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development Site prior to the date the Application is submitted, as evidenced in the Certification of Notification provided in the Application, unless prohibited by local ordinance or code or restrictive covenants. Scattered site Developments must install a sign on each non-contiguous Development Site. The sign must identify that a residential development is being proposed and must provide contact information for the Applicant in the form of a phone number or web address where they can obtain more information. The Applicant shall make reasonable efforts to maintain the sign on the site until the day that the Board takes final action on the Application for the Development. In areas where the Public Notification Sign is prohibited by local ordinance or code or restrictive covenant, an alternative to installing a Public Notification Sign and at the same required time, the Applicant shall, 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. 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 Public Notification Sign is prohibited by local ordinance or code or restrictive covenant, evidence of the applicable ordinance or code or restrictive covenant must be submitted in the Application.
 - (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.
- (C) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that it has notified each tenant at the Development of all the information otherwise required on the sign, including the Department's public hearing schedule for comment on submitted Applications.

(10) Development's Proposed Ownership Structure.

- (A) 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. Nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors must be included in this exhibit and trusts must list all beneficiaries that have the legal ability to control or direct activities of the trust and are not just financial beneficiaries.
- (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 ownership interest in the Development Owner, Developer or Guarantor, shall provide for entities that are not yet formed but are to be formed either in or outside of the state of Texas, a certificate of name reservation of the entity name from the Texas Office of the Secretary of State.
- (C) Evidence that each entity shown on the organizational chart described in subparagraph (A) of this paragraph that has 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. Nonprofit entities, public housing

authorities and publicly traded corporations are required to submit documentation for the entities involved depote the entities depo

(D) The <u>documentation relating to the</u> experience <u>requirement certification</u>, as further described under paragraph (4) of this section, is submitted that reflects a Person that appears in the organizational chart provided in subparagraph (A) of this paragraph.

(11) Development's Projected Income and Operating Expenses.

- (A) All Developments must provide a 30-year pro_forma 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 or proof of application for such 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(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;
- (D) Occupied Developments undergoing Rehabilitation must also submit the items described in clauses (i) (viiv) 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 the Applicant's 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 twelve (12) consecutive months ending not more than three (3) months from the first day of the Application Acceptance Period;
 - (-b-) The two (2) most recent consecutive annual operating statement summaries;
 - (-c-) The most recent consecutive six (6) months of operating statements and the most recent available annual operating summary;
 - (-d-) All monthly or annual operating summaries available; and
 - (II) A rent roll not more than six (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, and tenant names or vacancy;
 - (ii) A written explanation of the process used to notify and consult with the tenants in preparing the Application; (§2306.6705(6))
 - (iii) For Qualified Elderly Developments, identification of the number of existing tenants qualified under the target population elected under this title;
 - (iv) A relocation plan outlining relocation requirements and a budget with an identified funding source; and (§2306.6705(6))
 - (v) Compliance with the Uniform Relocation Act, if applicable; and

- (vi) If applicable, evidence that the relocation plan has been submitted to the appropriate legal or governmental agency. (§2306.6705(6))
- (12) Applications involving Nonprofit General Partners and Qualified Nonprofit Developments. All Applications under the State Housing Credit Ceiling involving a §501(c)(3) or (4) nonprofit General Partner, regardless of whether the Nonprofit Set Aside created by Tex. Gov't. Code, Section 2306.6706 was selected, in which the Development will receive some financial or tax benefit for the involvement of the nonprofit General Partner, will be deemed, to the extent they qualify, to have contributed to meeting of the Nonprofit Set-Aside mandated by §42(h)(5) of the Code and, therefore, must submit all of the documents described in this subparagraph and indicate the nonprofit status on the carryover documentation and IRS Forms 8609. (§2306.6706) Applications under the State Housing Credit Ceiling that include an affirmative election to not be treated under the set-aside and a certification that they will not receive tax benefits that would materially change the financial aspects of the Development as underwritten by the Department only need to submit the information in subparagraphs (A) and (B) of this paragraph. Tax-Exempt Bond Applications only need to submit the information in subparagraphs (A) and (B) of this paragraph. Applications involving a nonprofit that is not a §501(c)(3) or (4) only need to disclose the basis of their nonprofit status. A participating nonprofit, regardless of whether it is applying under the Nonprofit Set-Aside (for Applications under the State Housing Credit Ceiling) may be reported to the Internal Revenue Service as being involved.
 - (A) An IRS determination letter which states that the nonprofit organization is a §501(c)(3) or (4) entity;
 - (B) The "Nonprofit Participation Exhibit" as provided in the Application;
 - (C) 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 <u>pursuant to §42(h)(5) of the Code</u> and the basis for that opinion. <u>Eligibility is contingent upon the non-profit 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; and otherwise meet the requirements of §42(h)(5) of the Code; and</u>
 - (iii) That one of the exempt purposes of the nonprofit organization is to provide low-income housing; and
 - (iv) 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; and
 - (v) 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; and
 - (D) A copy of the nonprofit organization's most recent audited financial statement; and
 - (E) 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 ninety (90) miles from the Development, if the Development is not located in a Rural Area.
- (13) Authorization to Release Credit Information. The aAuthorization to rRelease eCredit information form must be unbound and clearly labeled, and An Authorization to Release Credit Information" must be completed and signed for any General Partner, Developer or Guarantor and at the discretion of the Department, other Affiliates of the Applicant may be required to provide the Authorization to Release Credit Information form upon request. any Person that has an ownership interest of 10% or more 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, signed by the executive director on behalf of the entity; documentation for individual board members and executive directors, including social security numbers, is not required for this exhibit, but as staff reasonably deems it necessary to its evaluation staff may request authorizations for individuals.

- (14) Supplemental Threshold Reports. The Third Party reports as required in this section must be prepared by a qualified Third party and must meet the requirements stated in subparagraphs (A) (F) of this paragraph. The Environmental Site Assessment, Property Condition Assessment and Appraisal (if applicable) must be submitted on or before the Third Party Report Delivery Date as identified in §4950.3 of this chapter. The Market Analysis Report must be submitted on or before the Market Analysis Delivery Date as identified in §5049.3 of this chapter. If the entire report is not received by that datetime, the Application will be terminated and will be removed from consideration. A searchable electronic copy of the report in the format of a single file containing all information and exhibits clearly labeled with the report type, Development name, and Development location are required.
 - (A) A Phase I Environmental Site Assessment (ESA) Report (required for all Developments):
 - (i) Prepared by a qualified Third Party;
 - (ii) Dated not more than twelve (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 twelve (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 not more than three (3) 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;
 - (iii) Prepared in accordance with §1.35 of this title (relating to Environmental Site Assessment Rules and Guidelines);
 - (iii) Developments whose funds have been obligated by TRDO-USDA 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; and
 - (iv) If the report includes a recommendation that an additional assessment be performed then a statement from the Applicant must be submitted with the Application indicating those additional assessments and recommendations will be performed prior to closing. If the assessments require further mitigating recommendations then evidence indicating the mitigating recommendations have been carried out must be submitted at cost certification.
 - (B) A comprehensive Market Analysis Report (required for all Developments):
 - (i) Prepared by a Third Party Qualified Market Analyst approved by the Department in accordance with the approval process outlined in §1.33 of this title (relating to Market Analysis Rules and Guidelines);
 - (ii) Dated not more than six (6) months prior to the first day of the Application Acceptance Period. In the event that a Market Analysis is more than six (6) months old prior to 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 twelve (12) months old as of the first day of the Application Acceptance Period;
 - (iii) Prepared in accordance with the methodology prescribed in §1.33 of this title; and
 - (iv) Included in the Application submission is an executed engagement letter by the Qualified Market Analyst stating that the required exhibit has been commissioned to be performed and that the delivery date will be no later than the Market Analysis Delivery Date as identified in §50.3 of this chapter. In addition to the submission of

- the engagement letter with the Application, a map must be submitted that reflects the Qualified Market Analyst's intended market area; and,
- For Applications in the TRDO-USDA Set-Aside proposing acquisition and Rehabilitation with residential structures at or above 80% occupancy at the time of Application Submission, the appraisal, required for Rehabilitation Developments and Identity of Interest transactions prepared in accordance with §1.34 of this title (relating to Appraisal Rules and Guidelines), will satisfy the requirement for a Market Analysis; however, the Department may request additional information as needed. (§2306.67055; §42(m)(1)(A)(iii))
- (C) A Property Condition Assessment (PCA) Report (required for Rehabilitation, Reconstruction and Adaptive Reuse Developments):
 - _(i) Prepared by a qualified Third Party;
 - (ii) Dated not more than six (6) months prior to the first day of the Application Acceptance Period.: In the event that a PCA is more than six (6) months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated PCA from the Person or organization which prepared the initial report; however the Department will not accept any PCA which is more than twelve (12) months old as of the first day of the Application Acceptance Period;
 - (iii) Prepared in accordance with §1.36 of this title (relating to Property Condition Assessment Guidelines); and
 - (iii) For Developments which require a capital needs assessment from TRDO-USDA, the capital needs assessment may be substituted and may be more than six (6) months old, as long as TRDO-USDA has confirmed in writing that the existing capital needs assessment is still acceptable and it meets the requirements of §1.36 of this title.
- (D) An appraisal report (required for Rehabilitation Developments and Identity of Interest transactions pursuant to §1.34 of this title):
 - (i) Prepared by a qualified Third Party:
 - (ii) Dated not more than six (6) months prior to the first day of the Application Acceptance Period. In the event that an appraisal is more than six (6) months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated appraisal from the Person or organization which prepared the initial report; however the Department will not accept any appraisal which is more than twelve (12) months old as of the first day of the Application Acceptance Period;
 - (iii) Prepared in accordance with the §1.34 of this title; and
 - (iii) For Developments that require an appraisal from TRDO-USDA, the appraisal may be more than six (6) months old, as long as TRDO-USDA has confirmed in writing that the existing appraisal is still acceptable.
- (E) 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. The transmittal letter must also state the report preparer has read and understood the Department rules specific to the report found at §§1.33 1.36 of this title.
- (F) All Applicants acknowledge by virtue of filing an Application that the Department is not bound by any opinion expressed in the report. The Department may determine from time to time that information not required in the Department's 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 report provider or revisions to the report to meet this need. In instances of non-response by the report provider, the Department may substitute in-house analysis.

- §5049.9. Selection Criteria. The purpose of this section is to identify the scoring criteria used in evaluating and ranking Applications submitted under the State Housing Credit Ceiling. The criteria identified below include those items required under Texas Government Code, Chapter 2306, §42 of the Internal Revenue Code and other criteria considered important by the Department.
- (a) All Applications will be scored and ranked using the point system identified in this subsection. Unless otherwise stated, do not round calculations. Points other than those provided in paragraphs (2) and (6) of this subsection will not be awarded unless requested in the Self Scoring Form. All Applications, with the exception of TRDO-USDA Applications, must receive a final score totaling a minimum of 130, not including any points awarded or deducted pursuant to paragraphs (2) and (6) of this subsection to be eligible for an allocation of Housing Tax Credits. Unless otherwise stated, do not round calculations. Maximum Total Points: 226.
 - (1) Financial Feasibility. (§2306.6710(b)(1)(A)) Applications may qualify to receive a maximum of 28 points for this item under subparagraphs (A) and (B) of this paragraph. The purpose of this scoring item, as the highest prioritized item under Chapter 2306, is to provide an incentive for a level of due diligence by the Applicant and lender that ultimately should result in better Developments, better site selection, the expeditious construction of Units and less feasibility risk on the financial aspects of the Development. Receipt of feasibility points under this paragraph 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 all possible points under this paragraph. Evidence will include the following in addition to the commitment letter required under subsection §49.8(8)(C) of this chapter (relating to Threshold Criteria).
 - (A) A fifteen (15) year pro forma which identifies all underlying assumptions including, but not limited to, a growth factor applied to income and expenses and indicating that the Development maintains a minimum 1.15 debt coverage ratio throughout the fifteen (15) years based on debt service for all debt that requires scheduled repayment. Developments with substantial permanent financing already in place (i.e. USDA) or with no anticipated permanent financing (i.e. Supportive Housing) must provide evidence of the same acceptable to the Department. To qualify for points, the Applicant must provide a letter prepared by:
 - (i) A wholly independent Third-Party permanent or construction lender which is either an FDIC insured financial institution, an institutional investment firm or similar organization (which may be governmental, non-governmental or government-sponsored) with experience with housing tax credit syndications, or an affiliate of one of the foregoing stating that it has reviewed the proforma for the Development and such supplemental or explanatory information as it deemed necessary and determined that the proforma reflects a Development it would be willing (without consideration of non-Development collateral or credit support) to finance under its established underwriting criteria (20 points); or
 - (ii) An affiliated or related entity meeting the requirements of subparagraph (A)(i) of this paragraph (15 points); or
 - (iii) A wholly independent Third Party permanent or construction lender which is either an FDIC insured financial institution, an institutional investment firm or similar organization (which may be governmental, non-governmental or government-sponsored) with experience with housing tax credit syndications, or an affiliate of one of the foregoing stating that it has reviewed the proforma for the Development but has conducted no additional review or inquiry to enable it to form conclusions about such proforma. Based on such limited review the proforma appears to describe a Development that the lender

- would be able (without consideration of non-Development collateral or credit support) to finance under its established underwriting criteria (13 points); or
- (iv) An affiliated or related entity meeting the requirements of subparagraph (A)(iii) of this paragraph (10 points).
- (B) A letter stating that a review of the financial statements, credit history and reference checks of the Principals of the Applicant as it would deem necessary to finance the Development and that their net worth and liquidity would not be raised as a basis for denying such financing as of the date of its review. To qualify for these points, the Applicant must provide such a letter prepared by:
 - (i) A wholly independent Third-Party permanent or construction lender which is either an FDIC insured financial institution, an investment firm or similar organization (which may be governmental, non-governmental or governmentsponsored) with experience with housing tax credits or an affiliate of the foregoing (8 points); or
 - (ii) An affiliated or related entity meeting the requirements of subparagraph (B)(i) of this paragraph (4 points).

To qualify for 20 points the supporting financial data shall include:

- (A) A fifteen (15) year pro forma prepared by the permanent or construction lender:
 - (i) Specifically identifying each of the first five (5) years and every fifth year thereafter;
 - (ii) Specifically identifying underlying assumptions including, but not limited to general growth factor applied to income and expense; and
 - (iii) Indicating that the Development maintains a minimum 1.15 debt coverage ratio throughout the initial fifteen (15) years proposed for all third party lenders that require scheduled repayment.; and
- (B) A statement in the commitment letter, or other form deemed acceptable by the Department, indicating that the lender's assessment finds that the Development will be feasible for fifteen (15) years.
- (C) For Developments maintaining existing financing from TRDO USDA, a current note balance must be provided or other form of documentation of the existing loan deemed acceptable by the Department to meet the requirements of this section.
- (D) To qualify for an additional 8 points, the commitment letter from the permanent or construction lender must indicate that they have reviewed the Applicant's financial position and credit worthiness and have determined that the Applicant meets the financial liquidity or net worth standards that such lender would require in connection with the proposed Development. Furthermore, the letter must describe those standards that such lender would require in connection with the proposed Development. If at any time the Application is under consideration by the Department and the lender changes, the Applicant must provide a subsequent letter from the new lender addressing net worth and liquidity under the new lender's standards in order to remain eligible for the additional 8 points.
- (2) Quantifiable Community Participation. (§2306.6710(b)(1)(B); §2306.6725(a)(2)) The purpose of this scoring item is to encourage community participation from Neighborhood Organizations whose boundaries contain the proposed Development Site with consideration for those areas that may not have any 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. 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 §5049.8(9) of this chapter if the

organization provides the information and documentation required in subparagraphs (A) and (B) of this paragraph. 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. If an organization is determined not to be qualified under this paragraph, the organization may qualify under paragraph (141)(B) of this subsection and will be reviewed by staff accordingly even if points under paragraph (14)(B) of this subsection were not selected in the Self-Scoring Form. If an Application receives points under (B)(i)(II) or (III) of this subsection then they may also qualify for points under (14)(B) of this subsection provided that documentation required under that scoring item is submitted.

- (A) Submission Requirements. Each Neighborhood Organization may submit the form as included in the QCP Neighborhood Information Packet that represents the organization's input. In order to receive a point score, the form must be received, by the Department, or postmarked, if mailed by the U.S. Postal Service, no later than the Quantifiable Community Participation Delivery Date as identified in §5049.3 of this chapter (relating to Program Calendar). Forms received after the deadline will be summarized for the Board's information and consideration, but will not affect the score for the Application. The form must:
 - (i) State the name and location of the proposed single Development;
 - (ii) Certify that the letter is signed by two officials or board members of the Neighborhood Organization with the authority to sign on behalf of the Neighborhood Organization, and include:
 - (I) the street and/or mailing addresses for the signers of the letter;
 - (II) day and evening phone numbers for the signers of the letter;
 - (III) email addresses and/or facsimile numbers for the signers of the letter and one additional contact for the organization; and
 - (IV)a written description and map of the organization's geographical boundaries;
 - (iii) Certify that the organization has boundaries, and that the boundaries in effect on or before the Full Application Delivery Date identified in §5049.3 of this chapter contain the proposed Development Site;
 - (iv) Certify that the organization meets the definition of "Neighborhood Organization"; 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 (§2306.004(23-a)). For purposes of this section, "persons living near one another" means two (2) or more separate residential households. "Neighborhood Organizations" include homeowners associations, property owners associations, and resident councils in which the council is commenting on the Rehabilitation or Reconstruction of the property occupied by the residents. "Neighborhood Organizations" do not include broader based "community" organizations;
 - (v) Include documentation showing that the organization is on record as of the Full Application Delivery Date with the state or the-county in which the Development is proposed to be located. The receipt of the QCP form that meets the requirements of this subsection and further outlined in the QCP Neighborhood Information Packet will constitute being on record with the State. The Department is permitted to issue an Administrative Deficiency notice for this registration process and if satisfied, the organization will still be deemed to be timely placed on record with the state;
 - (vi) For purposes of this section, if there is no Neighborhood Organization already on record, the Applicant, Development Owner, or Developer is allowed to provide technical assistance in the creation of and/or placing on record of a

- <u>Neighborhood Organization provided that no Neighborhood Organization exists</u> and that such assistance is limited to:
- (I) The use of a facsimile, copy machine/copying, email, and accommodations at public meetings;
- (II) Technical assistance, limited to completing the QCP Neighborhood Organization Information Packet, providing boundary maps and assisting in the Administrative Deficiency process;
- (III) No person required to be listed in accordance with §2306.6707 may participate in any way in the deliberations of a Neighborhood Organization of the Development to which the Application requiring their listing relates. This does not preclude their ability to present information and respond to questions at a duly held meeting where such matter is considered;
- (IV) For non-Identity of Interest Applications the seller or their agents could be a member of the Neighborhood Organization if the seller will maintain primary residence within the Neighborhood Organizations boundaries;
- (vii) A Neighborhood Organization must take reasonable measures to provide notice, of at least seventy-two (72) hours, to persons eligible to join or participate in the affairs of the organization of that right. Examples of reasonable measure would be giving notice in a newsletter distributed where residents will likely see them; posting notice (in compliance with local signage requirements); or distribution flyers. The Department may exclude from consideration Neighborhood Organizations that do not comply with their own bylaws or other constitutive or governing documents;
- (viii) While <u>a formal meeting is</u> not required, the organization is encouraged to hold a meeting, that complies with its bylaws, to which all the members of the organization are invited to consider <u>and/or have a membership vote on</u> 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 <u>Development</u>. The organization needs to have as participating members representatives of two or more separate households. The representatives actually need to be individuals who reside in the Neighborhood Organization's <u>boundaries</u>. The organization is also encouraged to <u>meet with invite</u> the Developer or Applicant to <u>discuss the proposed Development</u>this meeting; and
- (ixviii) The form from the Neighborhood Organization for the purposes of this subsection must be submitted to the Department by the Neighborhood Organization and not the Applicant. This documentation must be submitted independent of the Application. Furthermore, while the Applicant may assist the Neighborhood Organization in the Administrative Deficiency process or any other request from the Department as it relates to this item, the Administrative Deficiency Notice from the Department will be issued to the Neighborhood Organization with a copy to the Applicant; however, the Deficiency response must be submitted to the Department directly by the Neighborhood Organization.
- (B) Scoring. The input must clearly and concisely state each reason for the Neighborhood Organization's support for or opposition to the proposed Development.
 - (i) The score awarded for each letter for this exhibit will be based on the following:
 - (I) Support letters (must establish at least one reason for support)—will receive 24 points. Support letters must make a direct statement of support. Support by inference (i.e. "The city supports the Development and we support the city" will not suffice; or

- (II) Letters that do not <u>establish provide</u> a reason for support or opposition or that are unclear <u>even after correspondence with the Department</u> will <u>receive a</u> <u>score of 14 points)</u>; <u>be considered ineligible and scored as neutral (+12 points)</u>;
- (III) Applications for which no letters from Neighborhood Organizations exist are scored will receive a neutral score of +12 16 points;
- (IV) Opposition letters (must state at least one reason for opposition) will receive 0 points;
- (V) If an Application receives multiple eligible letters, the average score of all eligible letters will be applied to the Application.
- (ii) The final score will be determined by the Executive Director. The Department may investigate a matter and contact the Applicant and Neighborhood Organizations to clarify if it is unclear whether the letter is a letter of support, opposition, or neutrality and to confirm compliance with procedural matters such as organization, existence, and being on record for more information. The Department may consider any relevant information specified in letters from other Neighborhood Organizations regarding a Development in determining a score.
- The Department highly values quality public input addressed to the merits of a (iii) Development. Input that identifies 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. If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, in and of itself, cause staff or the Department to terminate consideration of the Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.
- (3) The Income Levels of Tenants of the Development. (§§2306.111(g)(3)(B); 2306.111(g)(3)(E); 2306.6710(b)(1)(C); 2306.6710(e); and §42(m)(1)(B)(ii)(I)) The purpose of this scoring item is to encourage deep income targeting with Units set aside for households at 30% and/or 50% of AMGI. Applications may qualify to receive up to 22 points for qualifying under only one of subparagraphs (A) (C) of this paragraph. To qualify for these points, the household incomes must not be higher than permitted by the AMGI level (must round to the next highest whole Unit, no less than one Unit). 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 corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code.
 - (A) 22 points if at least 40% of the Low-Income 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 Low-Income Units are at or below 30% of AMGI; or
 - (B) 20 points if at least 60% of the Low-Income Units in the Development are set-aside with incomes at or below 50% of AMGI.
 - (C) 18 points if at least 10% of the Low-Income Units in the Development are set-aside with incomes at or below 30% of AMGI; or

- (4) The Size and Quality of the Units (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii)). The purpose of this scoring item is to promote interior features of the Unit that would serve to improve the quality of life of the resident as well as promote tenant energy savings. Applications may qualify to receive up to 20 points under both subparagraphs (A) and (B) of this paragraph.
 - (A) Size of the Units (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 (excluding Reconstruction), Developments receiving funding from TRDO-USDA, or <u>Supportive Housing</u> Developments <u>proposing Single Room Occupancy</u> without meeting these square footage minimums <u>only</u> if requested in the Self Scoring Form. The square feet of all of the Units in the Development, for each type of Unit, must be at least the minimum noted in clauses (i) (v) of this subparagraph. Changes to an Application during any phase of the review process that decreases the square footage below the minimums noted in clauses (i) (v) of this subparagraph, will be re-evaluated and may result in a reduction of the Application score.
 - (i) 600 square feet for an Efficiency Unit;
 - (ii) 700 square feet for a one Bedroom Unit that is not in a Qualified Elderly Development; 600 square feet for a one Bedroom Unit in a Qualified Elderly Development;
 - (iii) 950 square feet for a two Bedroom Unit that is not in a Qualified Elderly Development; 750 square feet for a two Bedroom Unit in a Qualified Elderly Development;
 - (iv) 1,050 square feet for a three Bedroom Unit; and
 - (v) 1,250 square feet for a four Bedroom Unit.
 - (B) Quality of the Units (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 §1.1 of this title (relating to Definitions) clauses (i) (xv) of this subparagraph and as certified to in the Application. The amenities will be required to be identified in the LURA. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. All of the Units located with a specific amenity to count for points. Applications involving Rehabilitation (excluding Reconstruction) or Single Room Occupancy may receive 1.5 points for each point item (do not round). Rehabilitation Developments will start with a base score of 3 points and Supportive Housing Developments will start with a base score of 5 points.
 - (i) Covered entries (1 point);
 - (ii) Nine foot ceilings in living room and all bedrooms (at minimum) (1 point);
 - (iii) Microwave ovens (1 point);
 - (iv) Self-cleaning or continuous cleaning ovens (1 point);
 - (v) Refrigerator with icemaker (1 point);
 - (vi) 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);
 - (vii) Laundry equipment (washers and dryers) for each individual Unit including a front loading washer and dryer in required UFAS compliant Units (3 points);
 - (viii) Thirty (30) year architectural shingle roofing (1 point);
 - (ix) Covered patios or covered balconies (1 point);
 - (x) Covered parking (including garages) of at least one covered space per Unit (2 points);
 - (xi) 100% masonry on exterior (3 points) (Applicants may not select this item if clause (xii) of this subparagraph is selected);
 - (xii) Greater than 75% masonry on exterior (1 point) (Applicants may not select this item if clause (xi) of this subparagraph is selected);

- (xiii) Structural Insulated Panel construction with wall insulation at a minimum of R-20 and roof at a minimum R-30 (3 points);
- (xiv) R-15 Walls / R-30 Ceilings (rating of wall/ceiling system) (3 points);
- (xv) 14 SEER HVAC (or greater) or evaporative coolers in dry climates for New Construction, Adaptive Reuse, and Reconstruction or radiant barrier in the attic for Rehabilitation (excluding Reconstruction) (3 points); or
- (xvi) High Speed Internet service to all Units (2 points).
- (5) The Commitment of Development Funding by a Unit of General Local Government or Governmental Instrumentality. (§2306.6710(b)(1)(E)) The purpose of this scoring item is to provide an incentive for local support for a proposed Development as demonstrated by the dedication of financial assistance, as described in this section, for the proposed Development. Applications may qualify to receive up to 18 points under this paragraph. Funding must be from a Unit of General Local Government or a Governmental Instrumentality. A Unit of General Local Government or Governmental Instrumentality from an area that does not cover the Development Site may be used if the Unit of General Local Government where the Development Site is located provides written evidence that it supports such funding for the Development. Acceptable evidence would include, by way of example and not by way of limitation, a resolution from the Unit of General Local Government, a letter from its chief elected official, or an executed agreement with the Unit of General Local Government or Governmental Instrumentality that will be providing the funding.
 - (A) Submission Requirements. Evidence of the following must be submitted in accordance with the application checklist in the Tax Credit (Procedures) Manual.
 - (i) The loans, grant(s) or in-kind contribution(s) must be attributed to the total number of Units in the Development.
 - (ii) An Applicant may submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form.
 - (iii) An Applicant may substitute any source in response to an Administrative Deficiency Notice or after the Application has been submitted to the Department.
 - (iv) A loan does not qualify as an eligible source unless it has a minimum term of the later of 1-year or the Placed in Service date, and the interest rate must be at the Applicable Federal Rate (AFR) or below (at the time of loan closing).
 - (iv) In-kind contributions such as donation of land, tax exemptions, or waivers of fees such as building permits, water and sewer tap fees, or similar contributions are only eligible for points if the in-kind contribution provides a tangible economic benefit that results in a quantifiable Total Housing Development Cost reduction to benefit the Development. The quantified value of the Total Housing Development Cost reduction may only include the value during the period the contribution or waiver is received and/or assessed. Donations of land must be under the control of the Applicant, pursuant to §5049.8(8)(A) of this chapter to qualify. The value of in-kind contributions may only include the time period as of the beginning of the Application Acceptance Period between award or August 2, 2011 and the Development's Placed in Service date, with the exception of contributions of land. The full value of land contributions, as established by the appraisal required pursuant to clause (viii) of this subparagraph will be counted. Contributions in the form of tax exemptions or abatements may only count for points if the contribution is in addition to any tax exemption or abatement required under statute.
 - (vi) To the extent that a Notice of Funding Availability (NOFA) is released and funds are available, funds from TDHCA's HOME Investment Partnerships (HOME) Program will qualify if a resolution, dated on or before the date the Application Acceptance Period ends, is submitted with the Application from the Governing Body of the Unit of General Local Government authorizing the Applicant to act

- on behalf of the Governing Body of the Unit of General Local Government in applying for HOME Funds from TDHCA for the particular Application. TDHCA'S HOME funds may be substituted for a source originally submitted with the Application, provided the HOME funds substituted are from a NOFA released after the Application Acceptance Period ends and a resolution is submitted with the substitution documentation from the Governing Body of the Unit of General Local Government authorizing the Applicant to act on behalf of the Unit of General Local Government in applying for HOME Funds from TDHCA for the particular Application.
- (vii) The granting of a new rental support or subsidy with a term of not less than fifteen (15) years: the funding for which is provided directly (not merely as administrator) by the UGLG or an instrumentality thereof. Development based rental subsidies may qualify under this section if evidence of the remaining value of the contract remaining as of December 31st of the application year is submitted from the Governmental Instrumentality. The value of the contract does not include past subsidies.
- (viii) Evidence to be submitted with the Application must include a copy of the commitment of funds; or a letter from the Unit of General Local Government stating that either it or, with its knowledge and consent, another a Governmental Instrumentality will be providing financial or in-kind support. If the support is being provided in the form of a loan, the cumulative interest savings must meet the per Unit thresholds as identified in paragraph (B) of this section. The cumulative interest savings is the interest on the loan as committed less the interest on the same loan amount at a market rate calculated over the loan term based on a full amortization as determined by the Unit of General Local Government or the Department if TDHCA funding is used.a copy of the application to the funding entity; or a letter from the funding entity indicating that the award of funds with respect to the funding cycle for which the Applicant intends to apply for will be made by August 1, 2011. This letter does not have to confirm that the funds will be awarded to the subject Application, but that awards with respect to the Applications under consideration for the funding cycle will be announced by the previously stated deadline. A statement from the Applicant with respect to the loan amount to be applied for and the specific terms requested or to be requested must be submitted. For in-kind contributions, evidence must be submitted in the Application from the Unit of General Local Government substantiating the value of the in-kind contributions. For in-kind contributions of land, evidence of the value of the contribution must be in the form of an appraisal.
- (viiix) If not already provided, aAt the time the executed Commitment is required to be submitted, the Applicant or Development Owner must provide updated evidence of a commitment approved by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. If the funding commitment from the Governmental Instrumentality is not available as of has not been received by the date the Department's Commitment is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the Governmental Instrumentalities Development Funding, the Commitment will be rescinded and the credits reallocated.

- (ix) Funding commitments from a Governmental Instrumentality will not be considered final unless the Governmental Instrumentality attests to the fact that any funds committed were not first provided to the Governmental Instrumentality by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Governmental Instrumentality or subsidiary.
- (B) <u>Scoring. Points will be determined on a sliding scale based on the amount of funds committed to the Development on per Unit basis, based on the total number of Units in the Development.</u>
 - (i) A total contribution of at least \$1,000 (or \$500 for Rural Developments or Developments located in non-participating jurisdictions) per Unit receives 12 points; or
 - (ii) A total contribution at least \$2,000 (or \$1,000 for Rural Developments or Developments located in non-participating jurisdictions) per Unit receives 18 points.
- Scoring. Points will be determined on a sliding scale based on the amount of funds to be made available to the Development on a per unit basis, based on the total number of Units in the Development. Do not round for the following calculations. The "total contribution" is the total combined value of qualifying loan(s), grants or in-kind contributions from a Governmental Instrumentality pursuant to subparagraph (A) of this paragraph.
 - (i) A total contribution of at least \$900 (or \$450 for Rural Developments or Developments located in non-participating jurisdictions) per unit receives 6 points; or
 - (ii) A total contribution of at least \$2,250 (or \$1,125 for Rural Developments or Developments located in non-participating jurisdictions) per unit receives 12 points;
 - (iii) A total contribution equal to or greater than \$4,500 (or \$2,250 for Rural Developments or Developments located in non-participating jurisdictions) per unit receives 18 points.
- Community Support from State Representative or State Senator. (§2306.6710(b)(1)(F) (6) and §2306.6725(a)(2)) The purpose of this scoring item is to allow the State Representative and State Senator the opportunity to express their support or opposition for proposed Developments whose boundaries are within their district. Applications may qualify to receive up to 14 16 points or have deducted up to 16 points for this item. Letters must be on the State Representative's or State Senator's letterhead, must be signed by the State Representative or State Senator, identify the specific Development and, must clearly state support for or opposition to the specific Development. and must be from the State Representative or State Senator that represents the district containing the proposed Development Site. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or the State Representative or Senator and must be submitted no later than the Input from State Senator or Representative Delivery Date as identified in §50.3 of this chapter (relating to Program Calendar). -on or before the Input from State Senator or Representative Delivery Date as identified in §49.3 of this chapter. Once aA State Representative or State Senator submits a letter it may not be changed or withdrawn; therefore, it is encouraged that letters not be submitted earlier than the specified Delivery Date in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development. (in writing), but may not change or replace a letter that is submitted by the April 1st deadline on or before the Withdraw Deadline for State Senator or Representative Letters as identified in §49.3 of this chapter but may not submit a new letter. After the Withdraw Deadline such letters may not be withdrawn. The previous position of support or opposition that is withdrawn will be

scored as neutral (0 points). State Representatives or Senators to be considered are those State Representatives or Senators in office at the time the Application letter is submitted. Letters of support from State Representatives or Senators that do not represent the district containing the proposed Development Site will not qualify for points under this exhibit. Support letters are +1614 points; neutral letters, or letters that do not specifically refer to the Development, will receive 0 points; Opposition letters (must state reason for opposition) will receive -1614 points. If one letter is received in support and one letter is received in opposition the score would be 0 points. A letter that does not directly express support but expresses it indirectly by inference, (i.e. "the local jurisdiction supports the Development and I support the local jurisdiction") will be treated as a neutral letter.

- (7) The Rent Levels of the Units. (§2306.6710(b)(1)(G)) The purpose of this scoring item is to encourage deep rent targeting with Units set aside for households at 30% and/or 50% of AMGI that are in addition to those Units already designated under paragraph (3) of this subsection. Additionally, such Units must come from the 60% of AMGI Units that have not previously been designated under paragraph (3) of this subsection. Applications may qualify to receive up to 1412 points for this item provided the Application has qualified for points under paragraph (3) of this subsection, relating to Income Levels of Tenants of the Development. An Application may qualify for points under this subsection by providing the additional Low-Income Units at 30% and 50% of AMGI (must round up to the next whole Unit, not less than one Unit), as follows:
 - (A) An Application may receive 2 points for every 5% of Low-Income Units at rents and incomes at 50% of AMGI; or
 - (B) An Application may receive 6 points for every 2.5% of Low-Income Units at rents and incomes at 30% of AMGI.
- The Cost of the Development by Square Foot. (§2306.6710(b)(1)(H); §42(m)(1)(C)(iii)) Applications may qualify to receive 1240 points for this item. For this exhibit, costs shall be defined as construction costs, including site work, direct hard costs, 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). For the purposes of this paragraph only, if a building is in a Qualified Elderly Development with an elevator or a Development with one or more buildings any of which has elevators serving four or more floors or any Development receiving Historic Tax Credits including an elevator regardless of the number of floors served. It will be treated as an "Elevator Served Development" and high rise building with four or more stories serving any population, the NRA may include elevator served interior corridors. If the proposed Development is a Single Room Occupancy Supportive Housing Development, the NRA may include elevator served interior corridors and may include up to 50 square feet of common area per Unit. As it relates to this paragraph, an interior corridor is a corridor that is enclosed, heated and/or cooled and otherwise finished space. 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 qualify for 1210 points if their costs do not exceed \$95 per square foot for Qualified Elderly Elevator Served Development, single family design, transitional, and Single Room OccupancySupportive Housing Developments (transitional housing for the homeless and Single Room Occupancy Supportive Housing units as provided in §42(i)(3)(B)(iii) and (iv) of the Code), unless located in a "First Tier County" in which case their costs do not exceed \$97 per square foot; and \$85 for all other Developments, unless designated as "First Tier" by the Texas Department of Insurance, in which case their costs do not exceed \$87 per square foot. The First Tier counties are identified in the Tax Credit (Procedures) Manual. There are also specifically designated First Tier communities in Harris County that are east of State Highway 146, and evidence in the Application must include a map with the Development Site designated clearly within the community. These communities are Pasadena, Morgan's Point, Shoreacres, Seabrook and La Porte.

- (9) Tenant Services. (§2306.6710(b)(1)(l) and §2306.6725(a)(1)) The purpose of this scoring item is to provide professional tenant services, tailored for the tenant population, that will enhance the quality of life for the residents of the proposed Development. Applications may qualify to receive up to 108 points for this item. The Applicant must certify that the Development will provide a combination of supportive services, which are listed in §1.1 of this title (relating to Definitions), appropriate for the proposed tenants. The Applicant must further certify that there is adequate space for the intended services. The provision and complete list of supportive services will be included in the LURA and the timeframe by which services are offered must be in accordance with Chapter 60 of this title (relating to Compliance Administration). The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. as selected from the list of services identified in this paragraph. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. Applications will be awarded points for selecting services listed in subparagraphs (A) - (U) of this paragraph:
 - (A) Joint use library center, as evidenced by a written agreement with the local school district (2 points);
 - (B) Weekday afterschool program (shall include at least on a monthly basis a curriculum based character building presentation on relevant topics (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, stranger danger, etc.)) (3 points);
 - (C) Daily transportation (2 point);
 - (D) Counseling services (only Supportive Housing Developments eligible) (1 point);
 - (E) Food pantry/common household items (only Supportive Housing Developments eligible) (1 point);
 - (F) GED preparation classes (shall include a certified instructor providing on-site coursework and exam) (2 points);
 - (G) English as a second language classes (shall include a certified instructor providing onsite coursework and exam) (2 points);
 - (H) Quarterly financial planning courses (i.e. homebuyer education, credit counseling, investing advice, retirement plans, etc.). Courses must be offered through an on site instructor; a CD Rom course is not acceptable (1 point);
 - (I) Annual health fair (1 point);
 - (J) Quarterly health and nutritional courses (1 point);
 - (K) Organized team sports programs or youth programs (1 point);
 - (L) Scholastic tutoring (1 point);
 - (M) Notary Public Services during regular business hours (§2306.6710(b)(3)) (1 point);
 - (N) Weekly exercise classes (2 points);
 - (O) Monthly arts and crafts (1 point);
 - (P) Annual income tax preparation services (1 point);
 - (Q) Monthly transportation to community/social events (i.e. lawful gaming sites, mall trips, community theatre, bowling, organized tours, etc.) (1 point); and
 - (R) Monthly on-site social events (i.e. potluck dinners, game night, etc.) (1 point);
 - (S) Specific and pre-approved caseworker services for seniors and Persons with Disabilities (1 point);
 - (T) Home chore services (such as trash removal and quarterly preventative maintenance including light bulb replacement and hot water heater and other appliance check) for seniors and Persons with Disabilities (1 point);
 - (U) 1 point for 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.

- (10) Declared Disaster Areas. (§2306.6710(b)(1)) The purpose of this scoring item is to provide an incentive for the development of affordable housing in declared disaster areas. Applications may receive 87 points, if by the Full Application Delivery Date as identified in §5049.3 of this chapter or at any time within the two-year period preceding the date of submission, the proposed Development Site is located in an area declared a disaster under Texas Government Code §418.014.
- (11) Readiness to Proceed. The purpose of this scoring item is to provide an incentive for a level of due diligence by the Applicant and lender that ultimately should result in better Developments, better site selection, the expeditious construction of Units and less feasibility risk on the financial aspects of the Development. Applications may receive up to 7 points under paragraphs (A) and (B) of this subparagraph.
 - (A) Submission of a civil engineering feasibility study that includes, at a minimum, discussion of utility availability and fees, offsite requirements and costs, onsite requirements and costs, ingress and egress requirements, drainage and detention/retention requirements, discussion of required approvals, review process and general timing, and discussion of other necessary fees (permit, impact, drainage, tree, etc). All cost estimates to be as of the date of the study (2 points).
 - (B) Readiness to Proceed documentation. Applicants may qualify to receive up to 5 points by providing:
 - (i) For New Construction and Reconstruction, the submission of:
 - (I) A Third-Party Civil Engineer certification of the required site work and related costs, costs as if constructed as of the date of the certification, regardless of the \$9,000 per unit threshold (1 point);
 - (II) Executed architectural and engineering contracts (including structural, Mechanical, Electrical, Plumbing, Civil and landscape) with architect or other Third-Party lead consultant certification showing total fees and all fees paid to date (1 point);
 - (III) A survey or current plat, for the Development Site, as defined by the Texas

 <u>Society of Professional Surveyors in their Manual of Practice for Land</u>

 <u>Surveying in Texas</u>;
 - (-a-) Category 1A: Land Title Survey no older than 6 months prior to the beginning of the Application Acceptance Period (1 point); or,
 - (-b-) Category 1B: Standard Land Boundary Survey no older than 12 months prior to the beginning of the Application Acceptance Period (1 point);
 - (IV) A Geotechnical Report with non-building specific soil borings and general recommendations regarding slab specifications (1 point).
 - (V) A civil engineered site plan as by a Third-Party civil engineer, showing all structures, site amenities, parking and driveways, topography, drainage and detention, water and waste water utility distribution, retaining walls and any other typical or required items (1 point)

- (ii) For Rehabilitation Developments, the submission of:
 - (I) Executed architectural and engineering contracts (including structural, Mechanical, Electrical, Plumbing, Civil and landscape as applicable) with an architect or other Third-Party lead consultant certification indicating total fees and all fees paid to date (1 point).
 - (II) A Third-Party civil Engineer certification of the required site work and related costs as if constructed as of the date of the certification, regardless of the \$9,000 per unit threshold (1 point).
 - (III) Category 5: As-built survey (an existing survey dated within the last 12 months of the beginning of the Application Acceptance Period qualifies) (1 point).
 - (IV) In addition to the PCA independently identified scope of immediate work, the submission of the Applicant's detailed schedule outlining the unit-by-unit specifications for all interior work and a detailed schedule outlining the building-by-building specifications; each including a line-item preliminary cost estimate, as if constructed as of the date of the Application submission, provided by the General Contractor (1 point).
 - (V) Structural and Mechanical, Electrical, Plumbing reports prepared licensed engineers reconciling all existing conditions to the scope of work identified in subparagraph (B)(ii)(IV) of this paragraph (1 point).
- (123) Community Revitalization, (§42(m)(1)(C)(iii)) Historic Preservation or Mixed Income—or Rehabilitation. Applications may qualify to receive up to 67 points cumulative under subparagraphs (A) (DC) of this paragraph or 3 points under subparagraph (D) of this paragraph. The purpose of this scoring item is to provide an incentive for community transformation (including Qualified Census Tracts) by utilizing already existing capacities and providing long-term improvements to specific geographic areas as well as preserving federal or state designated historic buildings that utilize Historic Tax Credits and the development of mixed income properties.
 - (A) (4 points) The Any Development that is part of a community revitalization plan and meets the requirements in subparagraph (i) (v) of this paragraph. includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. Consolidated Plans and other plans such as Economic Development Plans or city-wide plans will not qualify for purposes of this scoring item. To qualify for points, the following criteria must be met:
 - i) The plan must be approved or adopted by ordinance, resolution, or other vote by the Governing Body with jurisdiction over the area covered by the plan (or, if such body has delegated that responsibility to another body by resolution, ordinance, or other vote, the body to which the responsibility was delegated) in a process that allows for public input and/or comment:
 - (ii) A map which clearly indicates the Development Site is located within the specific geographic area covered by the plan;
 - (iii) A letter from the Appropriate Local Official affirming that the Development is located within the specific geographic area covered by the plan and that it will contribute to the goals outlined in the plan;
 - (iv) A detailed description of how the Development supports at least one goal of the plan, including how the Development is a necessary part of that plan; and
 - (v) Copies of any such supporting documents will be provided upon request.

 Evidence of the Community Revitalization Plan must be in the form of a letter from the Appropriate Local Official stating there is a Community Revitalization

- Plan in effect and the Development is within the area covered by the plan or only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan; or
- (B) (1 point). The Development includes the use of an existing building that is designated as historic by a federal or state Entity,—and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse and qualifies for and receives Historic Tax Credits. The Development itself must have the historic designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building. Evidence will include proof of the historic designation from the appropriate Governmental Entity. The Applicant will be required to show proof of the Historic Tax Credits at Cost Certification.—
- (C) (1 point). The Development is part of a mixed use planned development and the residential component of the Development itself is comprised of Low Income Units and at least 10% market rate units.
- (D) (1 point). Any Development that is proposed to be located in a Qualified Census Tract and is part of a community revitalization plan as defined and based on documentation submitted according to subparagraph (A) of this paragraph; such Applications will receive 5 points. (§42(m)(1)(B)(ii)(III)).
- (C) Rehabilitation (includes Reconstruction). Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), solely Reconstruction (excluding New Construction of non-residential buildings), or solely Adaptive Reuse;
- (D) The Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan (3 points).
- (13) Housing Needs Characteristics. (§42(m)(1)(C)(ii)) Applications may qualify to receive up to 6 points (if the Development Site is located in a Place with a certain Affordable Housing Need Score). Each Application may receive a score if correctly requested in the Self Score form based on objective measures of housing need in the Place where the Development is located. This Affordable Housing Need Score for each Place will be published in the 2011—Site Demographic Characteristics Report_for the current Application Round. For purposes of this item a Place is defined as the geographic area contained within the boundaries of:
 - (A) An incorporated place; or
 - (B) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census. For Developments located outside the boundaries of an incorporated place or CDP, the Development shall take up the Place characteristics of the incorporated place or CDP whose boundary is nearest to the Development Site.
 - (14) Community Input other than Quantifiable Community Participation. The purpose of this scoring item is to allow community and civic organizations active in the area that includes the proposed Development the opportunity to express their support or opposition. If an Application was awarded 16 or 1412 points under paragraph (2) of this subsection, then that Application may receive up to 6 points for letters that qualify for points under subparagraph (A), (B) or (C) of this paragraph. An Application may not receive points under more than one of the subparagraphs (A) (C) of this paragraph. All letters must be submitted within the Application. At no time will the Application receive a score lower than zero for this item.
 - (A) An Application may receive two points (maximum of 6 points) for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community in which the Development is

located including, but not limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development will not be counted. For purposes of this subparagraph, community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts), taxing entities or educational activities. Organizations that were created by a governmental entity or derive their source of creation from a governmental entity do not qualify under this item. For purposes of this item, educational activities include school districts, trade and vocational schools, charter schools and depending on how characterized could include day care centers; a PTA or PTO would qualify. Should an Applicant elect this option and the Application receives letters in opposition, then 2 points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community.

- (B) An Application may receive 6 points for a letter of support, from a property owners association created for a master planned community whose boundaries include the Development Site that does not meet the requirements of a Neighborhood Organization for points under paragraph (2) of this subsection.
- (C) An Application may receive 6 points for a letter of support from a Special Management District, whose boundaries, as of the Full Application Delivery Date as identified in §5049.3 of this chapter, include the Development Site and for which there is not a Neighborhood Organization on record with the county or state.
- (D) 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. If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, in and of itself, cause staff or the Department to terminate consideration of the Application. Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.
- (154) Pre-application Participation Incentive Points. (§2306.6704) Applicants that submitted a pre-application during the Pre-Application Acceptance Period and meet the requirements of this paragraph will qualify to receive 6 points for this item. The purpose of this scoring item is to encourage participation in the pre-application process and prevent unnecessary filing costs by promoting transparency in the external assessment of competing Applications. Amendments to the Application subsequent to the award do not affect pre-application points if approved by the Board; however, the Board may take into consideration points received that would be lost as a result of the amendment. To be eligible for these points, the Application must:
 - (A) Be for the identical Development Site, or reduced portion of the Development Site as the proposed Development Site under control in the pre-application;
 - (B) Have met the Pre-application Threshold Criteria;
 - (C) Include, as part of this exhibit, a certification signed by the Principal(s) that signed the site control at pre-application confirming they are the same Principal(s) at Application. Assignments of site control to another Principal must be executed at the time of pre-application;
 - (D) Be serving the same transfer propulation (general or elderly) as in the preapplication;
 - (E) Be applying for the same 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
 - (F) 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 paragraphs (2), (6), and (141) of this subsection. The Application score used to determine whether the Application score is 5% greater or less than the number of points awarded at preapplication will also include all point losses under §5049.7(a)(2)(A) of this chapter (relating to Administrative Deficiencies). 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 preapplication 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-Score Form.
- (165) Green Building Certifications. Amenities. Applications may qualify to receive up to 6 points for this item provided that points under this paragraph are not being requested for the same items utilized for points under §5049.8(5)(A) of this chapter. The purpose of this scoring item is to provide an incentive for promoting development and tenant energy savings. Points may be selected from only one of three categories: Limited Green Amenities, Enterprise Green Communities and Leadership in Energy and Environmental Design(LEED).

Rehabilitation Developments (excluding Reconstruction) and Single Room Occupancy Developments will receive 1.5 points for each point requested under this paragraph.

- (-a-) Limited Green Amenities (2 points). The following items constitute the minimum requirements for demonstrating green building of housing tax credit Developments. Six (6) of the nine (9) items listed under subclause (-1-) through (-9-) of this clause must be met in order to qualify for the maximum points under this item.
 - (-1-) At least 20% of the water needed annually for site irrigation is from a rain water harvesting/collection system and/or locally approved greywater collection system. This can include rainwater harvested from gutters and downspouts to a storage tank or cistern where it can be treated or filtered for potable uses; untreated rainwater may be used for non-potable uses.
 - (-2-) Native trees and plants installed that are appropriate to the Development Site's soil and microclimate to allow for shading in the summer and heat gain in the winter.
 - (-3-) Install water-conserving fixtures that meet the EPA's WaterSense Label. Such fixtures must include low-flow or high efficiency toilets, bathroom lavatory faucets, showerheads and kitchen faucets. Rehabilitation Developments may install compliant faucet aerators instead of replacing the entire faucets.
 - (-4-) All of the HVAC condenser units are located so they are fully shaded 75% of the time during summer months (i.e. May through August).
 - (-5-) Install Energy-Star qualified hot water heaters or install those that are part of an overall Energy-Star efficient system.
 - (-6-) Install individual or sub-metered utility meters. Rehabilitation Developments may claim sub-meter only if not already sub-metered at the time of Application.
 - (-7-) Healthy finish materials including the use of paints, stains, adhesives and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standard.
 - (-8-) Install daylight sensor, motion sensors or timers on all exterior lighting and install fixtures that include automatic switching on timers or photocell

- <u>controls for all lighting not intended for 24-hour operation or required for</u> security.
- (-9-) Recycling service provided throughout the compliance period.
- (-b-) Enterprise Green Communities. (4 points). The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at http://www.greencommunitiesonline.org.
- (-c-) LEED (maximum of 6 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification and points will be award based on the rating level achieved.
 - (-1-) LEED Certified (2 points);
 - (-2-) LEED Silver (3 points);
 - (-3-) LEED Gold (4 points); or
 - (-4-) LEED Platinum (6 points).

Development Energy Savings (1 point for each item):

- (i) at least 50% of the water needed annually for site irrigation is from a rain water harvesting/collection system and/or locally approved gray water collection system; or
- (ii) native trees and plants installed that are appropriate to the site's soils and microclimate and located to allow for shading in the summer and heat gain in the winter; or

(B) Tenant Energy Savings (2 points for each item):

- (i) If the glazing area on the north- and south-facing walls of the building is at least 50% greater than the sum of the glazing area on the east- and west-facing walls; and the east-west axis of the building is within 15 degrees of due eastwest;
- (ii) If the east west axis of the building oriented within 15 degrees of due eastwest utilizes a narrow floor plate (less than 40 feet), and single loaded corridors and open floor plan to optimize daylight penetration and passive ventilation;
- (iii) Solar screens or solar film on all East, West, and South Windows with building oriented to east west axis within 15 degrees of due east west, (applies only to rehabilitation where windows are not replaced with Energy Star rated windows);
- (iv) 100% of HVAC condenser units are located so they are fully shaded 75% of the time during summer months (May through August);
- (v) Install low-flow or high efficiency toilets that exceed State requirements;
- (vi) Install bathroom lavatory faucets, showerheads and kitchen faucets that exceed the State standard at the time of Application. All fixtures throughout development must meet the standard. Rehabilitation Developments may install compliant faucet aerators instead of replacing entire faucets; or
- (vii) Provide Solar water heaters designed to provide at least 25% of the average energy used to heat domestic water throughout the entire Development;
- (viii) Sub-metered utility meters for any utility in a Rehabilitation Development which was not already sub-metered at the time of Application;
- (ix) If the Development includes Energy-Star qualified windows and glass doors exclusively; and insulation, and air barriers greater than or equal to Energy Star air barrier and insulation criteria; and Energy Star rated HVAC and domestic hot water heaters, and insulation that exceeds Energy Star standards;

- (x) If the Development promotes energy efficiency by demonstrating a certified HERS score of 85 or lower;
- (xi) Thermally and draft efficient doors (SHGC of 0.40 or lower (for doors with glass) and U-value specified by climate zone according to the 2006 IECC) are used:
- (xii) On site photovoltaic panels or wind driven turbines for generating at least 5kW of electricity that are incorporated into the engineered structural design of the roof(s) and neither of which protrude from any roof structure by more than 8 feet and are designed and wired to supplement the Development's electric power. Photographs and data sheets of the proposed equipment must be submitted with the Application; or
- (xiii) Recycling service provided throughout the compliance period.
- (C) Other Green Features/Indoor Health (1 point for each item):
 - (i) Renewable materials, provide at least one of the following: bamboo flooring, wool carpet, linoleum flooring, straw board cabinetry, poplar OSB, or cotton batt insulation;
 - (ii) Healthy flooring, provide at least one of the following for 50% of flooring. Finished concrete or ceramic tile resilient flooring material that is Floor Score Certified, applied with a Floor Score Certified adhesive and comes with a minimum 7 year wear through warranty; or
 - (iii) Healthy finish materials, use paints, stains, adhesives and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standards.
- (D) LEED (Leadership in Energy and Environmental Design) Certification. (6 points) If at the time of Cost Certification a LEED Certification (Certified, Silver, Gold or Platinum levels) for the Development is obtained then the maximum points allowed under this paragraph will be awarded and none of the green building amenities selected under this paragraph will need to be substantiated. Conversely, if at the time of Cost Certification a LEED Certification has not been obtained then the Applicant will be required to prove up 6 points under this subparagraph.
- (17) Developments in Census Tracts with Limited Existing HTC Developments.

 (§2306.6725(b)(2)) The purpose of this scoring item is to encourage a de-concentration of housing tax credit Developments in census tracts, according to the Department's Housing Tax Credit Site Demographic Characteristics Report for the current Application Round. Applications may qualify for up to 6 points under subparagraph (A) or (B) of this paragraph.
 - (A) If the proposed Development is located in a census tract in which there are no other existing HTC Developments that serve the same Target Population (4 points); or
 - (B) If the proposed Development is located in a census tract in which there are no other existing HTC Developments (6 points).
 - (C) Evidence of the census tract identifying the location of the proposed Development must be submitted.
- (186) Development Location. (§2306.6725(a)(4); §42(m)(1)(C)(i)) Applications may qualify to receive 4 points under this item. The purpose of this scoring item is to promote affordable housing development in traditionally underserved areas that allow access to a variety of services and socioeconomic opportunities that would not otherwise be readily accessible. Evidence must not be more than six (6) months old from the first day of the Application Acceptance Period. An Application may only receive points under subparagraph (A) or (B) of this paragraph. one of the subparagraphs (A) (E) of this paragraph.
 - (A) The Development is <u>proposed to be</u> located in a <u>High Opportunity Area as defined in §50.2(15) of this chapter (relating to Definitions). census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S.</u>

- Census) that is higher than the median family income for the county in which the census tract is located. This comparison shall be made using the most recent data available to the Department as of the date the Application Round opens 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. These Census Tracts are outlined in the 2011 Housing Tax Credit Site Demographic Characteristics Report.
- (B) The proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. An elementary attendance zone does not include magnet school or elementary schools with district wide possibility of enrollment or no defined attendance zones. 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. (§42(m)(1)(C)(vii))
- (C) 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 (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) 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. (§42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2011 Housing Tax Credit Site Demographic Characteristics Report.
- (BD) The <u>Development is proposed to be located in a Transit Oriented District or Central Business District as defined in §50.2 of this chapter (relating to Definitions).proposed Development is located in an urban core, on a site where the proposed use is not prohibited by the Unit of General Local Government via ordinance or regulation. For purposes of this item, an urban core is defined as a compact and contiguous geographical area that is located in a Metropolitan Statistical Area within the city limits with a population of no less than 150,000 composed of adjacent block groups of which is zoned to accommodate a mix of medium or high density residential and commercial uses and at least 50% of such land is actually being used for such purposes based on high density residential structures and/or commercial structures already constructed. Evidence must be submitted in the form of zoning maps and a certification provided in the Application.</u>
- (E) The proposed Development is located in a high opportunity area as identified in §49.5(d)(3)(D)(i) (iii) of this chapter (relating to Site and Development Restrictions).
- (197) Economic Development Initiatives. (§2306.127) The purpose of this item is to establish priority for proposed Developments located in specific communities and/or areas. An Application may qualify to receive 4 points under subparagraphs (A) (C) of this paragraph. subparagraphs (A) (C) of this paragraph. For the purpose of this paragraph, "area" shall mean the boundaries of any zone or community in subparagraph (A) of this paragraph or the area in which funds in subparagraph (B) of this paragraph must be used:
 - (A) A Designated State or Federal Empowerment/Enterprise Zone, Urban Enterprise Community, or Urban Enhanced Enterprise Community, a Growth Zone or any other comparable community as designated by HUD, which are typically defined with census tract boundaries; or. To be eligible for these points, Applicants must submit a letter and a map of the zoned area from a city/county official stating that the proposed Development is located within such a designated zone or area. The letter should be no older than six (6) months from the first day of the Application Acceptance Period (§2306.127); or
 - (B) <u>An economic development initiative adopted by the local government in which the Development Site is located, such as a Tax Increment Financing (TIF) or Tax</u>

- Increment Reinvestment Zone (TIRZ). An area that has received an award within the three year period prior to the beginning of the Application Acceptance Period, from the Texas Capital Fund, Texas or Federal Enterprise Zone Fund, Texas Leverage Fund, Industrial Revenue Bond Program, Emerging Technologies, Skills Development, Rural Business Enterprise Grants, Certified Development Company Loans, or Micro Loan Program or other state or federally funded economic development initiatives approved by the Department (This excludes limited highway improvement and roadwork projects, but does include broader regional transportation initiatives targeted to expanding economic development); or
- (C) An geographical area which is an Economically Distressed Area as specifically designated by the Secretary of HUD as of the beginning of the Application Acceptance Period or ;—a Colonia_;—or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (these census tracts are designated in the 2011 Housing Tax Credits Site Demographics Characteristics Report (§2306.127); or
- (D) Applicants must submit documentation in the form of a map of the defined area that includes the location of the proposed Development. If qualifying for being in a Colonia, the name of the Colonia must also be identified on the map.
- Points under subparagraphs (A), (B) and (C) of this paragraph will not be granted if more than 3 Developments received an award of Housing Tax Credits in the applicable area in the seven (7) years prior to the beginning of the Application Acceptance Period. The Applicant must provide receipt of funds to the area by evidence of a map of the designated area for such funding and documentation of the recipient of the award of funds or a letter from the entity granting such funds stating that funds were awarded in the designated area.

(18) Developments in Census Tracts with Ne Other Existing Same Type Developments Supported by Tax Credits. (§2306.6725(b)(2)) Applications may receive 4 points if the proposed Development is located in a census tract in which there are no other existing Developments supported by Housing Tax Credits that serve the same type of household, regardless of whether the Development serves the general or elderly populations. Evidence of the census tract in which the Development is located must be submitted. These census tracts are outlined in the 2011 Housing Tax Credit Site Demographic Characteristics Report.

- (2019)Tenant Populations with Special Housing Needs. (§42(m)(1)(C)(v)) Applications may qualify to receive 4 points for this item. The purpose of this scoring item is to integrate special housing needs populations into traditional housing tax credit Developments. The Department will award these points to Applications in which at least 5% of the Units are set aside for Persons with Special Needs. For purposes of this section, Persons with Special Needs is defined as persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, victims of domestic violence, persons with HIV/AIDS, homeless populations and migrant farm workers. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development Owner agrees to affirmatively market Units to Persons with Special Needs. In addition, the Department will require a minimum twelve-month period during which Units must either be occupied by Persons with Special Needs or held vacant. The twelve-month period will begin on the date each building receives its Certificate of Occupancy. For buildings that do not receive a Certificate of Occupancy, the twelve-month period will begin on the placed in service date as provided in the Cost Certification manual. After the twelve-month period, the Development Owner will no longer be required to hold Units vacant for households with special needs, but will be required to continue to affirmatively market Units to household with special needs.
- (2120) Length of Affordability Period. ($\S\S2306.6725(a)(5)$; 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); and 42(m)(1)(B)(ii)(II)) The purpose of this scoring item is to

provide an incentive for Applications that will extend the affordability period beyond the extended use period. Applications may qualify to receive up to 4 points. 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 thirty (30) years required in the Code may receive points as follows:

- (A) Add five (5) years of affordability after the extended use period for a total affordability period of thirty-five (35) years (2 points); or
- (B) Add ten (10) years of affordability after the extended use period for a total affordability period of forty (40) years (4 points).
- (224) Site Characteristics. Development Sites, including scattered sites, may qualify to receive up to 4 points for this item. The purpose of this scoring item is to encourage affordable rental housing development in proximity to services and amenities that would be considered beneficial to the tenants. Developments Sites must be located within a one mile radius (two-mile radius for Developments competing for a Rural Regional Allocation) of at least six three (36) services appropriate to the target population. A site located within one-quarterhalf mile of public transportation that is accessible to all residents including Persons With Disabilities and/or located within a community that has another form of transportation, including, but not limited to, special transit service 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 Development is providing its own specialized van or funding a comparable service, then this will be a requirement of the LURA. Only one service of each type listed in subparagraphs (A) - (LO) of this paragraph will count towards the points. A map must be included identifying the Development Site and the location of the services by name. If the services are not identified by name, points will not be awarded. All services must exist or, if under construction, must be under active construction, post pad by the date the Application is submitted.
 - (A) Full service grocery store. or supermarket.
 - (B) Pharmacy.
 - (C) Convenience Store/Mini-market.
 - (D) Department or Retail Merchandise Store.
 - (E) Bank/Credit Union.
 - (F) Restaurant (including fast food).
 - (G) Indoor public recreation facilities, such as civic centers, community centers, and libraries.
 - (H) Outdoor public recreation facilities such as parks, golf courses, and swimming pools.
 - (I) Hospital/medical clinic.
 - (L) Medical offices (physician, dentistry, optometry) or hospital/medical clinic.
 - Public Schools (only eligible for Developments that are not Qualified Elderly Developments).
 - (KL) Senior Center.
 - (L) Religious Institutions.
 - (M) Day Care Services (must be licensed only eligible for Developments that are not Qualified Elderly Developments).
 - (N) Post Office, City Hall, County Courthouse.
 - (O) Fire/Police Station.
- (22) Development Size. The Development consists of not more than 36 Units (3 points).
- (233) Sponsor Characteristics. The purpose of this scoring item is to encourage the material participation of Historically Underutilized Businesses relative to the housing industry in the development and operation of affordable housing. Applications may qualify to receive a

maximum of 2 points for this item. Qualifying under subparagraph (A) shall be worth 1 point and qualifying under subparagraph (B) shall be worth 2 points. (§42(m)(1)(C)(iv))

- (A) The Applicant has submitted a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Applicant will be required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609; or
- (B) There is a HUB as certified by the Texas Comptroller of Public Accounts, has at least 51% ownership interest in the General Partner 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 Comptroller of Public Accounts that the Person is a HUB at the close of the Application Acceptance Period.
- (24) Qualified Census Tracts with Revitalization. (§42(m)(1)(B)(ii)(III)) Applications may qualify to receive 1 point 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 in the form of a letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan or only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.
- Developments 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)) The purpose of this scoring item is to allow for consideration for tenant or nonprofit ownership at the end of the Compliance Period. 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 thisese 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 (2) 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 (2) years prior to date upon which the Development Owner intends to sell the Development.
 - (B) During the two (2) 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, (a "CHDO") as defined for purposes of the federal HOME Investment Partnerships Program at 24 CFR §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) (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) (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 (2) 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 one hundred twenty (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.
- (256) Leveraging of Private, State, and Federal Resources. Applications may qualify to receive 1 point for this item. (§2306.6725(a)(3)) The purpose of this scoring item is to provide an incentive for the leveraging of financial resources, when economically feasible, for a Development that proposes to serve a specified percentage of households at or below 30%

- of AMGI. Funding sources used for points under paragraph (5) of this subsection may be used for this point item; however, funding amounts may not be duplicative.
- (A) Evidence must be submitted in the Application that the proposed Development has received or will receive loan(s), grant(s) or in-kind contributions from a private, state or federal resource, which include Capital Grant Funds and HOPE VI funds, that is equal to or greater than 2% (do not round) of the Total Housing Development Costs reflected in the Application.
- (B) For in-kind contributions, evidence must be submitted in the Application from a private, state or federal resource which substantiates the value of the in-kind contributions.
- (C) Development based rental subsidies from a private, state or federal resource may qualify under this section if it includes the granting of a new rental support or subsidy with a term of not less than fifteen (15) years; the funding for which is provided directly by the private, state or federal resource (not merely as administrator) by the UGLG or an instrumentality thereof. evidence of the remaining value of the contract is submitted from the source. The value of the contract does not include past subsidies.
- (DG) Qualifying funds awarded through local entities may qualify for points if the original source of the funds is from a private, state or federal source. If qualifying funds awarded through local entities are used for this item, a statement from the local entity must be provided that identifies the original source of funds.
- (ED) Applicants may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, two sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, two sources may not be submitted if each source is for an amount equal to 2% of the Total Housing Development Cost.
- The funding must be in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be issued from the same primary funding source or an affiliated source. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Unit of General Local Government. Such statement is only required from private resources.
- (GF) 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 is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the Governing Body of the entity for the sufficient financing to the Department. If the funding commitment from the private, state or federal source, identified in the Application, or qualifying substitute source, has not been received by the date the Department's Commitment is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss 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 will be rescinded and the credits reallocated. Funds from the Department's HOME and Housing Trust Fund sources will only qualify under this category if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA.

- (HG) To qualify for this point, the Rent Schedule must show that at least 3% (not using normal roundingdo not round) of all Low-Income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.
- (267) Third Party Funding Outside of Qualified Census Tracts. Applications may qualify to receive 1 point for this item. (§2306.6710(e)(1)) The purpose of this scoring item is to incentivize Developments that have secured Third Party funding outside of a Qualified Census Tract and serve a specified percentage of households at or below 30% of AMGI. Evidence that the proposed Development has documented and committed Third-Party funding sources and the Development is located outside of a Qualified Census Tract serving 10% of households at 30% AMGI or less. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The commitment of funds (an application alone will not suffice) must already have been received from the Third-Party funding source and must be equal to or greater than 2% (do not round) of the Total Development Costs reflected in the Application. Funds from the Department's HOME and Housing Trust Fund sources will not qualify under this category. Funding sources and amounts used for points under paragraph (5) or paragraph (25) of this subsection may not be used for this point item.
- (b28) Scoring Criteria Imposing Penalties. (§2306.6710(b)(2)) Staff will recommend to the Board a penalty of up to 5 points for any of the items listed in subparagraphs (A) and (B) of this paragraph, unless the person approving the extension (the Board or Executive Director, as applicable) makes an affirmative finding setting forth that the facts which gave rise to the need for the extension were beyond the reasonable control of the Applicant and could not have been reasonably anticipated. Any such matter to be presented for final determination of penalties by the Board must include notice from the Department to the affected party not less than fourteen (14) days prior to said Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant penalties.
 - (A) Penalties will be imposed on an Application ilf the Applicant or Affiliate failed to meet the original Carryover submission or 10% Test deadline(s) and has requested an extension of the Carryover submission deadline, or the 10% Test deadline (relating to either submission or expenditure), and did not meet the original submission deadline, relating to Developments receiving a Housing Tax Credit Commitment made in the Application Round preceding the current round. For each extension request made, unless the person approving the extension (the Board or the Executive Director, as applicable) makes an affirmative finding setting forth that the facts which gave rise to the need for the extension were beyond the reasonable control of the Applicant and could not have been reasonably anticipated, the Applicant will receive a 5 point deduction.
 - (B) If the Developer or Principal of the Applicant violates the Adherence to Obligations pursuant to §50.12(a) of this chapter (relating to Post Award Activities).
 - (C) No penalty points or fees will be deducted for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TRDO-USDA as a lender if TRDO-USDA or the Department is the cause for the Applicant not meeting the deadline.
 - (B) Penalties will be imposed on an Application if Developer or Principal of the Applicant violates the Adherence to Obligations pursuant to §49.12(a) of this chapter (relating to Post Award Activities).
 - (D) Any penalties assessed by the Board for subparagraph (A) or (B) of this subparagraph based on a Housing Tax Credit Commitment from the preceding Application Round

will be attributable to the Applicant or Affiliate of an Application submitted in the current Application Round.

(b) Tie Breaker Factors.

- (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 Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment.
 - (A) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.
 - (B) The Application located in the municipality or, if located outside a municipality, the county that has the lowest state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins as reflected in the Reference Manual will win this second tier tie breaker.
 - (C) The amount of requested tax credits per square foot of Net Rentable Area (the lower credits per square foot has preference).
 - (D) Developments that are intended for eventual tenant ownership. Such Developments must utilize a detached single family site plan and building design and have a business plan describing how the Development is intended to convert to tenant ownership at the end of the 15-year compliance period.
- (2) This paragraph identifies how ties will be handled when dealing with the restrictions on location identified in §49.8(2)(B) of this chapter (relating to One Mile Three Year Rule), and in dealing with any issues relating to capture rate calculation. When two Tax-Exempt Bond Developments would violate one of these restrictions, and only one Development can be selected, the Department will utilize the Certificate of Reservation docket number issued by the Texas Bond Review Board (TBRB) 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 paragraph (1) of this subsection. When a Tax-Exempt Bond Development and a Competitive Housing Tax Credit Application in the Application Round would both violate a restriction, the following determination will be used:
 - (A) Tax-Exempt Bond Developments that receive their Certificate of Reservation from the TBRB on or before April 29, 2011 will take precedence over the Housing Tax Credit Applications in the 2011 Application Round;
 - (B) Housing Tax Credit Applications approved by the Board for tax credits in July 2011 will take precedence over the Tax-Exempt Bond Developments that received their Certificate of Reservation from the TBRB on or between May 2, 2011 and July 29, 2011: and
 - (C) After July 29, 2011, a Tax-Exempt Bond Development with a Certificate of Reservation from the TBRB will take precedence over any Housing Tax Credit Application from the 2011 Application Round on the waiting list. However, if no Certificate of Reservation has been issued by the date the Board approves an allocation to a Development from the waiting list of Applications in the 2011 Application Round or a forward commitment, then the waiting list Application or forward commitment will be eligible for its allocation.
- (c) Staff Recommendations. (§2306.1112 and §2306.6731) In accordance with the QAP and other applicable Department rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. Recommendations of staff to the Board will be the recommendations of that Committee except as otherwise disclosed.
- (d) Tax Credits Financed Under American Recovery and Reinvestment Act of 2009. (§2306.6736)

- (1) To the extent the Department receives federal funds under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) or any subsequent law (including any extension or renewal thereof) that requires the Department to award the federal funds in the same manner and subject to the same limitation as the awards of the housing tax credits, the following provisions apply.
- (2) Any reference in this chapter to the administration of the housing tax credit program shall apply equally to the administration of such federal funds except:
 - (A) the Department may, as approved by the Board, establish a separate application procedure for such funds, outside of the uniform application cycle referred to in §2306.111, Texas Government Code, and the deadlines established in §2306.6724, Texas Government Code, and any reference herein to the application period shall refer to the period beginning on the date the Department begins accepting applications for such funds and continuing until all such available funds are awarded;
 - (B) unless reauthorized, this section is repealed on August 31, 2011.

§5049.10. Board Decisions.

- (a) 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 other applicable Department 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, including good cause 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); 2306.6731; and 42(m)(1)(A)(iv))
 - (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. The discretionary factors include: (§2306.111(g)(3))
 - (A) The Developer market study;
 - (B) The location;
 - (C) The compliance history of the Developer;
 - (D) The financial feasibility;
 - (E) The appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;
 - (F) The Development's proximity to other low-income housing Developments;
 - (G) The availability of adequate public facilities and services;
 - (H) The anticipated impact on local school districts;
 - (I) Zoning and other land use considerations;
 - (J) Any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes; and
 - (K) Other good cause as found by the Board.
 - (3) 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. Department staff shall provide to the Board a written report regarding the results of the assessments. The Board has established a rule for the materiality of noncompliance in Chapter 60 of this title to address noncompliance associated with the Development, Applicant or Affiliate.

- (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 the Commitment, 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 provided that it takes into account the need to assure adherence to regional allocation requirements. If at any time prior to the end of the Application Round, one or more Commitments expire or a sufficient amount of the State Housing Credit Ceiling becomes available, the Board shall issue a Commitment 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, 15% At-Risk Set-Aside allocation and 5% TRDO-USDA Set-Aside required under §42(h)(5) of the Code. At the end of each calendar year, all Applications which have not received a Commitment shall be deemed terminated. The Applicant may re-apply to the Department during the next Application Round Acceptance Period.
- (c) Forward Commitments. The Board may determine to issue Commitments of tax credit authority with respect to Applications from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment") to Applications submitted in accordance with the rules and timelines required under this chapter and the application checklist provided in the Tax Credit (Procedures) Manual. Provided that when and if the Board considers forward commitments, its decisions are broken into phases. First, the Board will entertain direct requests for forward commitments. Second, if the Board believes that an Application should be further considered for a forward commitment then staff should be directed to report back to the Board a specific analysis for final consideration of any forward. The analysis should include:
 - (1) Final underwriting;
 - (2) Previous participation review;
 - (3) How the forward commitment, if awarded, would impact the anticipated available credits within the affected region in the next Application Round;
 - (4) An analysis of the distribution of Low Income Units in the affected region and census tract; and
 - (5) Such other matters as the Board may reasonably request or that staff identifies as relevant to the analysis.
 - (6) The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments. and tThe transcript of the Board's proceedings and the staff presentation must reflect the specific reasons for awarding any forward commitments. those commitments considering score and discretionary factors.
 - (A1)Unless otherwise provided in the Commitment 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 State Housing Credit Ceiling from which the credits are allocated.
 - (B2)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 §42(h)(1)(C) of the Code.
 - (C3) 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.

- (d) Appeals Process. (§2306.6715) An Applicant may appeal decisions made by the Department as follows:
 - (1) The decisions that may be appealed are identified in subparagraphs (A) (D) 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;
 - (C) A recommendation as to the amount of Housing Tax Credits to be allocated to the Application; and
 - (D) Any Department decision that results in termination of an Application <u>can be appealed in accordance with this section</u>. <u>Termination of an Application based on Material Noncompliance will follow the process as described in Chapter 60 of this title (relating to Compliance Administration).</u>
 - (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 calendar day after the date the Department publishes the results of any stage of the Application evaluation process identified in §5049.7 of this chapter (relating to Application Process). The appeal must be in writing, signed by the person designated to act on behalf of the Applicant or an attorney that represents the Applicant. The Appeal must be addressed to the Department to the attention of the Director of Housing Tax CreditsMultifamily Finance. 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 as supplemented in accordance with the limitations and requirements of this chapter. (the QAP). If the appeal 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 fourteen (14) calendar days after the date of actual receipt of the appeal by the Department in its offices. 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 calendar day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made; or
 - (B) The third calendar 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. 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 the final decision of the Department;
 - (6) The Department will post to its website an appeal filed with the Department or Board and any other document relating to the processing of the appeal. (§2306.6717(a)(5))
- (e) Provision of Information or Challenges Regarding Applications from Unrelated Entities to the Application. The Department will address information or challenges received from unrelated entities to a specific-2011 active Application, utilizing a preponderance of the evidence standard, as stated in paragraphs (1) (4) of this subsection, provided the information or challenge includes a contact name, telephone number, fax number and e-mail address of the person providing the

information or challenge and must be received by the Department no later than the Application Challenges Deadline as identified in §5049.3 of this chapter (relating to Program Calendar):

- (1) Within fourteen (14) business days of the receipt of the information or challenge, the Department will post all information and challenges received (including any identifying information) to the Department's website;
- (2) Within seven (7) business days of the receipt of the information or challenge, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven (7) business days to respond to all information and challenges provided to the Department; and
- (3) Within fourteen (14) business days of the receipt of the response from the Applicant, the Department will evaluate all information submitted and other relevant documentation related to the investigation. This information may include information requested by the Department relating to this evaluation. The Department will post its determination summary to its website. Any determinations made by the Department cannot be appealed by any party unrelated to the Applicant.
- (4) Nothing herein shall serve to limit the authority of the Board to apply discretion for good cause to the fullest extent lawfully permitted.

§5049.11. Tax-Exempt Bond Developments.

- (a) Filing of Applications. 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 2011 reservation Certificate of 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 Department's website. 12:00 p.m. on December 30, 2010. Such filing must be accompanied by the Application fee described in §5049.14 of this chapter (relating to Program Related Fees);
 - (2) Applicants which receive advance notice of a Program Year 2011 Certificate of 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 §5049.14 of this chapter prior to the Applicant's Certificate of Reservation date as assigned by the TBRB. Those Applications designated as Priority 3 by the TBRB must submit Volumes I and II within fourteen (14) days of the Certificate of Reservation date if the Applicant intends to apply for tax credits regardless of the Issuer. Any outstanding documentation required under this section regardless of Priority must be submitted to the Department at least sixty (60) days prior to the Board meeting at which the decision to issue a Determination Notice would be made unless a waiver is requested by the Applicant. The Department staff will have limited discretion to recommend an Application with appropriate justification of the late submission;
 - (3) Multiple site applications will be considered to be one Application as identified in Chapter 1372, Texas Government Code.
- (b) Applicability of Rules. Tax-Exempt Bond Development Applications are subject to all rules in this chapter, with the only exceptions being the following sections: §5049.4(c)(12) of this chapter (relating to One Two Mile Same Year Rule); §5049.5(b) of this chapter (relating to Credit Amount); §5049.6(a) (d) of this chapter (relating to Allocation and Award Process); §5049.7(b), (c) and (d) of this chapter (relating to Pre-application); §49.7(g) of this chapter (relating to Methodology for Awards); §5049.7(jk) of this chapter (relating to Rural Rescue Applications); §5049.9(a) of this chapter (relating to Selection Criteria); §5049.10(b) and (c) of this chapter (relating to Waiting List and Forward Commitments); and §5049.12(e) (fg) of this chapter (relating to Carryover, and 10% Test and Substantial Construction).

- (c) Tenant Services. Tax-Exempt Bond Development Applications must include provide an executed agreement with a qualified service provider for the provision of supportive services. that would otherwise not be available for the tenants. 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 as identified on the list must be provided. The provision of these services will be included in the LURA. Acceptable services include those described in §1.1 of this title (relating to Definitions). 49.9(a)(9) of this chapter.
- (d) Financial Feasibility Evaluation for Tax-Exempt Bond Developments. Section 42(m)(2)(D), Internal Revenue Code, 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 §1.32 of this title (relating to Underwriting Rules and Guidelines), or request that the Department perform the function. If the issuer underwrites the Development, the Department may request such underwriting report and may upon review 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 §42(m)(2)(D) of the Code. 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 and are subject to the Credit Increase Fee as described in §5049.14 of this chapter.
- (e) Certification of Tax Exempt Applications with New Docket Numbers. Applications that are processed through the Department review and evaluation process and receive an affirmative Board Determination, but do not close the bonds prior to the Certificate of Reservation expiration date, and subsequently have that docket number withdrawn from the TBRB, may have their Determination Notice reinstated. The Applicant would need to receive a new docket number from the TBRB and one of the following must apply:
 - The new docket number must be issued in the same program year as the original docket number and must not be more than four (4) months from the date the original application was withdrawn from the TBRB. The Application must remain unchanged. This means that at a minimum, the following cannot have changed: site control, total number of units, unit mix (bedroom sizes and income restrictions), design/site plan documents, financial structure including bond and Housing Tax Credit amounts, development costs, rent schedule, operating expenses, sources and uses, ad valorem tax exemption status, target population, scoring criteria (TDHCA issues) or TBRB priority status including the effect on the inclusive capture rate. Note that the entities involved in the Applicant entity and Developer cannot change; however, the certification can be submitted even if the lender, syndicator or issuer changes, as long as the financing structure and terms remain unchanged. Notifications under §5049.8(9) of this chapter (relating to Threshold Criteria) are not required to be reissued. A revised Determination Notice will be issued once notice of the assignment of a new docket number has been provided to the Department and the Department has confirmed that the capture rate and market demand remain acceptable. This certification must be submitted no later than thirty (30) days after the date the TBRB issues the new docket number. In the event that the Department's Board has not yet

- approved the Application, the Application will continue to be processed and ultimately provided to the Board for consideration. This certification must be submitted no later than thirty (30) days after the date the TBRB issues the new docket number; or
- (2) If there are changes to the Application as referenced in paragraph (1) of this subsection or if there is public opposition, the Applicant will be required to submit a new Application in full, along with the applicable fees, to be reviewed and evaluated in its entirety for a new Determination Notice to be issued.

§5049.12. Post Award Activities.

- (a) Adherence to Obligations. (§2306.6720) Compliance with 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, including the timely submittal and completion of cost certification (except for Department approved extensions), shall be deemed to be a condition to any Commitment, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment, 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, as stated in the representations and in accordance with the LURA. If a Development Owner does not produce the Development as represented in the Application; does not receive approval for an amendment to the Application by the Department prior to implementation of such amendment; or does not provide the necessary evidence for any points received by the required deadline:
 - (1) The Development Owner must provide a plan to the Department, for approval and subsequent implementation, that incorporates additional amenities to compensate for the non-conforming components; and
 - (2) The Board will opt either to terminate the Application and rescind the Commitment, Determination Notice or Carryover Allocation Agreement as applicable or the Department must:
 - (A) Reduce the score for Applications for Competitive Housing Tax Credits that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development by up to ten (10) points for the two Application Rounds concurrent to, or following, the date that the non-conforming aspect, or lack of financing, was recognized by the Department of the need for the amendment; the placed in service date; or the date the amendment is accepted by the Board;
 - (B) Prohibit eligibility to apply for Housing Tax Credits for a Tax-Exempt Bond Development that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development for up to twenty-four (24) months from the date that the non-conforming aspect, or lack of financing, was recognized by the Department of the need for the amendment; the placed in service date; or the date the amendment is accepted by the Board, less any time delay caused by the Department;
 - (C) In addition to, or in lieu of, the penalty in subparagraph (A) or (B) of this paragraph, the Board may assess a penalty fee of up to \$1,000 per day for each violation.
 - (3) For amendments approved administratively by the Executive Director, the penalties in paragraph (2) of this subsection will not be imposed.
- (b) Commitments and Determination Notices.
 - (1) Commitments. If the Application is for a commitment from the State Housing Credit Ceiling, the Department shall issue a Commitment 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 in this chapter, 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, pays the required fee specified in §5049.14(f) of this chapter (relating to Program Related Fees), and satisfies any other conditions set forth therein by the Department. The Commitment expiration date may not be extended:

- (2) **Determination Notices.** 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 chapter (the QAP) and other applicable Department rules in accordance with the §42(m)(1)(D) of the Code. Applications that receive a Certificate of Reservation from the TBRB on or before November 15, 2010 of the prior program year will be required to satisfy the requirements of the prior year 2010 QAP; Applications that receive a Certificate a Reservation from the TBRB on or after January 21, 2011 of the current program year will be required to satisfy the requirements of the 2011 current program year 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 in §5049.11 of this chapter (relating to Tax-Exempt Bond Developments) and compliance by the Development Owner with all applicable requirements of this chapter 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, pays the required fee specified in §5049.14(f) of this chapter and satisfies any conditions set forth therein by the Department. The Determination Notice expiration date may not be extended. Furthermore, no later than sixty (60) days following closing on the bonds, the Development Owner must submit:
 - (i) A Management Plan and an Affirmative Marketing Plan (as further described in the carryover procedures as identified in the Tax Credit (Procedures) Manual: and
- (3) (ii) Evidence that the must be provided at this time of attendance of the Development Owner or management company has attended at Department-approved Fair Housing training relating to leasing and management issues for at least five (5) hours; and
 - (iii) The Development architect <u>orand</u> engineer <u>responsible for Fair Housing compliance</u> <u>for the Development has attended at Department-approved Fair Housing training relating to design issues for at least five (5) hours. Certifications <u>required under clause</u> (ii) and (iii) of this <u>subparagraph</u> must not be older than two (2) years <u>from the date of the submission deadline.</u></u>
- (3) The Department shall 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 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 other applicable Department rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented;
- (5) The executed Commitment or Determination Notice must be returned to the Department no later than thirty (30) days after the effective date of the Notice provided that for

- Commitments under the State Housing Credit Ceiling that date is not later than December 31
- (6) The Department may cancel a Commitment, Determination Notice or Carryover Allocation prior to the issuance of IRS Form 8609 with respect to a Development if:
 - (A) The Applicant or the Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure to meet any of the conditions of such Commitment, Determination Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Applications process for the Development;
 - (B) Any material statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;
 - (C) 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 §5049.4 of this chapter (relating to Ineligibility) if such event had occurred prior to issuance of the Commitment, Determination Notice or Carryover Allocation; or
 - (D) The Applicant or the Development Owner or the Development, as applicable, fails after written notice and a reasonable opportunity to cure to comply with this chapter or other applicable Department rules or the procedures or requirements of the Department.
- (c) Agreement and Election Statement. 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 with respect to a building or buildings for the month in which the Carryover Allocation was accepted (or the month the bonds were closed for Tax-Exempt Bond Developments), as provided in the §42(b)(2) of the Code. 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 (receiving credits from the State Housing Credit Ceiling), 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. For Tax-Exempt Bond Developments where the election is not made for the month the bonds closed, the Applicable Percentage will be determined based on the month each building is placed in service.
- (d) Documentation Submission Requirements at Commitment of Funds. No later than the date the Commitment or Determination Notice is executed by the Applicant and returned to the Department with the appropriate Commitment or Determination Fee as further described in §5049.14(f) of this chapter, the following documents must also be provided to the Department. Failure to provide these documents may cause the Commitment or Determination Notice to be rescinded. For each Applicant all of the following must be provided:
 - (1) For entities formed outside the state of Texas, evidence that the entity has the authority to do business in Texas in the form of a Certificate of Filing from the Texas Office of the Secretary of State;
 - (2) 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 Amendment from the Texas Office of the Secretary of State if the name reserved at Application has changed;
 - (3) 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 which indicates the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents;
 - (4) Evidence of final zoning that was proposed or needed to be changed pursuant to the Development plan;
 - (5) Evidence that the Applicant has and will maintain Site Control through 10% Test<u>or through</u> the anticipated closing date, whichever is earlier for Applications awarded under the State

- Housing Credit Ceiling. For Tax-Exempt Bond Developments that have not closed at the time the Determination Notice is submitted, then evidence demonstrating current site control must be submitted; and
- (6) Any conditions identified in the Real Estate Analysis report or any other conditions of the award required to be met at Commitment or Determination Notice.
- (e) Carryover. All Developments which received a Commitment, and will not be placed in service and receive IRS Form 8609 in the year the Commitment was issued, must submit the Carryover documentation to the Department no later than the Carryover Documentation Delivery Date as identified in §5049.3 of this chapter (relating to Program Calendar) of the year in which the Commitment is issued pursuant to §42(h)(1)(C) of the Code: provided, however, that if a Commitment is a forward commitment, Carryover must be executed in the year of the State Housing Credit Ceiling from which the credits are allocated.
 - (1) 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 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.
 - (2) 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.
 - (3) The Carryover Allocation must be properly completed and delivered to the Department as prescribed by the carryover procedures identified in the Tax Credit (Procedures) Manual.
 - (4) All Carryover Allocations will be contingent upon the Development Owner providing evidence that the Development Site is still under control of the Development Owner. For purposes of this paragraph, site control must be identical to the same Development Site that was submitted at the time of Application submission.
 - (5) The Department will not execute a Carryover Allocation Agreement with any Development Owner having any member in Material Noncompliance on October 13, 20121.
- (f) 10% Test. No later than six (6) 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 (as amended by The Housing and Economic Recovery Act of 2008) and Treasury Regulations, §1.42-6. The evidence to support the satisfaction of this requirement must be submitted to the Department no later than the 10% Test Documentation Delivery Date as identified in §5049.3 of this chapter. The Development Owner must submit, in the form prescribed by the Department, documentation evidencing paragraphs (1) (46) of this subsection. The 10% Test Documentation will be contingent upon the following, in addition to all other conditions placed upon the Application in the Commitment:
 - (1) Evidence that the Development Owner has purchased, transferred, leased or otherwise has ownership of, the Development Site;
 - (2) A certification from a Third Party civil engineer stating that all necessary utilities will be available at the site and that no easements, licenses, royalties or other conditions on or affecting the Development which would materially and adversely impact the ability to acquire, develop and operate as set forth in the Application. Copies of such supporting documents will be provided upon request:
 - 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 carryover procedures 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 Tax Credit (Procedures) Manual;

- (3) For all Developments involving New Construction or Adaptive Reuse, 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 should not be older than three (3) months from the first day of the Application Acceptance Period and must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost necessary to obtain service, 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 Site;
- (34) A Management Plan and an Affirmative Marketing Plan as further described in the carryover procedures identified in Tax Credit (Procedures) Manual;
- (45) Evidence confirming attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five (5) hours and the Development architect<u>or</u>-and engineer responsible for Fair Housing compliance for the Development has attended at Department-approved Fair Housing training relating to design issues for at least five (5) hours on or before the time the 10% Test Documentation is submitted. Certifications must not be older than two (2) years from the date of submission of the 10% Test Documentation. ; and
- (6) A Certification from the Architect that the Development will be equipped with Energy Saving Devices that meet the standard statewide energy code adopted by the state energy conservation office, unless historic preservation codes permit otherwise for a Development involving historic preservation.
- (g) Commencement of Substantial Construction. No later than July 1 of the year following the execution of the Carryover Allocation Document the Development Owner must submit evidence of having commenced and continued substantial construction activities as defined in Chapter 60 of this title (relating to Compliance Administration).
- (gh) Land Use Restriction Agreement (LURA). The Department will generate a LURA for the Development Owner that will impose the income and rent restrictions identified in the Development's final underwriting report and other representations made in the Application, including but not limited to, specific commitments to provide tenant services, to lease to special needs populations and/or provide specific amenities. The executed LURA and all exhibits will be sent to the Owner whereupon the Owner will then execute the LURA and have the fully executed documents and all exhibits and attachments recorded in the real property records for the county in which the Development is located. The original, recorded LURA must be returned to the Department no later than the end of the first year of the Credit Period. In general, no housing tax credit is allowable for a building unless there is a properly executed and recorded LURA in effect at the end of the first year of the Credit Period, and nothing in this section negates an Owner's responsibility for compliance with §42(h)(6) of the Code. The Department will not issue IRS Forms 8609 until it receives the original, properly recorded LURA or has alternative arrangements, acceptable to the Department, and approved by the Executive Director in writing, in place. The Development Owner must request a LURA from the Department no later than the date specified in Chapter 60 of this title. The Development Owner must complete, date, sign and acknowledge before a notary public the LURA and send the original to the Department for execution. The initial compliance and monitoring fee must be included, accompanied by a statement, signed by the Owner, indicating the start of the Development's Credit Period and the earliest placed in service date for the Development buildings. After receipt of the signed LURA from the Department, the Development Owner shall then record the 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 representations, 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. The LURA shall contain any provision which requires the Development Owner to restrict rents and incomes at any AMGI level, as approved by the Board. The restricted gross rents for any AMGI level outlined in the LURA will be calculated in accordance with §42(g)(2)(A), Internal Revenue Code.

- (hi) Cost Certification. The cost certification procedures as identified in the Tax Credit (Procedures)Cost Certification Procedures Manual sets forth the documentation required for the Department to perform a feasibility analysis in accordance with §42(m)(2)(C)(i)(II), Internal Revenue Code, and determine the final Credit to be allocated to the Development.
 - (1) Required cost certification documentation must be received by the Department no later than January 15 following the year the Credit Period begins. Any Developments issued a Commitment or Determination Notice that fails to submit its cost certification documentation by this deadline will be reported to the IRS and the Owner will be required to submit a request for extension consistent with §5049.13(c) of this chapter (relating to Extension Requests);
 - (2) The Department will perform an initial evaluation of the cost certification documentation and notify the Development Owner in a deficiency letter of all additional required documentation. Any communication issued to the Development Owner pertaining to the cost certification documentation may also be copied to the syndicator;
 - (3) For the Department to release IRS Forms 8609, Developments must have:
 - (A) Placed in Service by December 31 of the year the Commitment Notice was issued if a Carryover Allocation was not requested and received; December 31 of the second year following the year the Carryover Allocation Agreement was executed; or approved Placed in Service deadline;
 - (B) Submitted all Cost Certification documentation as more fully described in the cost certification procedures identified in the Cost Certification Procedures Manual Tax Credit (Procedures) Manual, including:
 - (i) Carryover Allocation Agreement/Determination Notice and Election Statement;
 - (ii) Owner's Statement of Certification;
 - (iii) Owner Summary;
 - (iv) Evidence of Nonprofit and CHDO Participation;
 - (v) Evidence of Historically Underutilized Business (HUB) Participation;
 - (vi) Development Summary (including list of tenant services, unit and common amenities);
 - (vii) As-Built Survey;
 - (viii) Closing Statement;
 - (ix) Title Policy;
 - (x) Evidence of Placement in Service;
 - (xi) Independent Auditor's Reports;
 - (xii) Total Development Cost Schedule;
 - (xiii) AIA Form G702 and G703, Application and Certificate for Payment;
 - (xiv) Rent Schedule;
 - (xv) Utility Allowance;

- (xvi) Annual Estimated Operating Expenses and 15-Year Proforma;
- (xvii) Current Annual Operating Statement and Rent Roll;
- (xviii) Final Sources of Funds;
- (xix) Executed Limited Partnership Agreement;
- (xx) Loan Agreement or Firm Commitment;
- (xxi) Architect's Certification of Fair Housing Requirements; and
- (xxii) TDHCA Compliance Workshop Certificate;
- (xxiii) Evidence of Historic Tax Credits (if applicable);
- (xxiv) Enterprise Green Communities Certification or the Enterprise Green Communities Checklist that includes the Development scoring (if points were selected under this option only);
- (xxv) LEED Certification or the LEED Checklist that includes the Development scoring (if points were selected under this option only);
- (C) Complied with the requirements set forth in the Cost Certification Procedures Manual;
- (D) Received written notice from the Department that all deficiencies noted during the final <u>construction</u> inspection have been resolved in accordance with Chapter 60 of this title;
- (E) Informed the Department of and received written approval for all Development amendments in accordance with §5049.13(b) of this chapter (relating to Amendment of Application Subsequent to Allocation by Board);
- (F) Informed the Department of and received written approval for all ownership transfers in accordance with §5049.13(d) of this chapter (relating to Housing Tax Credit and Ownership Transfers);
- (G) Submitted to the Department the <u>recorded LURA</u> in accordance with subsection (h) of this section:
- (H) Paid all applicable Department fees; and
- (I) Corrected all issues of noncompliance, including but not limited to noncompliance status with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for the subject property, as described in Chapter 60 of this title.

§4950.13. Board Application Reevaluation (§2306.6731(b)).

- (a) Regardless of development stage, the Board shall reevaluate a Development that undergoes a substantial change at any time after the between the time of initial Board approval of the Development, and the time of issuance of a Commitment or Determination Notice for the Development. For the purposes of this subsection, substantial change shall be based on those items identified in subsection (b)(4) of this section. The Board may revoke any Commitment or Determination Notice issued for a Development that has been unfavorably reevaluated by the Board.
- (b) Amendment of Application Subsequent to Allocation by Board. ($\S 2306.6712$ and $\S 2306.6717(a)(4)$)
 - (1) If a proposed modification would materially alter a Development approved for an allocation of Housing Tax Credits, 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. Such request shall include a proposed form of amendment, if requested by the Department, and the applicable fee as identified in §5049.14(I) of this chapter (relating to Extension and Amendment Fees). The amendment request will not be considered received or processed unless accompanied with the corresponding fee.
 - (2) The Executive Director of the Department shall require appropriate Department staff to evaluate the amendment and provide a written analysis and recommendation to the Board. The appropriate party monitoring compliance during construction in accordance with

- subsection (h) of this section shall also provide to the Board an analysis and written recommendation regarding the amendment. For amendments not requiring Board approval, the amendment will be deemed approved if the Executive Director does not approve or deny within thirty (30) days from the date on which the Department has acknowledged it has received all additional information that it has, in writing, requested of the Applicant to enable the Department to evaluate the amendment request. Amendment requests which require Board approval must be received by the Department at least forty-five (45) days prior to the Board meeting in which the amendment will be considered.
- (3) The Board must vote whether to approve an amendment that is material. The Executive Director may administratively approve all non-material amendments. The Board may vote to reject an amendment request and if appropriate, rescind a Commitment or terminate the allocation of Housing Tax Credits and reallocate the credits to other Applicants on the waiting list. Amendment requests may be denied 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 3% 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 5%;
 - (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) Exclusion of any threshold requirements as identified in §50.8 of this chapter.
 - (LH) Any other modification considered significant by the Board.
- (5) In evaluating the amendment under this subsection, Department staff shall consider whether the need for the proposed modification was:
 - (A) Reasonably foreseeable by the Applicant at the time the Application was submitted; or
 - (B) Preventable by the Applicant. Amendment requests will be denied if the circumstances were reasonably foreseeable and preventable unless good cause is found for the approval of the amendment.
- (6) This section shall be administered in a manner that is consistent with §42 of the Code.
- (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 website and the Applicant will be notified of the posting.
- (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 Real Estate Analysis Report at the time of the Commitment or <u>Determination</u> Notice issuance, as approved by the Board, the following procedure will apply:
 - (A) 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, as approved by the Board, 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; and
 - (B) 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 resulted in the Application not receiving 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 (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments) for twenty-four (24) months from the time that the amendment is approved.

- (c) Extension Requests. Extensions must be requested if the original deadline associated with All extension requests relating to the Carryover, Documentation for 10% Test (including submission and expenditure deadlines), Substantial Construction Commencement, Placed in Service or Cost Certification requirements will not be met. shall be submitted to the Department in writing and If the extension is requested at least thirty (30) days in advance of the deadline no fee will be required; however, if the extension is requested at any point after the applicable deadline the applicable fee as further described in §50.14(I) of this chapter must be submitted. Extension requests submitted after the deadline will not be considered received or processed unless accompanied by the applicable fee. be accompanied by a mandatory non-refundable extension fee as identified in \$49.14(I) of this chapter. Such requests must be submitted to the Department no later than the date for which an extension is being requested. All requests for extensions totaling less than six (6) months Extension requests will be may be approved by the Executive Director and are not required to have Board approval, unless, at staff's discretion it warrants Board approval due to extenuating circumstances stated in the request. including requests that are late but not more than ____ late. For extensions that require Board approval, the extension request must be received by the Department at least fifteen (15) business days prior to the Board meeting where the extension will be considered. The extension request shallmust specify a requested extension date and the reason why such an extension is required. Carryover extension requests will not be granted shall not request an extended deadline later than December 1st of the year the Commitment 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 as identified in §5049.14 of this chapter (relating to Program Related Fees) must be received by the Department to qualify for issuance of IRS Forms 8609.
- (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 including 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 (other than to an Affiliate included in the ownership structure) 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.
 - A Development Owner seeking Executive Director approval of a transfer must <u>submit</u> 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. 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 Departmentstaff shall conduct a qualifications review of a transferee to determine the transferee's past compliance with all aspects of the Housing Tax Credit Program and,

- 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 amount further described in §5049.5(b) of this chapter (relating to Site and Development Restrictions), the credit amount will not be applied in the following circumstances:
 - (A) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the gGeneral pPartner; or
 - (B) In cases where the General Partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.
- (4) The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Owner unless such ownership transfer is approved by the Department.
- (5) The Development Owner must comply with the additional documentation requirements as stated in Chapter 60 of this title (relating to Compliance Administration).
- (e) Sale of Certain Tax Credit Properties. Consistent with §2306.6726, Texas Government Code, not later than two (2) years before the expiration of the Compliance Period, a Development Owner who agreed to provide a right of first refusal under §2306.6725(b)(1), 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 (HOME);
 - (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 §5049.9(a) of this chapter (relating to Selection Criteria), 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) of the Code, and the Department declines to purchase the Development.
- (f) Withdrawals. An Applicant may withdraw an Application prior to receiving a Commitment, Determination Notice, Carryover Allocation Document or Housing Credit Allocation, or may cancel a Commitment or Determination Notice by submitting to the Department written a notice, as applicable, of withdrawal or cancellation, and subject to the Unused Credit Fee or Penalty in §50.14(n) of this chapter. making any required statements as to the return of any tax credits allocated to the Development at issue.
- (g) Alternative Dispute Resolution (ADR) Policy. 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 2010, 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 law and 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 procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title (relating to Alternative Dispute Resolution and Negotiated Rulemaking). Any Applicant may request an informal conference with staff to attempt to resolve any appealable matter, and the Executive Director may toll the running of periods for appeal to accommodate such meetings. In the event a successful resolution cannot be reached, the statements made in the meeting process may not be used by the Department as admissions.

(h) Compliance Monitoring and Material Noncompliance. Section 42(m)(1)(B)(iii) of the Code, 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 §42 of the Code and in notifying the IRS of any noncompliance of which the Department becomes aware. Detailed compliance rules, and procedures for monitoring and notification to the IRS of any noncompliance of which the Department becomes aware are set forth in Chapter 60 of this title (relating to Compliance Administration).

§4950.14. Program Related Fees.

- (a) Timely Payment of Fees. All fees must be paid as stated in this section, unless the Executive Director has granted a waiver for specific extenuating and extraordinary circumstances. To be eligible for a waiver, the Applicant must submit a request for a waiver no later than ten (10) business days prior to the deadlines 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 until such time the Department receives payment. 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 \$10 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. (§2306.6716(d)) For Tax Exempt Bond Developments with the Department as the issuer, the Applicant shall submit the following fees: \$1,000 (payable to TDHCA), \$2,000 (payable to Vinson & Elkins, Bond Counsel), and \$5,000 (payable to the Texas Bond Review Board).
- (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 preapplication which met Pre-application Threshold and for which a pre-application fee was paid, the Application fee will be \$20 per Unit. For Applicants not having submitted a pre-application, the Application fee will be \$30 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)) For Tax Exempt Bond Developments with the Department as the Issuer the

Applicant shall submit a tax credit application fee of \$30 per unit and bond application fee of \$10,000. Those Applications utilizing a local issuer only need to submit the tax credit application fee. For Tax-Exempt Bond Development refunding Applications, with the Department as the issuer, the Application Fee will be \$10,000 unless the refunding is not required to have a TEFRA public hearing, in which case the fee will be \$5,000.

- (d) Refunds of Pre-application or Application Fees. (§2306.6716(c)) Upon written request from the Applicant, 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 pre-applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 50% of the review, and Threshold review prior to a deficiency issued will constitute 30% of the review. Deficiencies submitted and reviewed constitute 20% of the review. 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 20% of the review, the site visit will constitute 20% of the review, Eligibility and Selection review will constitute 20%, and Threshold review will constitute 20% of the review, and underwriting review will constitute 20%. The Department must provide the refund to the Applicant not later than the 30th day after the date of request.
- (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 §5049.7(h) of this chapter (relating to Application Process) 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 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 or Determination Notice shall submit to the Department, not later than the expiration date on the Commitment or Determination Notice, a Commitment or Determination Fee equal to 5% of the annual Housing Credit Allocation amount. The Commitment or Determination Fee shall be paid by check. If a Development Owner of an Application awarded Competitive Housing Tax Credits has paid a Commitment Fee and returns the credits by November 1, 20121, the Development Owner may receive a refund of 50% of the Commitment Fee. If a Development Owner of an Application awarded Housing Tax Credits associated with Tax-Exempt Bonds has paid a Determination Fee and is not able close on the bond transaction within ninety (90) days of the issuance date of the Determination Notice, the Development Owner may receive a refund of 50% of the Determination Fee. The Determination Fee will not be refundable after ninety (90) days of the issuance date of the Determination Notice.
- (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 IRS_fF orm 8609. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the month the first building is placed in service. For Tax-Exempt Bond Developments with the Department as the issuer, the annual-tax credit compliance fee will be paid annually in advance (for the duration of the compliance or affordability period) and is equal to \$40/Unit beginning two (2) years from the first payment date of the bonds; the asset management fee, if applicable_is paid in advance and is equal to \$25/Unit beginning two (2) years from the first payment date. Compliance fees may be adjusted from time to time by the Department.
- (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.
- (i) Tax-Exempt Bond Credit Increase Request Fee. As further described in §5049.11 of this chapter (relating to Tax-Exempt Bond Developments), 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 5% of the amount of the credit increase for one (1) year.
- (j) Public Information Requests. Public information requests are processed by the Department in accordance with the provisions of the Texas Government Code, Chapter 552. The Department uses the guidelines promulgated by the Office of the Attorney General to determine the cost of copying and other costs of production.
- (k) 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.

(I) Extension and Amendment Fees.

- (1) All extension requests <u>for deadlines</u> relating to the Carryover, <u>Documentation for 10% Test (submission and expenditure)</u>, <u>Substantial Construction Commencement</u>, <u>Placed in Service or Cost Certification requirements shall be submitted to the Department in writing and that are submitted after the applicable deadline <u>must</u> be accompanied by an <u>mandatory non-refundable</u> extension fee in the form of a check in the amount of \$2,500. <u>Extension requests submitted at least thirty (30) days in advance of the applicable deadline will not be required to submit an extension fee. <u>Such extension requests must be submitted to the Department in accordance with §49.13(c) of this chapter (relating to Board Reevaluation). An extension fee will not be required for extensions requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TRDO-USDA as a lender if TRDO-USDA or the Department is the cause for the Applicant not meeting the deadline.</u></u></u>
- Amendment requests must be submitted in accordance with \$5049.13(b) of this chapter. An amendment request to be considered non-material that has not been implemented will not be required to pay an amendment fee. Material or non-material amendment requests that have already been implemented will be required to be and be accompanied by a mandatory non-refundable amendment fee in the form of a check in the amount of \$2,500.
- (3) The Board may waive extension or amendment fees for good cause.
- (m) Refund of Fees. The Executive Director may approve full or partial refunds of the fees listed in this subsection to ensure equity regarding the work already performed by the Department.
- (nm) <u>Unused Credit Fee or Penaltyies</u>. Development Owners who have more tax credits allocated to them than they can substantiate through Cost Certification will return those excess tax credits prior to issuance of 8609's. For Competitive Housing Tax Credit Developments, a penalty fee equal to the one year credit amount of the lost credits (10% of the total unused tax credit amount) will be required to be paid by the Owner prior to the issuance of form 8609's if the tax credits are not returned, and 8609's issued, within one hundred eighty (180) days of the end of the first year of the credit period. This penalty fee may be waived without further Board action if the Department recaptures and re-issues the returned tax credits in accordance with §42, Internal Revenue Code. If an Applicant returns a full credit allocation after the Carryover Allocation deadline required for that allocation, the <u>DepartmentExecutive Director</u> will

recommend to the Board the imposition of impose a penalty on the score for any Competitive Housing Tax Credit Applications submitted by that Applicant or any Affiliate of that Applicant for any Application in an Application Round occurring concurrent to the return of credits or if no Application Round is pending the Application Round immediately following the return of credits. If any such point penalty is recommended to be assessed and presented for final determination by the Board, it must include notice from the Department to the affected party not less than fourteen (14) days prior to said Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant point penalties. unless otherwise exempted in accordance with the Board's policy pursuant to the implementation of The Housing and Economic Recovery Act of 2008, H.R. 3221, in September 2008. The penalty will be assessed in an amount that reduces the Applicant's final awarded score by an additional 20%.

§4950.15. Manner and Place of Filing All Required Documentation.

- (a) All Applications, letters, documents, or other papers filed with the Department must be received only between the hours of 8:00 a.m. and 5:00 p.m., Austin local time, on any day which is not a Saturday, Sunday or a holiday established by law for state employees and for which the Department is closed.
- All notices, information, correspondence and other communications under this chapter 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, Texas 78711-3941 or for hand delivery or courier to 221 East 11th Street, Austin, Texas 78701 or more current address of the Department as released on the Department's website. Every such correspondence required or contemplated by this chapter 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, electronic submission or postage prepaid United States first class 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 electronic submission will be deemed given when sent. Notice by U.S. mail other than mail sent registered or certified shall be deemed given on the second business day after postmarking. All other notice shall be deemed given when logged as received by the Department. 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 website to provide necessary data to the Department.

§4950.16. Waiver and Amendment of Rules.

(a) The Board, in its discretion, may waive any one or more of the rules provided herein if the Board finds that a 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 or if the Board finds that such waiver is in response to natural, federally declared disaster that occurs after the adoption of this Qualified Allocation Plan. Any such waiver, unless the Board directs otherwise, will be subject to all reasonable restrictions and requirements customarily applied by staff including as

- <u>applicable</u>, <u>but not limited to, underwriting, satisfactory previous participation reviews, receipt</u> of required **‡**Third **p**Party approvals, including lender or investor approvals.
- (b) An Applicant may, at any time, make a specific written request for a waiver. Staff will evaluate the request and place it before the Board at the next meeting on which the consideration of the waiver may be a properly posted item. Staff shall have at least ten (10) days from the date on which it has received all information reasonable to its consideration and evaluation of the request to make a recommendation to the Executive Director. The staff recommendation must be reviewed by the Executive Award and Review Advisory Committee. Any such request for waiver must be specific to the unique facts and circumstances of an actual proposed Development. Any waiver, if granted, shall apply solely to the Applicant and shall not constitute a modification or waiver of the rule involved. Any waiver must be evidenced in writing consistent with Board approval and may specify necessary restrictions, exceptions and other requirements. It is an Applicant's responsibility to initiate any waiver request in sufficient time to allow for it to be assessed and acted upon prior to the time it is actually needed.
- (b) The Department may amend this chapter contained herein at any time in accordance with Chapter 2001, Texas Government Code.

§4950.17. Department Responsibilities.

- (a) The Department shall make all required notifications pursuant to Chapter 2306 of the Texas Government Code.
- (b) In accordance with §§2306.6724, 2306.67022, §2306.6711, and §42(m)(1) regarding the deadlines for allocating Housing Tax Credits the following shall apply:
 - (1) Regardless of whether the Board will adopt the Qualified Allocation Plan ("QAP") annually or biennially. Not later than September 30 of each year, the Department, not later than September 30 of the year preceding the year in which the new plan is proposed for use, shall prepare and submit to the Board for adoption any proposed 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;
 - (2) Regardless of whether the Board has adopted the plan annually or biennially, The Board shall adopt and submit to the Governor any proposed the QAP not later than November 15 of each year of the year preceding the year in which the new plan is proposed for use;
 - (3) The Governor shall approve, reject, or modify and approve the <u>proposed QAP</u> not later than December 1-of each year;
 - (4) The Board shall annually adopt a manual, corresponding to the QAP, to provide information on how to apply for Housing Tax Credits;
 - (5) Applications for Housing Tax Credits to be issued a Commitment during the Application Round in a calendar year must be submitted to the Department not later than March 1;
 - (6) 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 or thirty (30) days preceding the date the board approves final Commitments of Housing Tax Credits for the Application Round; and
 - The Board shall approve final commitments for allocations of Housing Tax Credits each year in accordance with the QAP 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 QAP not later than September 30. Department staff will subsequently issue Commitments 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.
- (c) With respect to site demographics information, the general rule is for the Department to use current State Demographer information. If the State Demographer information is not available as

of the date <u>that is four (4) months prior to</u> the Application Acceptance Period, <u>opens</u> the Executive Director may approve the use of prior year site demographics.

Attachment 2 Proposed Repeal Chapter 49

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC, Chapter 49, §§49.1-49.17, concerning the Qualified Allocation Plan. This repeal is proposed in order to enact new sections.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section as proposed.

Mr. Irvine has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced compliance with formalized policy, all contractual and statutory requirements.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The proposed section will not impact local employment.

The public comment period will be held between September 26, 2011 to April October 19, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2011 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 PM OCTOBER 19, 2011.

The repeal is proposed pursuant to the authority of the Texas Government Code, Chapter 2306, which provides the Department the authority to adopt rules governing the administration of the Department and its programs.

The proposed new section affects no other code, article or statute.

- §49.1. General Program Information
- §49.2. Definitions
- §49.3. Program Calendar
- §49.4. Ineligible Applicants, Applications and Developments
- §49.5. Site and Development Restrictions
- §49.6. Allocation Process
- §49.7. Application Process
- §49.8. Threshold Criteria

- §49.9. Selection Criteria
- §49.10. Board Decisions
- §49.11. Tax-Exempt Bond Developments
- §49.12. Post Award Activities
- §49.13. Board Reevaluation
- §49.14. Program Related Fees
- §49.15. Manner and Place of Filing All Required Documentation
- §49.16. Waiver and Amendments of Rules
- §49.17. Department Responsibilities

BOARD ACTION SUMMARY MULTIFAMILY FINANCE DIVISION SEPTEMBER 15, 2011

Presentation, Discussion and Possible Action regarding the proposed repeal of 10 TAC Chapter 1 §1.1 concerning Definitions for Housing Program Activities and a proposed new 10 TAC Chapter 1 §1.1 concerning Definitions and Amenities for Housing Program Activities, for public comment in the *Texas Register*.

Recommended Action

RESOLVED, that the proposed repeal of the current Definitions for Housing Program Activities, 10 TAC, Chapter 1 §1.1, and proposed new 10 TAC Chapter 1 §1.1 concerning Definitions and Amenities for Housing Program Activities together with the preambles presented to this meeting, is approved for publication in the *Texas Register* for public comment.

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the draft Definitions and Amenities for Housing Program Activities together with the preamble in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

Background

Attached behind this Board Action Item is the Rule for Definitions and Amenities for Housing Program Activities ("Draft Definitions") proposed to be found in 10 TAC Chapter 1 §1.1. This Rule is primarily comprised of those definitions that could be applicable to other Departmental multifamily programs (i.e., HOME and HTF). Proposed changes for 2012 reflect the inclusion of common and unit amenities and tenant supportive services that have historically been listed in the Qualified Allocation Plan. The document is shown as a "blackline" of the rule from 2011 – additions are shown as underlined text and deletions are shown as marked through text.

The Draft Definitions will be posted to the Department's website and published in the *Texas Register*. Public comment will be taken via mail, email or facsimile. There will be consolidated public hearings between September 26th and October 19th to garner public comment. The Definitions will be brought before the Board in November for final approval.

The Department released a preliminary Draft Definitions on August 22, 2011. The purpose of the preliminary release was to allow interested persons more time to review proposed changes, outside of the usual 7 day posting requirement for Board meeting materials. In response to the release, staff received feedback from interested persons for consideration in the final Draft Definitions included in this Board presentation.

Summary of Significant Recommendations from Staff

Below is a brief description of the proposed changes as reflected in the Board presentation. Citation references are to the numbered sections of the 2012 Draft Definitions.

- 1. **§1.1(a) Definitions (Page 2 of 13).** Minor changes were made to the definitions of Affiliate, Control, Efficiency Unit, Qualified Elderly Development and Third Party. Moreover, while the definition for Single Room Occupancy appears to be deleted, it was merely moved to the Qualified Allocation Plan and modified.
- 2. §1.1(b) Common Amenities (Page 10 of 13). Modifications to this section include minor revisions to the number of points needed for threshold as well as minor revisions to the list of common amenities. Among these include the addition of a splash pad/play area, common area Wi-Fi and twenty-four hour monitored camera/security in each building, expanding Green Building to include Limited Green Amenities, Enterprise Green Communities Certification and categories of LEED certification. Moreover, minor detail has been added to some of the common amenities where appropriate.
- 3. **§1.1(c)** Unit Amenities (Page 12 of 13). This section, while primarily used as a scoring item under the applications submitted under State Housing Credit Ceiling, has been broadened to apply to Tax Exempt Bond applications. Previously, the QAP did not contain a provision whereby such Applications would be required to provide any unit amenities.
- 4. §1.1(d) Tenant Supportive Services (Page 13 of 13). This section merely reflects the movement of the list of supportive services from the QAP. Minor changes to the list include adding detail/guidance to the services as appropriate, changing the point value associated with daily transportation from 2 points to 4 points and modifying home chore services for seniors and persons with disabilities to include valet trash service and furniture movement within the unit.

Attachment 1 Proposed New Chapter 1

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC, Chapter 1, Subchapter A, §1.11, concerning Definitions and Amenities for Housing Program Activities. The new section is proposed in order to create a centralized rule with definitions that could be applicable to other Departmental multifamily programs.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section as proposed.

Mr. Irvine has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced compliance with formalized policy, all contractual and statutory requirements.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The proposed section will not impact local employment.

The public comment period will be held between September 26, 2011 to April October 19, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2011 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 PM OCTOBER 19, 2011.

The new section is proposed pursuant to the authority of the Texas Government Code, Chapter 2306, which provides the Department the authority to adopt rules governing the administration of the Department and its programs.

The proposed new section affects no other code, article or statute.

§1.1. Definitions and Amenities for Housing Program Activities.

- §1.1.Definitions and Amenities for Housing Program Activities.
- (a) <u>Definitions.</u> The following definitions apply to the Housing Tax Credit Program, Multifamily Housing Revenue Bond Program, and other Department programs as defined in this title. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Texas Government Code, Chapter 2306, §42 of the Internal Revenue Code, this section, and repeated in the Tax Credit (Procedures) Manual.
- (1) Adaptive Reuse--The change-in-use of an existing non-residential building (e.g., school, warehouse, office, hospital, hotel, etc.), into a residential building. Adaptive reuse does not include the demolition of the external walls of the existing building. All units must be contained within the original exterior walls of the existing building. Porches and patios may protrude beyond the exterior walls. Ancillary non-residential buildings, such as a clubhouse, leasing office and/or amenity center may be newly constructed outside the walls of the existing building or as detached buildings on the Development Site.
- (2) Administrative Deficiencies--Information requested by the Department that is required to clarify or correct inconsistencies in an Application that in the Department's reasonable judgment, may be cured by supplemental information or explanation which will not necessitate a substantial reassessment or re-evaluation of the Application.
- (3) 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 or Principal. All entities that share a Principal are Affiliates.
- (4) 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)
- (5) Application--A request for funds, housing tax credits or other financial assistance submitted to the Department in a form prescribed by the Department, including any exhibits or other supporting material. (§2306.6702)
- (6) Appropriate Local Official--With respect to a municipality or area within an extraterritorial jurisdiction (ETJ), where applicable, means either the mayor, the city manager, or another official of the body operating under valid, written confirmation of authority signed by the mayor or city manager. With respect to an area not within the municipality or its ETJ, Appropriate Local Official means a county commissioner or another official authorized by the county commissioner to act.
- (7) Bedroom--A portion of a Unit which is no less than 100 square feet; has no width or length less than 8 feet; is self contained with a door (or the Unit contains a second level sleeping area of 100 square feet or more); 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. A den, study or other similar space that could reasonably function as a bedroom and meets this definition is considered a bedroom.
- (8) Board--The Governing Board of the Department.
- (9) Colonia--A geographic area that is located in a county some part of which is within 150 miles of the international border of this state, that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, 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, Texas Water Code; or
- (B) has the physical and economic characteristics of a colonia, as determined by the Department.
- (10) Commitment--A legally binding written contract, setting forth the terms and conditions under which housing tax credits, loans, grants or other sources of funds or financial assistance will be made available.
- (11) Control (including the terms "Controlling," "Controlled by," and/or "under common Control with")-The power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or
 oversee. Controlling entities of a partnership include the general partners, special limited partners
 when applicable, but not investor limited partners who do not possess other factors or attributes that
 give them Control. Controlling entities of a limited liability company include the managers, managing
 members, and any members with 10% or more ownership of the limited liability company, and any
 members with authority similar to that of a general partner in a limited partnership. Multiple Persons
 may be deemed to simultaneously have control simultaneously.
- (12) Department--The Texas Department of Housing and Community Affairs or any successor agency.
- (13) 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 and any other Person receiving any portion of such fee, whether by subcontract or otherwise.
- (14) Development Consultant or 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.
- (15) 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 or ground lease approved by the Department. (§2306.6702)
- (16) 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.
- (17) Efficiency Unit--A Unit without a separately enclosed <u>bB</u>edroom. <u>designed principally for use by a single person.</u>
- (18) Executive Award and Review Advisory Committee ("The Committee")--The Department committee created under \$2306.112 of the Texas Government Code, \$2306.112.
- (19) 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."
- (20) 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.

- (21) Governing Body--The elected or appointed body of public or tribal officials, responsible for the enactment, implementation and enforcement of local rules and the implementation and enforcement of applicable laws for its respective jurisdiction.
- (22) Governmental Entity--Includes federal, state or local agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts, tribal governments and other similar entities.
- (23) Governmental Instrumentality--A legal entity which is created by a Unit of General Local Government under statutory authority and which instrumentality is authorized to transact business for the Unit of General Local Government.
- (24) Grant--Financial assistance that is awarded in the form of money to a housing sponsor for a specific purpose and that is not required to be repaid. A Grant includes a forgivable loan.
- (25) Guarantor--Any Person that provides, or is anticipated to provide, a guaranty for all or a portion of the equity or debt financing for the Development.
- (26) Historically Underutilized Businesses (HUB)--A business that is a Corporation, Sole Proprietorship, Partnership, or Joint Venture in which at least 51% of the business is owned, operated, and actively controlled and managed by a minority or woman in which the owner(s):
- (A) have a proportionate interest and demonstrate active participation in the control, operation, and management of the entities' affairs; and
- (B) are economically disadvantaged because of their identification as members of the following groups:
- (i) Black Americans--Includes persons having origins in any of the Black racial groups of Africa;
- (ii) Hispanic Americans--Includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (iii) American Women--Includes all women of any ethnicity except those specified in clauses (i), (ii), (iv), and (v) of this subparagraph;
- (iv) Asian Pacific Americans--Includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, the Northern Marianas, and Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan or Nepal; and
- (v) Native Americans--Includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; and
- (C) a corporation formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons described by subparagraphs (A) and (B) of this paragraph; or
- (D) a sole proprietorship created for the purpose of making a profit that is 100% owned, operated, and controlled by a person described by subparagraphs (A) and (B) of this paragraph; or

- (E) a partnership formed for the purpose of making a profit in which 51% of the assets and interest in the partnership is owned by one or more persons who are described by subparagraphs (A) and (B) of this paragraph; or
- (F) a joint venture in which each entity in the joint venture is a HUB under this subdivision; or
- (G) a supplier contract between a HUB under this subdivision and a prime contractor/vendor under which the HUB is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies; or
- (H) a business other than described in subparagraphs (D), (F), and (G) of this paragraph, which is formed for the purpose of making a profit and is otherwise a legally recognized business organization under the laws of the State of Texas, provided that at least 51% of the assets and 51% of any classes of stock and equitable securities are owned by one or more persons described by subparagraphs (A) and (B) of this paragraph.
- (27) HUD--The United States Department of Housing and Urban Development, or its successor.
- (28) IRS--The Internal Revenue Service, or its successor.
- (29) Land Use Restriction Agreement or LURA--An agreement between the Department and the Development Owner which is a binding covenant upon the Development Owner's successors in interest, that, when recorded, encumbers the Development with respect to the requirements of the programs for which it receives funds.
- (30) Low Income Unit--A Unit that is intended to be restricted for occupancy by an income eligible household, as defined by the Department.
- (31) Managing General Partner--A general partner of a partnership that is vested with the authority to take actions that are binding on behalf of the partnership and the other partners. The term Managing General Partner can also be used for a Managing Member of a limited liability company where so designated to bind the limited liability company and its members under its Agreement or any other person that has such powers in fact, regardless of their organizational title.
- (32) Material Deficiency--Any individual Application deficiency or group of Administrative Deficiencies which, if addressed, would require, in the Department's reasonable judgment, a substantial reassessment or re-evaluation of the Application or which, are so numerous and pervasive that they indicate a failure by the Applicant to submit a substantively complete and accurate Application.
- (33) Material Noncompliance--Defined as:
- (A) a Housing Tax Credit (HTC) Development located within the state of Texas will be classified by the Department as being in Material Noncompliance status if the noncompliance score for such Development is equal to or exceeds a threshold of 30 points in accordance with the Material Noncompliance provisions, methodology, and point system in §60.121 of this title (relating to Material Noncompliance Methodology);
- (B) non-HTC Developments monitored by the Department with 1 50 Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of 30 points. Non-HTC Developments monitored by the Department with 51 - 200 Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of 50 points. Non-HTC 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 a threshold of 80 points;

- (C) for all programs, a Development will be in Material Noncompliance if the noncompliance is stated in §60.121 of this title, to be in Material Noncompliance.
- (34) 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)
- (35) Net Rentable Area (NRA)--The unit space that is available exclusively to the tenant and is typically heated and cooled by a mechanical HVAC system. NRA is measured to the outside of the studs of a unit or to the middle of walls in common with other units. NRA does not include common hallways, stairwells, elevator shafts, janitor closets, electrical closets, balconies, porches, patios, or other areas not actually available to the tenants for their furnishings, nor does NRA include the enclosing walls of such areas.
- (36) New Construction--Any construction of a Development or a portion of a Development that does not meet the definition of Rehabilitation.
- (37) Office of Rural Affairs established within the Department of Agriculture--formerly the Texas Department of Rural Affairs (TDRA).
- (387) Person--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.
- (398) Persons with Disabilities--With respect to an individual:
- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment, to include persons with severe mental illness and persons with substance abuse disorders.
- (4039) 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, special limited partners, and Principals with 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 10% or more interest in the corporation and any individual Controlling such stock holder; and

- (C) limited liability companies, Principals include all <u>managers</u>, managing members, members having a 10% or more interest in the limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company.
- (410) 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.
- (424) Qualified Allocation Plan--A plan adopted by the Board under this subchapter that:
- (A) provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions;
- (B) consistent with \$2306.6710(e) of the Texas Government Code, 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; and
- (C) 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.
- (4<u>3</u>2) Qualified Elderly Development--A Development which meets the requirements of the federal Fair Housing Act_., and
- (A) provided under any state or federal program that the HUD Secretary determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
- (B) is intended for, and solely occupied by, individuals sixty-two (62) years of age or older; or
- (C) is intended and operated for occupancy by at least one individual fifty-five (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 fifty-five (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 fifty-five (55) years of age or older. (42 U.S.C. \$3607(b))
- (443) Reconstruction--The demolition of one or more residential buildings in an Existing Residential Development and the re-construction of an equal number of Units or less on the Development Site.
- (454) Rehabilitation--The improvement or modification of an Existing Residential Development through alteration, incidental addition or enhancement. The term includes the demolition of an Existing Residential Development and the Reconstruction of a Development on the Development Site, but does not include Adaptive Reuse (\$2306.004(26-a)). More specifically, Rehabilitation is the repair, refurbishment and/or replacement of existing mechanical and structural components, fixtures and finishes. Rehabilitation will correct deferred maintenance, reduce functional obsolescence to the extent possible and may include the addition of: energy efficient components and appliances, life and

safety systems; site and resident amenities; and other quality of life improvements typical of new residential Developments.

- (465) Related Party--As defined, (\$2306.6702)
- (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 of the Texas Government Code;
- (ii) a person and a corporation, if the person owns more than 50% 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% 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% 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 \$501(a) of the Code, 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) fifty percent of the outstanding stock of the corporation; and
- (II) fifty 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% of the outstanding stock of each corporation;
- (xi) an S corporation and a C corporation if the same persons own more than 50% of the outstanding stock of each corporation;

- (xii) a partnership and a person or organization owning more than 50% 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% of the capital interests or profits' interests.
- (B) 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.
- (476) 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 25,000 or less and does not share a boundary with an Urban Area; or
- (C) in an area that is eligible for funding by Texas Rural Development Office of the United States Department of Agriculture (TRDO-USDA), other than an area that is located in a municipality with a population of more than 50,000. (§2306.004)
- (487) Selection Criteria--Criteria used to determine funding priorities of the State under the specific housing program as defined in the rules or funding notices of that program.
- (48) Single Room Occupancy (SRO)--An Efficiency Unit that meets all the requirements of a Unit except that it may be rented on a month-to-month basis.
- (49) Site Control--Ownership or a current contract that is legally enforceable giving the Applicant the ability, not subject to any legal defense by the owner, to require conveyance to the Applicant.
- (50) Texas Department of Rural Affairs (TDRA)--As established by Chapter 487 of the Texas Government Code.
- (504) Third Party--A Third Party is a Person who is not:
- (A) an 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) anyone receiving any portion of the Developer fees from the Development;
- (D) any individual that is an executive officer or member of the governing board or has greater than 10% ownership interest in any of the entities are identified in subparagraphs (A) (C) of this paragraph.
- (512) Total Housing Development Cost--The sum total of the Acquisition Cost, Hard Costs, Soft Costs, Developer Fee and Contractor Fee incurred or to be incurred through lease-up by the Development Owner in the acquisition, construction, rehabilitation and financing of the Development.
- (523) TRDO-USDA--Texas Rural Development Office (TRDO) of the U.S. Department of Agriculture (USDA) serving the State of Texas.

- (534) Unit of General Local Government--A city, town, county, village, tribal reservation or other general purpose political subdivision of the State.
- (b) Common Amenities. All Developments, as further mandated by the housing program under which they are receiving funding, must meet at least the minimum threshold of points based on the total number of Units in the Development. The amenities selected must be made available for the benefit of all tenants and must be made available during normal business hours. If fees in addition to rent are charged for amenities then the amenity may not be included among those provided to satisfy this requirement. All amenities must meet accessibility standards. Spaces for activities must be sized appropriately to serve the Target Population of the Development. Applications for non-contiguous scattered site housing, excluding non-contiguous single family sites, will have the threshold test applied based on the number of Units per individual site, and must submit a separate certification in the Application for each individual site under control by the Applicant.
- (1) The minimum threshold of points for all Developments is as follows:
 - (A) Total Units equal 16, 1 point is required;
 - (B) Total Units are 17 to 40, 4 points are required;
 - (C) Total Units are 41 to 76, 7 points are required;
 - (D) Total Units are 77 to 99, 10 points are required;
 - (E) Total Units are 100 to 149, 14 points are required;
 - (F) Total Units are 150 to 199, 18 points are required; or
 - (G) Total Units are 200 or more, 22 points are required.
- (2) The amenities include those items listed in subparagraph (A) (CC) of this paragraph. All Developments can earn points for providing each identified amenity unless the item is specifically restricted to a specific Target Population. 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.
 - (A) Full perimeter fencing (2 points);
 - (B) Controlled gate access (2 points);
 - (C) Gazebo w/sitting area (1 point);
 - (D) Accessible walking/jogging path separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);
 - (E) Community laundry room with at least one washer and dryer for each 25 Units (3 points);
 - (F) Barbecue grill and picnic table-at least one of each for every 50 Units (1 point);
 - (G) Covered pavilion that includes barbecue grills and tables (2 points);
 - (H) Swimming pool. Must be a built-in (not above ground style) swimming pool that is at least 150 square feet in area (minimum 10x15 feet). For developments of 100 Units or more, must be at least 300 square feet in area (minimum 15x20 feet) or two pools (of 150 square feet) shall be provided. (3 points);
 - (I) Splash pad/water feature play area (1 point);
 - (J) Furnished fitness center. Equipped with fitness equipment options with at least one option per every 40 Units or partial increment of 40 Units: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, sauna, stair-climber or other similar equipment. Equipment shall be designated for commercial use. All Developments must have at least two equipment options but are not required to have more than five equipment options regardless of number of Units. (2 points);
 - (K) Equipped and functioning business center or equipped computer learning center. Must be equipped with 1 computer for every 30 Units loaded with basic programs, 1 laser printer for every 3 computers (minimum of one printer) and at least one scanner which may be integrated with printer (2 points);
 - (L) Furnished Community room (2 points);
 - (M) Library with an accessible sitting area (separate from the community room) (1 point);
 - (N) Enclosed community sun porch or covered community porch/patio (2 points);

- Service coordinator office in addition to leasing offices (1 point);
- (P) Senior Activity Room (Arts and Crafts, etc.) (2 points);
- (Q) Health Screening Room (1 point);
- Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point); (R)
- Horseshoe pit, putting green or shuffleboard court (1 point); **(S)**
- Community Dining Room w/full or warming kitchen furnished with adequate tables and (T) seating. (3 points);
- (U) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot; (1 point). Can only select this item if subparagraph (V) of this paragraph is not selected; or
- Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each (2 (V) points). Can only select this item if subparagraph (U) of this paragraph is not selected;
- Sport Court (Tennis, Basketball or Volleyball) (2 points);
- Furnished and staffed Children's Activity Center that must have age appropriate furnishings and equipment. Appropriate levels of staffing must be provided during after-school hours and during school vacations (3 points);
- Community Theater Room equipped with a 52 inch or larger screen with surround sound (Y) equipment; DVD player; and theater seating (3 points);
- Dog Park area that is fully enclosed and intended for tenant owned dogs to run off leash (1 (Z)
- Common area Wi-Fi (1 point); or
- Twenty-four hour monitored camera/security system in each building (3 points);
- (CC) Green Building Certifications. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Points may be selected from only one of three categories: Limited Green Amenities, Enterprise Green Communities and Leadership in Energy and Environmental Design (LEED).(maximum 6 points)
 - (-a-) Limited Green Amenities (2 points). The following items constitute the minimum requirements for demonstrating green building of housing tax credit Developments. Six (6) of the nine (9) items listed under subclause (-1-) through (-9-) of this clause must be met in order to qualify for the maximum points under this item.
 - (-1-) At least 20% of the water needed annually for site irrigation is from a rain water harvesting/collection system and/or locally approved greywater collection system. This can include rainwater harvested from gutters and downspouts to a storage tank or cistern where it can be treated or filtered for potable uses; untreated rainwater may be used for non-potable uses.
 - (-2-) Native trees and plants installed that are appropriate to the Development Site's soil and microclimate to allow for shading in the summer and heat gain in the winter.
 - (-3-) Install water-conserving fixtures that meet the EPA's WaterSense Label. Such fixtures must include low-flow or high efficiency toilets, bathroom lavatory faucets, showerheads and kitchen faucets. Rehabilitation Developments may install compliant faucet aerators instead of replacing the entire faucets.
 - (-4-) All of the HVAC condenser units are located so they are fully shaded 75% of the time during summer months (i.e. May through August).
 - (-5-) Install Energy-Star qualified hot water heaters or install those that are part of an overall Energy-Star efficient system.
 - (-6-) Install individual or sub-metered utility meters. Rehabilitation Developments may claim sub-meter only if not already sub-metered at the time of Application.
 - (-7-) Healthy finish materials including the use of paints, stains, adhesives and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standard.

- (-8-) Install daylight sensor, motion sensors or timers on all exterior lighting and install fixtures that include automatic switching on timers or photocell controls for all lighting not intended for 24-hour operation or required for security.
- (-9-) Recycling service provided throughout the compliance period.
- (-b-) Enterprise Green Communities. (4 points). The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Green Communities Criteria Enterprise found http://www.greencommunitiesonline.org.
- (-c-) LEED (maximum of 6 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification and points will be awarded based on the rating level achieved.
 - (-1-) LEED Certified (2 points);
 - (-2-) LEED Silver (3 points);
 - (-3-) LEED Gold (4 points); or
 - (-4-) LEED Platinum (6 points).
- (c) Unit Amenities. Applications that received points under this scoring item and subsequently received an award must provide enough Unit amenities to substantiate the points requested and awarded at Application. For Tax-Exempt Bond Developments, 14 points in Unit amenities must be selected to meet threshold. Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant can select points based on the point structure provided in paragraph (1) - (16) of this subsection and as certified to in the Application. The amenities will be required to be identified in the LURA. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of 3 points and Supportive Housing Developments will start with a base score of 5 points.
 - <u>(1)</u> Covered entries (1 point);
 - Nine foot ceilings in living room and all bedrooms (at minimum) (1 point); (2)
 - Microwave ovens (1 point); (3)
 - Self-cleaning or continuous cleaning ovens (1 point); (4)
 - (5) Refrigerator with icemaker (1 point);
 - 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);
 - (7) Laundry equipment (washers and dryers) for each individual Unit including a front loading washer and dryer in required UFAS compliant Units (3 points);
 - Thirty (30) year shingle or metal roofing (1 point);
 - Covered patios or covered balconies (1 point);
 - (10) Covered parking (including garages) of at least one covered space per Unit (2 points);
 - (11) 100% masonry on exterior (3 points) (Applicants may not select this item if clause (12) of this subparagraph is selected);
 - (12) Greater than 75% masonry on exterior (1 point) (Applicants may not select this item if clause (11) of this subparagraph is selected);
 - (13) Structural Insulated Panel construction with wall insulation at a minimum of R-20 and roof at a minimum R-30 (3 points);
 - (14) R-15 Walls / R-30 Ceilings (rating of wall/ceiling system) (3 points);
 - (15) 14 SEER HVAC (or greater) or evaporative coolers in dry climates for New Construction, Adaptive Reuse, and Reconstruction or radiant barrier in the attic for Rehabilitation (excluding Reconstruction) (3 points);
 - (16) High Speed Internet service to all Units (2 points);

- (d) Tenant Supportive Services. Applications that received points under this scoring item and subsequently received an award must provide enough supportive services to substantiate the points awarded at Application. The provision and complete list of supportive services will be included in the LURA and the timeframe by which services are offered must be in accordance with Chapter 60 of this title (relating to Compliance Administration). The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. No fees may be charged to the tenants for any of the services and there must be adequate space for the intended services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item.
 - Joint use library center, as evidenced by a written agreement with the local school district (2 points):
 - Weekday character building program (shall include at least on a monthly basis a curriculum (2) based character building presentation on relevant topics (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, stranger danger, etc.)) (2 points);
 - Daily transportation (i.e. bus passes, cab vouchers, specialized van on-site) (4 points);
 - Food pantry/common household items accessible to residents at least on a monthly basis (1 point);
 - GED preparation classes (shall include a certified instructor providing on-site coursework and exam) (1 point);
 - English as a second language classes (shall include a certified instructor providing on-site coursework and exam) (1 point);
 - Quarterly financial planning courses (i.e. homebuyer education, credit counseling, investing advice, retirement plans, etc.). Courses must be offered through an on-site instructor; a CD-Rom course is not acceptable (1 point);
 - Annual health fair (1 point);
 - Quarterly health and nutritional courses (1 point);
 - (10) Organized team sports programs or youth programs offered by the Development (1 point);
 - (11) Scholastic tutoring (shall include weekday homework help or other focus on academics) (3
 - (12) Notary Public Services during regular business hours (\$2306.6710(b)(3)) (1 point);
 - (13) Weekly exercise classes (2 points);
 - (14) Monthly arts and crafts (1 point);
 - (15) Annual income tax preparation (offered by an income tax prep service) (1 point);
 - (16) Monthly transportation to community/social events (i.e. lawful gaming sites, mall trips, community theatre, bowling, organized tours, etc.) (1 point);
 - (17) Monthly on-site social events (i.e. potluck dinners, game night, etc.) (1 point);
 - (18) Specific and pre-approved caseworker services for seniors, Persons with Disabilities or Supportive Housing (1 point);
 - Home chore services (such as valet trash removal, furniture movement and quarterly preventative maintenance including light bulb replacement) for seniors and Persons with Disabilities (1 point); and
 - (20) Any of the following 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; (1 point).

Attachment 2 Proposed Repeal Chapter 1

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC, Chapter 1, Subchapter A, §1.11, concerning Definitions for Housing Program Activities. The new section is proposed in order to create a centralized rule with definitions that could be applicable to other Departmental multifamily programs.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section as proposed.

Mr. Irvine has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced compliance with formalized policy, all contractual and statutory requirements.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The proposed section will not impact local employment.

The public comment period will be held between September 26, 2011 to April October 19, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2011 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 PM OCTOBER 19, 2011.

The new section is proposed pursuant to the authority of the Texas Government Code, Chapter 2306, which provides the Department the authority to adopt rules governing the administration of the Department and its programs.

The proposed new section affects no other code, article or statute.

§1.1. Definitions for Housing Program Activities.

HOUSING PROGRAMS BOARD ACTION REQUEST

September 15, 2011

Presentation, Discussion and Possible Action to authorize the use of a portion of the Supplemental Bond Contingency Reserve Fund for wildfire recovery assistance.

RECOMMENDED ACTION

Adopt guidelines for the use of a portion of the Supplemental Bond Contingency Reserve Fund:

WHEREAS, staff has already exercised initiative to make available CSBG discretionary funds and HOME funds for lawful purposes to aid persons impacted by the Texas wildfires, and

WHEREAS, staff has identified a portion of the Supplemental Bond Contingency Reserve Fund as a potential source of flexible funding to meet disaster recovery issues that other programs may not be sufficiently flexible or otherwise adequate to address other recovery or emergency assistance needs,

Now therefore it is hereby

RESOLVED, that the use of up to \$900,000 of the Supplemental Bond Contingency Reserve Fund for providing emergency assistance for recovery from Texas wildfires is hereby authorized and approved, and

FURTHER RESOLVED, that staff is hereby authorized, empowered, and directed to utilize such funds for this program in accordance with the following general guidelines:

Maximum flexibility to serve persons exiting schools and similar shelters who have already qualified for any other federal program but cannot otherwise immediately document that they are at or below 125% of federal poverty with up to 14 days hotel or motel stay while they are looking for a more stable housing solution.

- 1. Up to \$1000 in assistance for down payment, closing costs, or deposits when buying or leasing a new unit (including purchase of a manufactured home).
- 2. The existing network of Community Action Agencies serving areas impacted by these fires would administer these funds, allowing 5% for administrative costs.
- 3. Require verification of eligibility to receive State or Local Public Benefits under the Personal Responsibility and Work Opportunity Reconciliation Act, of 1996, as amended.
- 4. The Executive Director and his designees are granted flexibility to approve additional permitted uses not to exceed \$1000 per applicant household for other extraordinary housing and shelter-related needs.

and

FURTHER RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department to take such actions and enter into such agreements as they or any of them may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

The recent wildfires that have impacted so many areas in Texas, causing incredible damage, leaving thousands of persons homeless, demand an immediate and flexible response. Although the Department is fortunate to have some federal funding sources, such as CSBG discretionary, HOME, and, possibly, LIHEAP, to provide assistance, those federal programs often come with eligibility requirements, program limitations, and other requirements strings that present challenges. The Department's network of community action agencies and HOME subrecipients are already set up to administer these programs, but augmenting those funds with bond fees that can be used very flexibly will provide a valuable additional resource. The unique "case management" skills of community action agencies make them, in staff's believe, the optimal way to deliver these resources.

REPORT ITEMS

TDHCA Outreach Activities, July-August 2011

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Amy Young Program Technical	Austin	July 6	Housing Trust Fund	Technical Assistance
Assistance Conference Call				
HOME Homeowner Rehabilitation	Austin	July 6	HOME	Training
Assistance Training				
Housing Trust Fund – Rural	Raymondville	July 7	Housing Trust Fund	Technical Assistance
Housing Assistance Program				
Technical Assistance Visit				
Mental Health Planning Advisory	Austin	July 7-8	Housing Resource Center	Participant
Committee				1
Housing Trust Fund – Homebuyer	Brownsville	July 8	Housing Trust Fund	Technical Assistance
Assistance Program Technical				
Assistance Visit				
Rural Housing Workgroup	Austin	July 11	Housing Trust Fund,	Participant
8			Housing Resource Center	
Housing Trust Fund – Amy Young	Tyler	July 12	Housing Trust Fund	Technical Assistance
Program Technical Assistance Visit	1,101		Troubing Trust I and	T COMMITTED TO THE STATE OF THE
United Texas – Housing Initiatives	Sherman	July 12	Home Ownership	Training
that Work	Silerinan	July 12	Trome o whersing	Truming
Lender Visit/WR Starkey Mortgage	Sherman	July 12	Home Ownership	Presentation
Housing Trust Fund – Amy Young	Texarkana	July 13	Housing Trust Fund	Technical Assistance
Program Technical Assistance Visit	Textikulu	July 13	Trousing Trust I und	1 centificat 7 (55) statice
Public Hearing on Proposed	Austin	July 13	Community Affairs	Public Hearing
Amendment Relating to ARRA	Austin	July 13	Community Arrans	Tublic Hearing
WAP Funds				
Frontier at Montana subdivision/	Austin	July 15	Neighborhood	Participant
Ribbon Cutting Ceremony	Austin	July 13	Stabilization Program	Tarticipant
Public Hearing on 2012 LIHEAP	Austin	July 19	Community Affairs	Public Hearing
State Plan	Austin	July 19	Community Arrans	rublic Hearing
Disability Advisory Workgroup	Austin	July 20	Housing Resource Center	Participant
Promoting Independence Advisory	Austin	July 21	Housing Resource Center	Participant
Workgroup	Austin	July 21	Housing Resource Center	1 articipant
Dept. of State Health Services	Austin	July 22	Housing Resource Center,	Presentation
Policy Academy/Multifamily	Austin	July 22	Neighborhood	Trescritation
Webinar			Stabilization Program	
Housing Trust Fund – Amy Young	Austin	July 26	Housing Trust Fund	Technical Assistance
Program Technical Assistance Visit	Austin	July 20	Trousing Trust Fund	Technical Assistance
Housing & Health Services	Austin	July 28	Housing Resource Center	Interview
Coordination Council (HHSCC)	Austin	July 26	Housing Resource Center	Interview
Financial Feasibility Study				
Public Hearing on Housing Trust	Austin	July 29	Housing Trust Fund	Public Hearing
Fund Rules	Austin	July 29	Trousing Trust Fund	Tublic Hearing
HHSCC Financial Feasibility Study	Austin	August 1	Housing Resource Center	Interview
Bank of America Housing Summit	Dallas	August 1 August 2	Home Ownership	Participant
	+		Home Ownership	•
MCC Lender Training Intersection Council for the	Austin	August 5	*	Training
Interagency Council for the	Austin	August 5	Housing Resource Center	Participant
Homeless United Toyon Housing Initiatives	Houster	Angust 9	Home Ownership	Teoining
United Texas – Housing Initiatives	Houston	August 8	Home Ownership	Training
that Work	A	A	Majahhasha 1	Taninina
NSP Homebuyer and Marketing	Austin	Austin 9-10	Neighborhood	Training
Clinic	171	A 110	Stabilization Program	True teritor
United Texas – Housing Initiatives	Harlingen	August 10	Home Ownership	Training
that Work	<u> </u>	<u> </u>		1

Event	Location	Date	Division	Purpose
NSP Homebuyer and Marketing	Brownsville	Austin 10-11	Neighborhood	Training
Clinic			Stabilization Program	
NSP Homebuyer and Marketing	Fort Worth	Austin 11-12	Neighborhood	Training
Clinic			Stabilization Program	
MCC Lender Training	Austin	August 12	Home Ownership	Training
MCC Lender Training	Austin	August 19	Home Ownership	Training
Public Hearing on ARRA WAP	Austin	August 22	Community Affairs	Public Hearing
Funding Movement				
Bank of America Housing Summit	Fort Worth	August 23	Home Ownership	Participant
HOME Homebuyer Assistance,	Fort Davis	August 23-26	HOME	Technical Assistance
Tenant-Based Rental Assistance,				
and HRA-Disaster Recovery				
Technical Assistance Visit				
HOME Homeowner Rehabilitation	Fort Stockton	August 25-26	HOME	Technical Assistance
Assistance Technical Assistance				
Visit				
Low Income Housing Tax Credit	Round Rock	August 26	Compliance, Real Estate	Presentation
Training			Analysis	
Interagency Coordinating	Austin	August 30	Housing Resource Center	Participant
Commission for Building Healthy				
Families				
HOME Homebuyer Assistance	Austin	August 31	HOME	Training
Training				

Internet Postings of Note, July-August 2011

A list of new or noteworthy documents recently posted to the Department's Web site

2011 State of Texas Consolidated Annual Performance and Evaluation Report (CAPER) Reporting on Program Year 2010 — as required by HUD relating to CDBG, ESGP, HOME, and HOPWA: www.tdhca.state.tx.us/housing-center/pubs.htm#consolidated

Preliminary State of Texas Draft 2012 Qualified Allocation Plan (QAP) – to allow interested persons more time to review the proposed changes: www.tdhca.state.tx.us/multifamily/htc/index.htm

TDHCA Bonds Affected by Standard & Poor's Ratings Change – as the result of credit downgrade on municipal bonds backed by federal government: www.tdhca.state.tx.us/bond-finance/index.htm

State of Texas Draft 2012 and 2013 Community Services Block Grant (CSBG) State Application and Plan – as submitted to the US Department of Health & Human Services:

www.tdhca.state.tx.us/community-services/csbg/index.htm

RFP – Phase 2 Analysis of Impediments to Fair Housing Choice for the State of Texas – to identify a qualified vendor to conduct a comprehensive analysis for the Department (links to Comptroller's Web site): http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=96566

Preliminary State of Texas Draft 2012 Real Estate Analysis Rules – to allow interested persons more time to review the proposed changes: www.tdhca.state.tx.us/rea/index.htm

HOUSING RESOURCE CENTER BOARD REPORT ITEM SEPTEMBER 15, 2011

REPORT ITEM

Announcement of the Texas Department of Housing and Community Affairs' Schedule for Four Public Hearings to Gather Public Comment on Planning Documents and Rules for Fiscal Year (FY) 2012.

BACKGROUND

The Texas Department of Housing and Community Affairs (TDHCA) announces the schedule for four public hearings to gather public comment on the following topics:

- 2012 State of Texas Consolidated Plan One Year Action Plan (Plan)
- 2012 HOME, Housing Tax Credit and Housing Trust Fund Affordable Housing Needs Score (AHNS) Methodology
- 2012 HOME, Housing Tax Credit and Housing Trust Fund Regional Allocation Formula (RAF) Methodology
- 2012 Housing Tax Credit Program Qualified Allocation Plan and Rules
- 2012 Real Estate Analysis Rules
- 2012 Multifamily Housing Revenue Bond Rules
- Definitions for Housing Program Activities Rule

Housing Resource Center staff will be administering each of the following four hearings:

Thursday, September 29, Public Hearing at 9:00am Clements Building, 300 W. 15th Street, Room 103 Austin, TX 78701

Tuesday, October 4, Public Hearing at 12:00 noon Abilene City Hall Council Chambers 555 Walnut Street Abilene, TX 79601

Thursday, October 6, Public Hearing at 12:30pm Brownsville City Hall 1001 E. Elizabeth St. Brownsville, TX 78520

Friday, October 14, Public Hearing at 12:30pm Houston City Hall Annex Chambers 901 Bagby Houston, TX 77002 A twenty-four (24) day public comment period for all documents will be conducted from September 26th through October 19th, 2011. Public comment on the rules may also be provided in writing via: [MAIL] TDHCA, 2012 Rule Comments, P.O. Box 13941, Austin, TX 78711-3941 or [FAX] (512) 469-9606 or [EMAIL] tdhcarulecomments@tdhca.state.tx.us. Public comment on the Plan, AHNS Methodology, and RAF Methodology may be provided in writing via: [MAIL] Elizabeth Yevich, TDHCA, P.O. Box 13941, Austin, TX 78711-3941 or [FAX] (512) 475-1672 or [EMAIL] elizabeth.yevich@tdhca.state.tx.us.

HOUSING TRUST FUND BOARD REPORT ITEM

September 15, 2011

REPORT ITEM

Report item on Housing Trust Fund (HTF) Program Administrators that have been approved to participate in the funding reservation process.

See attached report.

Housing Trust Fund (HTF) Reservation System Access Log 2010-2011 Homebuyer Assistance (HBA) Program NOFA

NOFA Release Date: 3/7/2011

NOFA Collapse Date: 12/28/2011

Funding Originally Made Available: **\$1,682,150** Funds Remaining: Approximately **\$1,100,000**

Contract Number	Applicant Organization	Applicant Type	Applicant City	Applicant State	County(ies) Served
HBA-2011001	El Paso Collaborative for Community and Economic Development	nonprofit organization	El Paso	тх	El Paso
HBA-2011002	Community Development Corporation of Brownsville	nonprofit organization	Brownsville	TX	Cameron
HBA-2011003	McKinney Habitat for Humanity	nonprofit organization	McKinney	TX	Collin
HBA-2011004	Austin Habitat for Humanity, Inc.	nonprofit organization	Austin	TX	Travis
HBA-2011005	Bryan-College Station Habitat for Humanity, Inc.	nonprofit organization	Bryan	TX	Brazos
HBA-2011006	Habitat For Humanity of South Collin County, Texas	nonprofit organization	Plano	TX	Collin
HBA-2011007	Waco Habitat for Humanity, Inc.	nonprofit organization	Waco	TX	McLennan

Contract Number	Applicant Organization	Applicant Type	Applicant City	Applicant State	County(ies) Served
HBA-2011008	Mason County Habitat for Humanity, Inc.	nonprofit organization	Mason	ТХ	Mason
HBA-2011009	Habitat for Humanity of Jefferson County, Inc.	nonprofit organization	Beaumont	ТХ	Jefferson
HBA-2011010	Habitat for Humanity of Williamson County Texas, Inc.	nonprofit organization	Georgetown	TX	Williamson
HBA-2011011	DHI Mortgage Company, Ltd	for profit organization	Austin	TX	State Wide
HBA-2011012	Comal County Habitat for Humanity	nonprofit organization	New Braunfels	TX	Comal
HBA-2011013	W.R. Starkey Mortgage, LLP	for-profit organization	Plano	TX	State Wide
HBA-2011014	Network Funding, LP	for-profit organization	Houston	ТХ	State Wide
HBA-2011015	Cornerstone Mortgage Company	for-profit organization	Houston	TX	State Wide
HBA-2011016	The Housing Authority of the City of Texarkana, Texas	Texas public housing authority	Texarkana	TX	Bowie

NOFA Release Date: 3/7/2011 NOFA Collapse Date: 12/28/2011

Contract Number	Applicant Organization	Applicant Type	Applicant City	Applicant State	County(ies) Served
HBA-2011017	Galilee Community Development Corporation	nonprofit organization	San Angelo	тх	Tom Green
HBA-2011018	AmeriPro Funding, Inc.	for-profit organization	Austin	TX	Travis
HBA-2011019	Imortgage.com, Inc.	for-profit organization	Scottsdale	AZ	State Wide
HBA-2011020	Lower Valley Housing Corporation	nonprofit organization	onprofit organization El Paso		El Paso
HBA-2011021	Fort Worth Area Habitat for Humanity, Inc.	nonprofit organization	Fort Worth	ТХ	Tarrant
HBA-2011022	Houstonian Mortgage Group, Inc., a Texas Corporation, d/b/a Westin Mortgage Group	for-profit organization	Stafford	ТХ	State Wide
HBA-2011023	AmericaHomeKey, Inc.	for-profit organization	Dallas	ТХ	State Wide
HBA-2011024	NTFN, Inc, a Texas Corporation, d/b/a Premier Nationwide Lending	for-profit organization	Flower Mound	TX	State Wide
HBA-2011025	Victorian Finance, LLC	for-profit organization	Bridgeville	РА	State Wide

NOFA Release Date: 3/7/2011 NOFA Collapse Date: 12/28/2011

Contract Number	Applicant Organization	Applicant Type	Applicant City	Applicant State	County(ies) Served
HBA-2011025	JP Morgan Chase Bank, National Association	for-profit organization	Columbus	ОН	State Wide
HBA-2011026	Willacy County	ounty Unit of local government Raymondville		TX	Cameron
HBA-2011027	Harlingen Community Development Corporation	nonprofit organization	Harlingen	TX	Cameron, Hildalgo, Willacy
HBA-2011028	City Bank, d/b/a City Bank Mortgage	for-profit organization	Lubbock	TX	Lubbock

NOFA Release Date: 3/7/2011

NOFA Collapse Date: 12/28/2011

^{*}In accordance with the NOFA, eligible applicants are Units of Local Government, Nonprofit Organizations, Public Housing Authorities (PHAs), for-profit organizations or any other entity authorized by the Department's Executive Director.

OFFICE OF RECOVERY ACT ACCOUNTABILITY AND OVERSIGHT

BOARD REPORT ITEM September 15, 2011

Report Item

Presentation and Discussion on a Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). This item provides an update on the status of the activity relating to each of the Recovery Act programs as well as a summary of the quarterly Section 1512 jobs reporting submitted for April 1, 2011 through June 30, 2011.

Recovery Act Program Summary

		Recovery	Act Frogram Summary			
Program	Activities	Program Status	Total Funding Expended to Date*	Served to Date**	1512 Reported Data Reported Program Expenditures^^	Timeline / Contract Period
			Percent Expended		Jobs Created or Retained^	
Weatherization Assistance Program	Minor home repair to increase energy efficiency, maximum \$6,500 per household. Households at or below 200% of poverty.	Contracts executed for 100% of funds, subrecipients drawing funds. Fund movements among contracts are being executed and have been submitted to DOE consistent with production forecasting.	\$326,975,732 \$235,094,536 71.90%	42,350 households	\$206,563,571 1040.77 jobs	 Obligation required by September 30, 2010. (Achieved) Recipients will be required to expend all funds within a two year contract period (August 31, 2011); subrecipients taking on additional funds have been granted extensions: 1 extended thru November 2011, 28 to thru December 2011, and 7 thru Feb 2012. Federal funding expiration date is March 31, 2012, with a 90 day close out period.
Homelessness Prevention and Rapid Re- Housing Program	Rental asst, housing search, credit repair, deposits, moving cost assistance, & case management. Persons at or below 50% AMI.	 All contracts executed and subrecipients currently drawing funds. October 2010 letter from HUD indicating State on target for expending all funds. Fund movements among contracts are being executed. 	\$41,472,772 \$37,124,880 89.52%	37,825 persons	\$33,447,467 151.45 jobs	 HUD requires 60% of funds expended in 2 years (Achieved Early); 100% in 3 years. Recipients will be required to expend all funds by December 31, 2011. Federal funding expiration date is July 16, 2012.
Community Services Block	Assists existing network of Community Action	• COMPLETE	\$48,148,071	99,325 persons		Program complete.

Page: 1 of 2

Program	Activities	Program Status	Total Funding Expended to Date* Percent Expended	Served to Date**	1512 Reported Data Reported Program Expenditures^^ Jobs Created or Retained^	Timeline / Contract Period
Grant Program	Agencies with services including child care, job training, and poverty-related programs. Persons at or below 200% of poverty.	CSBG ARRA funds expired Sept 30, 2010	\$48,117,069 99.94%		\$48,119,270	
Tax Credit Assistance Program	Provides assistance for 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	 Written Agreements executed for sixty-four (64) awards as of January 7, 2011. Sixty-four(64) loans have closed; Amount Awarded: \$148,354,769 (100%) Amount Closed: \$148,354,769 (100%) 	\$148,354,769 \$132,715,943 89.46%	8,346 households	\$126,827,062 151.45 jobs	 Commitment of 75% of funds required by February 17, 2010. (Achieved) State must expend 75% of funds by Feb 17, 2011. (Achieved) Owners must expend 100% of funds by February 17, 2012.
Housing Tax Credit Exchange Program^^^	Provides assistance to 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	 Written agreements have been executed for 89 out of 89 awards as of December 6, 2010. Amount Awarded: \$594,091,929 (100%) Amount Closed: \$594,091,929 (100%) 	\$594,091,929 \$521,934,390 87.85%	8,015 households	9,351 jobs	 State must award all funds by December 31, 2010. (Achieved) Owners must incur 30% of costs by December 31, 2010. (Achieved) Unused funds to be returned by December 2011.
Total		2011	\$1,159,043,273 \$974,986,817 84.12%	137,150 persons 58,711 households	\$895,278,290 1512: 1,341.13 jobs this quarter Exchange: 9,351 jobs cumulatively	

^{*}This table includes updated expenditure data as of 9/2/2011.

^{**}Total served data through 3/31/2011 for HPRP and 12/31/2010 for CSBG; 8/29/11 for WAP, 2/2/2011 for TCAP; and 12/10/2010 for HTC Ex. For TCAP and HTC Ex, households represent closed transactions.

[^]Jobs created or retained between 4/1/2011 and 6/30/2011. Note that Section 1512 reporting is not required for HTC Exchange and the figure includes total estimated jobs to be created or retained as reported to the U.S. Department of Treasury for 12/31/2010.

^{^^} Program expenditures reported for each program includes subrecipient and TDHCA administrative expenses. Information is updated quarterly. Data was submitted to Recovery.gov for quarter ending 6/30/2011.

^{^^^} The Housing Tax Credit Exchange Program is not subject to 1512 reporting requirements.