

BOARD MEETING OF OCTOBER 4, 2011

J. Paul Ozer, Chair



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

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

**A G E N D A
October 4, 2011**

**8:30 a.m. – 3:00 p.m.
Capitol Extension Auditorium**

**3:15 p.m. – adjournment
Capitol Extension E1.028**

1500 North Congress Ave.
Austin, TX

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

J. Paul Oxer, Chairman

Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

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.

Approval of the following items presented in the Board materials:

ACTION ITEMS

Item 1: Rules

- a) 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*
- b) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1 §1.1 concerning Definitions for Housing Program Amenities 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

Tom Gouris
DED Housing Programs

Item 2: Bond Finance

- a) Presentation, Discussion, and Possible Action of Resolution 12-008 Ratifying the Procurement of a Replacement Master Servicer

Tim Nelson
Dir. Bond Finance

Item 3: Community Services

- a) Presentation, Discussion, and Possible Approval of the Request for Applications (RFA) to provide Community Services Block Grant (CSBG) services to Loving, Reeves, Ward, and Winkler Counties beginning January 1, 2012

Michael DeYoung
Dir. Community Affairs

Item 4: Housing Resource Center

- a) Presentation, Discussion, and Possible Authorization of the 2012 Regional Allocation Formula Methodology (Draft)

Elizabeth Yevich
Dir. Housing Resource
Center

Item 5: 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:

Appeals Filed Timely

Brent Stewart
Dir. Real Estate Analysis

Item 6: Multifamily Division Items – Tax Credit Program:

Cameron Dorsey
Dir. Housing Tax Credits

- a) Presentation, Discussion, and Possible Action regarding a commitment of Housing Tax Credits from the 2011 State Housing Credit Ceiling for Application #11223, The Terrace at MidTowne

- b) 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

11262	The Millennium - McKinney	McKinney
11261	North Angelo Housing Estates	San Angelo
11255	Justice Park Senior Villas	Houston
11250	Cypress Creek at Four Seasons	Kyle
11249	Silvercreek I Apartments	Houston
11245	Bar T Apartments	Longview
11244	E2 Flats	Dallas
11243	HomeTowne at Kingwood	Houston
11241	Park Hudson Senior	Bryan
11239	Sansbury Senior	Greatwood
11237	Summer Crest Senior Development	San Angelo
11235	HomeTowne at Westheimer Lakes	Houston
11234	Villas at West Mountain	El Paso
11232	River Valley Apartments	Harlingen
11231	Spring Hollow Apartments	Austin
11230	West Park Senior Housing	Corsicana
11227	Dolphin's Landing Apartments	Corpus Christi
11226	Clear Springs	Odessa
11222	Westway Place	Corsicana
11221	Stonebridge Place	Palestine
11218	The Works at Pleasant Valley	Austin
11216	The Sierra on Pioneer Road	Mesquite
11214	Cobblestone Village	Bryan
11206	Enclave on S. Main Apartments	Houston
11205	Hawk Ridge Apartments	White Settlement
11198	Casa Orlando Apartments	Lubbock
11196	Central Village Apartments	Plainview
11183	Lakeside Village Homes	Fort Worth
11181	Dunes Apartments	Seminole
11180	Rainy Creek Apartments	Abilene
11178	Esperanza Cove Senior Apartments	Fort Worth
11177	Trinity East Village	Houston
11175	Three Forks Ranch	Kaufman
11171	South Fork Apartments	Stephenville
11169	Merritt Bryan Station Senior Village	Bryan
11168	The Trails at Nodding Pines	Corpus Christi
11167	The Monarch at Bay Prairie	Bay City
11166	The Palms at Leopard	Corpus Christi
11163	The Grove at Elm Park	Lubbock
11157	Andalusia Pointe	Combes
11156	Montabella Senior	San Antonio
11151	Sage Brush Apartments	Midland
11150	New Hope Housing at Rittenhouse	Houston

11148	Ivy Terrace	McAllen
11142	Veterans Place	Dallas
11140	Villas of Giddings	Giddings
11139	Champion Homes at Copperidge	Dallas
11137	Genoa Ranch	Houston
11134	Grand Manor Apartments	Tyler
11127	1400 Belleview	Dallas
11124	Peoples El Shaddai	Dallas
11122	Silver Spring Grand Heritage	Lavon
11114	Green Haus on the Santa Fe Trail	Dallas
11107	Kinwest Manor	Irving
11105	Aster Villas	Del Rio
11102	Christie's Cove	Harlingen
11098	Hatcher Square	Dallas
11094	Mariposa at Highway 6	Bryan
11090	Sutton Oaks II	San Antonio
11089	Parkstone Senior Village Phase II	Wichita Falls
11087	Tidwell Lakes Ranch	Houston
11085	Whitetail Ridge	Hemphill
11080	Hidden Valley Estates	Houston
11079	Lexington Landing	Corpus Christi
11074	The Villas at Tuscany	Lubbock
11073	Cypress Run	Universal City
11072	The Landings at Westheimer Lakes	Houston
11071	Heritage Oak Hill	Austin
11068	North Desert Palms	El Paso
11067	Southwest Plains Villas	Lubbock
11066	Anson Park III	Abilene
11065	Robinson Senior Villages	Robinson
11062	Pioneer Crossing for Seniors Mineral Wells	Mineral Wells
11059	Colonia Guadalupe	Laredo
11058	Connell Villa	Kingsville
11057	The Mercer	Bryan
11056	St. Paul Apartments	Dallas
11054	Beaumont Place of Grace	Beaumont
11050	Palm Gardens	Corpus Christi
11049	The Palisades of Inwood	Houston
11048	La Privada	Edinburg
11046	Buckhorn Place	Huntsville
11045	Lexington Vista	Corpus Christi
11043	La Serena	Harlingen
11041	Riverwood Commons	Bastrop
11039	Timberbrook Village	Magnolia
11037	Spring Trace	Spring
11036	Hidalgo Sr. Apartments.	Weslaco
11033	American GI Forum Village I & II	Robstown
11031	La Hacienda Apartments.	Harlingen
11026	Walnut Springs	Sequin
11025	Seaside Manor	Ingleside
11024	Zion Bayou	Houston
11022	East Houston Gardens	Houston
11021	Candlestick Village	Fulton
11020	The Grand Texan – Waxahachie	Waxahachie

EXECUTIVE SESSION

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

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:

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Chairman

- 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;*
 - 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

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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 ACTION SUMMARY
MULTIFAMILY FINANCE DIVISION
OCTOBER 4, 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 between October 21st and October 28th. There will also be consolidated public hearings during this time 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;

- Applications proposing Rehabilitation for Developments more than 40 years old must be submitted as Reconstruction otherwise it will be considered ineligible;
- Qualification as a High Opportunity Area and the provision of the 30% boost in Eligible Basis;
- New mechanisms for determining tie-breakers;
- Increasing the rehabilitation costs from \$15k/Unit to \$25k/Unit with a comparable increase on USDA Applications;
- 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;
- The Income and Rent Levels of the Tenants scoring items are revised to reflect deeper targeting for Developments proposed in major MSA's in order to achieve the maximum points and less restrictive deep targeting for those Developments proposed in other areas.
- Revising Unit of General Local Government Funding to reflect a more local and meaningful contribution;
- Revising the breakdown for Cost per Square Foot to include limits for Direct Hard Costs;
- Including new scoring items for Additional Evidence of Preparation to Proceed and Repositioning of Existing Developments;
- Revising the Leveraging of Private, State and Federal to include permanent, primary financing;
- Removing Green Building Amenities as a scoring item (but leaving in as a threshold item);
- Increasing the scores on a few items to allow for a new scoring item of Additional Evidence of Preparation 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;
- Reducing points for Economic Development Initiatives and Community Revitalization; and
- Reducing the Commitment or Determination Notice Fee from 5% to 4% of the Annual Housing Tax Credit Amount.

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.

At the direction of the Board at the September 15th Board meeting, staff re-visited many of the changes that were initially proposed in an effort to streamline and simplify the housing tax credit process as well as re-capture the original intent of the housing tax credit program as a whole. As a result, staff hosted a roundtable discussion on September 27th to solicit feedback from the industry regarding some of these proposed changes that may not have been originally contemplated in the version presented at the September 15th Board meeting. The Draft QAP incorporates a variety of the initial public feedback, feedback from Board members, 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 2 of 95).** 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 5 of 95).** 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 8 of 95).** 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 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 proposed in Central Business Districts to vary in the unit maximum percentages listed for each bedroom size provided there are no more than 70% one or two bedroom units or no more than 20% three bedroom units.
4. **§50.5(d) – Limitations on Developments Proposing to Qualify for a 30% Increase in Eligible Basis (Page 15 of 95).** 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 and Central Business Districts based on the Department's definition of such areas.
5. **§50.6(b)(1) – Allocation and Award Process (Page 17 of 95).** 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 sub-region.

6. **§50.6(e) – Tie Breakers (Page 20 of 95).** 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 breakers be determined based on: first, 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; second, the least amount of credits per tax credit Unit; and third, 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.
7. **§50.7(a)(2) – Administrative Deficiency Process (Page 22 of 95).** 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.
8. **§50.7(c) – Pre-application Threshold Criteria (Page 25 of 95).** This section proposes to remove the requirement for documented site control at pre-application and instead proposes to only require a legal description of the Development Site.
9. **§50.8(a)(3) – Threshold (Rehabilitation Costs) (Page 31 of 95).** This section has been modified to reflect an increase from \$15k/Unit in rehab costs to \$25k/Unit and an increase from \$9k/Unit to \$19k/Unit for USDA Applications. Additionally, the calculation of the costs excludes off-sites and contingency.
10. **§50.8(a)(4) – Threshold (Experience Certification) (Page 31 of 95).** This section has been revised to reflect a combined total number of units needed to qualify are 180 units as well as clarifies that an individual attempting to use the experience of another entity must demonstrate they have the authority to act on their behalf.
11. **§50.8(a)(5) – Threshold (Certifications - Common Amenities) (Page 33 of 95).** 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, LEED Certification and NAHB Green 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.
12. **§50.8(a)(6) – Threshold (Architectural Drawings) (Page 39 of 95).** 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, if applicable.
13. **§50.8(a)(8)(A) – Threshold (Site Control) (Page 40 of 95).** 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.

14. **§50.8(a)(8)(B) – Threshold (Zoning) (Page 42 of 95).** This section is revised to require a letter from the chief executive officer confirming there is no zoning for the area containing the proposed Development and that also must state the Development as proposed is not inconsistent with the local requirements.
15. **§50.8(a)(8)(C) – Threshold (Financing Requirements) (Page 42 of 95).** 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.
16. **§50.8(a)(9)(B) – Threshold (Signage) (Page 46 of 95).** This section is proposed to be deleted.
17. **§50.8(a)(10) – Threshold (Development Proposed Ownership Structure). (Page 46 of 95).** 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.
18. **§50.8(a)(14) – Threshold (Supplemental Threshold Reports) (Page 49 of 95).** This section has been revised to reflect that a Property Condition Assessment is not required on those Developments proposing Reconstruction.
19. **§50.9(a)(1) – Selection (Financial Feasibility) (Page 51 of 95).** This section is revised in a way that reinstates the language from the 2010 QAP that simply requires supporting data from the permanent or construction lender that confirms the financial feasibility of the Development as proposed.
20. **§50.9(a)(2) – Selection (Quantifiable Community Participation) (Page 52 of 95).** 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.

21. **§50.9(a)(3) – Income Levels of the Tenants (Page 55 of 95).** This scoring item was modified to reflect deeper targeting for Developments proposed in major MSA’s in order to achieve the maximum points and less restrictive deep targeting for those Developments proposed in other areas.
22. **§50.9(a)(4) – Size and Quality of the Units (Page 55 of 95).** 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 56 of 95).** This section is revised to reflect lower amounts per Unit required to meet the 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). The source must be a local source and if in the form of a loan, it must be in the form of a below market rate loan, the loan must be at least 150 basis points below the current market rate and have a term of at least 3 years and origination fees of less than 2% of the loan amount. 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 59 of 95).** 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)(7) – Rent Levels of the Tenants (Page 59 of 95).** This scoring item was modified to reflect deeper targeting for Developments proposed in major MSA’s in order to achieve the maximum points and less restrictive deep targeting for those Developments proposed in other areas.
26. **§50.9(a)(8) – Cost of the Development Per Square Foot (Page 60 of 95).** This section is modified to include limits on the Direct Hard Costs per square foot.
27. **§50.9(a)(9) – Tenant Services (Page 61 of 95).** 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.
28. **§50.9(a)(11) – Additional Evidence of Preparation to Proceed (Page 62 of 95).** 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. Additionally, it includes an item for those Applications that have been submitted in prior Application Rounds; however, they were not competitive enough to ultimately receive an award.

29. **§50.9(a)(12) – Leveraging of Private, State and Federal Resources (Page 63 of 95).** This section is revised to reflect points for permanent, primary financing.
30. **§50.9(a) – Green Building (Page 66 of 95).** This scoring item is proposed to be deleted.
31. **§50.9(a)(15) – Developments in Census Tracts with Limited Existing HTC Developments (Page 67 of 95).** 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.
32. **§50.9(a)(14) – Development Location (Page 68 of 95).** This section is revised to allow points under one of five criteria: if the Development is proposed to be located in a High Opportunity Area, a Central Business District, Federal Urban Enterprise Community or Urban Enhanced Enterprise Community (i.e. Growth Zones), an Economically Distressed Area (EDA), a Colonia or if the Application contains a resolution or ordinance of support from the Governing Body of the proposed Development. The first two criteria are eligible for 4 points while the remaining three criteria are eligible for 1 point.
33. **§50.9(a)(19) – Site Characteristics (Page 70 of 95).** 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.
34. **§50.9(a)(20) – Repositioning of Existing Developments (Page 70 of 95).** This is a new scoring item meant to provide an incentive for the repositioning of a market rate property that would result in a substantial interior scope of work and create an increase the affordable housing stock.
35. **§50.9(a) – Development Size (Page 70 of 95).** This scoring item, previously considered item #22 is proposed to be 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.
36. **§50.9(a)(23) – Economic Development Initiatives (Page 71 of 95).** This section proposes to be reduced from 4 points to 1 point and includes economic development initiatives adopted by the local government (i.e. TIF or TIRZ), includes state designated Enterprise Zones and also proposes to move the EDA, Colonia or Federal Urban Enterprise Community or Urban Enhanced Enterprise Community (i.e. Growth Zones) items to Development Location.
37. **§50.9(a)(24) – Community Revitalization or Historic Preservation (Page 72 of 95).** This section is revised to reflect the following:
 - The maximum points under this scoring item have been revised from 6 points to 1 point and includes Community Revitalization whether in or outside of a Qualified Census Tract.
 - A letter from the Appropriate Local Official must be submitted affirming that the Development is located within the specific geographic area covered by the plan, that the plan is not a Consolidated Plan or other Economic Development Plan or city-wide plan, the plan has been 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.

- 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.

38. **§50.9(a)(26) – Third Party Funding Outside of Qualified Census Tracts (Page 74 of 95).** This section is proposed to be merged with Leveraging of Private, State and Federal Resources.
39. **§50.9(b) – Scoring Criteria Imposing Penalties (Page 74 of 95).** 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.
40. **§50.12(f) – 10% Test (Page 84 of 95).** 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. Additionally, it requires a certification from the lender or syndicator identifying the Guarantors.
41. **§50.12(g) – Commencement of Substantial Construction (Page 85 of 95).** This requirement has been removed from the QAP and is addressed in Chapter 60 of the Compliance Administration rules.
42. **§50.13(b) – Amendment Process (Page 87 of 95).** This section is revised to reflect that exclusion of any threshold requirements is considered to be a material alteration of a Development.
43. **§50.13(c) – Extension Requests (Page 88 of 95).** 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.
44. **§50.14(f) – Commitment or Determination Notice Fees (Page 92 of 95).** This section proposes to reduce the Commitment or Determination Notice fee from 5% to 4% of the total annual housing tax credit amount.
45. **§50.14(l) – Extension and Amendment Fees (Page 93 of 95).** 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.

46. **§50.14(m) – Refund of Fees (Page 93 of 95).** This section has been added to reflect that the Executive Director may approve full or partial refunds of fees as noted in the QAP.
47. **§50.16 – Waiver and Amendment of Rules (Page 94 of 95).** This section has been modified to allow for waiver requests from an Applicant relating to requirements in the QAP.
48. **§50.17(b) – Department Responsibilities (Page 95 of 95).** 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. #	Topic	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 +16 to -16	2306.6710(b)(1)(F); 2306.6725(a)(2)
7	Rent Levels of the Units	14 Max	Range 14 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	Additional Evidence of Preparation to Proceed	7	N/A	N/A
12	Leveraging of Private, State and Federal Resources	7 Max	Range 7 to 6	2306.6725(a)(3); 2306.6710(E)(1)
13	Community Input Other Than QCP	6 Max	Range 6 to 0	N/A
14	Pre-Application Incentive Points	6	N/A	2306.6704
15	Census Tracts with Limited Existing HTC Developments	6 Max	Range 6 to 4	2306.6725(b)(2)
16	Development Location	4 Max	Range 4 to 1	2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(C)(i) and (vii); 2306.6710(e)(1)
17	Special Housing Needs Populations	4	N/A	42(m)(1)(C)(v)
18	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)
19	Site Characteristics	4	Up to 4 points	N/A
20	Repositioning of Existing Developments	3	N/A	N/A
21	Sponsor Characteristics	2	N/A	42(m)(1)(C)(iv)
22	Economic Development Initiatives	1	N/A	2306.127
23	Revitalization or Historic Preservation	1 Max	N/A	42(m)(1)(C)(iii); 42(m)(1)(B)(ii)(III); H.R. 3221
24	Right of First Refusal	1	N/A	2306.6725(b)(1); 42(m)(1)(C)(viii)
	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, Executive 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 October 21 to October 28, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2012 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 28, 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
2012~~4~~ - 2013 Qualified Allocation Plan
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§~~49~~50.1. General Program Information.

~~(a)~~ (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) 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.~~

§~~49~~50.2. 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) 9% if the Development is proposed to be placed in service prior to December 31, 2013 and such timing is deemed appropriate by the Department or if the ability to claim the full 9% credit is extended by Congress;

(ii) 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) **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.
- (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 a minimum, (A) and (B) of the following along with either (C) or (D):
(A) 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; and
(B) 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);
(C) Within a half-mile of public transportation if such transportation is available in the municipality or county in which the Development is located; or
(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.
- ~~(16)~~ **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.
- ~~(17)~~ **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.
- ~~(18)~~ **Qualified Nonprofit Organization**--An organization that meets the requirements of Texas Government Code §2306.6706 and §2306.6729.
- ~~(19)~~ **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 development 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.

- (~~21~~19) **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.
- (~~22~~20) **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 guardians 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 entirely Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations.
- (~~24~~1) **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.
- (~~25~~2) **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.
- ~~(23) **Transit Oriented District**--A mixed use residential and commercial area, 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.~~
- (26) **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.

§~~49~~50.3. 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).

<u>2012 Program Year Due Date</u>	<u>2013 Program Year Due Date</u>	Documentation Required
12/ 19 20/2011 0	<u>12/17/2012</u>	Application Acceptance Period Begins (Competitive HTC Only).
12/ 19 20/2011 0	<u>12/17/2012</u>	Pre-application Neighborhood Organization Request Date (Competitive HTC Only).
12/3 0 1/2011 0	<u>12/28/2012</u>	Pre-application Response to Neighborhood Organization Request Date (Competitive HTC Only).
01/ 10 07/2012 1	<u>01/08/2013</u>	Pre-Application Final Delivery Date (Competitive HTC Only).
01/2 0 1/2012 1	<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 3 2/2012 1	<u>02/22/2013</u>	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.
03/01/2012 1	<u>03/01/2013</u>	Full Application Delivery Date (Competitive HTC Only).
03/01/2012 1	<u>03/01/2013</u>	Quantifiable Community Participation (QCP) Delivery Date (Competitive HTC Only).
03/01/2012 1	<u>03/01/2013</u>	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).
03/01/2012 1	<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.
03/02/2012 1	<u>03/04/2013</u>	Rural Rescue Application Submission

<u>2012 Program Year Due Date</u>	<u>2013 Program Year Due Date</u>	Documentation Required
		Period (Ends 11/13 5 /2012 4 and 11/12/2013 respectively).
04/01/2011		Input from State Senator or Representative Delivery Date (Competitive HTC Only).
04/0 2 <u>1</u> /201 2 <u>4</u>	<u>04/01/2013</u>	Market Analysis Delivery Date (Competitive HTC Only).
04/0 2 <u>1</u> /201 2 <u>4</u>	<u>04/01/2013</u>	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).
06/13 5 /2012 4	<u>06/12/2013</u>	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 2 <u>4</u>	<u>11/01/2013</u>	Carryover Documentation Delivery Date (Competitive HTC Only).
07/01/201 3 <u>2</u>	<u>07/01/2014</u>	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 4 <u>3</u>	<u>12/31/2015</u>	Placement in Service Deadline (Competitive HTC Only).
Forty-five (45) days prior to Board meeting	<u>Forty-five (45) days prior to Board meeting</u>	Amendment Requests.
Fifteen (15) business days prior to Board meeting <u>Thirty (30) days prior to the</u>	<u>Thirty (30) days prior to the deadline, as applicable</u>	Extension Requests.

<u>2012 Program Year Due Date</u>	<u>2013 Program Year Due Date</u>	Documentation Required
<u>deadline, as applicable</u>		
<u>Five (5) business days after the Deficiency Notice date (without incurring point loss or penalty fee)</u>	<u>Five (5) business days after the Deficiency Notice date (without incurring point loss or penalty fee)</u>	<u>Administrative Deficiency Deadline</u>

§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 a with 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, Chief of Staff, General Counsel, a Deputy Executive Director, the Director of Housing Tax Credits~~Multifamily Finance Production~~, the Chief of Compliance and Asset Oversight, ~~Director of Portfolio Management and Compliance~~, the Director of Real Estate Analysis, or a manager over Housing Tax Credits employed by the Department or any person exercising such responsibilities regardless of job title; (§2306.6703(a)(2))
- (6) ~~t~~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
- ~~(10)~~ ~~t~~There is, involving the Application or Applicant, a violation of §2306.6733 of the Texas Government Code; or
- ~~(11)~~ ~~h~~Has been found by the Board, after holding a hearing before the Board, to warrant ineligibility because of the circumstances surrounding a voluntary~~ly~~ or involuntary~~ly~~ 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. ~~t~~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 ~~exit removal~~ 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) - ~~(D)~~ 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 or omission 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 exercises common Control ~~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 §~~50~~49.14 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, General Contractor, 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, General Contractor, or any Affiliate of such entity whose pre-development award of non-tax credit funds from the Department has not been repaid in accordance with the terms of repayment 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~~
 - ~~(11) If more than 50% of the Developer Fee is deferred as reflected in the Sources and Uses exhibit in the Application or the commitments from the lender or syndicator.~~
 - (10) If more than \$13,000 in housing tax credits per tax credit Unit are requested as reflected in the Funding Request in the Application as originally submitted; or
 - (11) For Applications submitted under the State Housing Credit Ceiling, if more than 120% of the credit amount available in the sub-region is requested at the time of the original submission of the Application based on estimates released by the Department on December 1. The Department will consider the amount in Volume 1, Tab 1, Part C, Funding Request to be the amount of housing tax credits requested.
- (c) **Ineligible Developments.** Those Developments identified in paragraphs (1) - (164) 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 proposed in a Central Business District with more than 70% one bedrooms or two bedrooms or more than 20% three bedrooms;
- ~~(87)~~ Any Development that violates §1.15 of this title (relating to Integrated Housing Rule);
- (9) A proposed Rehabilitation (excluding Reconstruction) of an existing property that has been in active use for more than forty (40) years unless the property is either:
 - (A) To be rehabilitated with support of historic tax credits;
 - (B) To be done as adaptive reuse; or
 - (C) A Development that includes an architect's or engineer's statement confirming that the proposed rehabilitation will be structurally viable for its required affordability period, assuming customary ongoing maintenance.
- ~~(108)~~ Any Development located in an Urban Area involving New Construction, Reconstruction or Adaptive Reuse of Units (except for a Qualified Elderly Development, a Development proposed in a Central Business District, a Development composed entirely of single family dwellings, ~~or and certain specific types of transitional Supportive Housing Developments 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) - ~~(D)~~ 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) - ~~(D)~~ 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;~~
- ~~(119)~~ Any Development which is intended to house seniors that is not consistent with the definition of a Qualified Elderly Development;
- ~~(120)~~ 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;
- ~~(134)~~ 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; ~~(Rural Developments funded through TRDO-USDA)~~ (Developments located in a Central Business 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 easement of any overhead high voltage transmission line or inside the engineered fall distance of any support structure for high voltage transmission lines, radio antennae, satellite towers, etc. ~~This does not apply to local service electric lines and poles; "fall line" of high-voltage transmission power lines;~~
 - (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.
- (142) ~~Two~~One 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 ~~two~~one 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 ~~two~~one 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)
- (153) **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 ~~§50~~§49.10(d) of this chapter (relating to Appeals Process), this determination becomes final.
- (164) **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 ~~SRO~~Supportive Housing Developments; Rehabilitation Developments exempt from dishwasher if one was not originally in the ~~u~~Unit);
- (F) Energy-Star rated refrigerator;
- (G) Oven/Range;
- (H) Exhaust/vent fans (vented to the outside) in bathrooms;
- (I) At least one Energy-Star rated ceiling fan ~~per Units 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 have central heating and be air-conditioned (Packaged Terminal Air Conditioners meet this requirement for Supportive Housing Developments); ~~and~~
- (M) Fire sprinklers in all Units where no local code prevails ~~where required by local code;~~ and
- (N) Adequate parking spaces consistent with local code, unless there is no local code, in which case the requirement would be 1.5 spaces per Unit for non-Qualified Elderly Developments and one (1) space per Unit for Qualified Elderly.

§4950.5. 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 Round to 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). 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 current 2011 calendar year, including commitments from the current 2011 Credit Ceiling and forward commitments from the following years' Application Round 2012 Credit Ceiling, are applied to the credit cap limitation for the current 2011 Application Round. In order to evaluate this \$2 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 \$2 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";
- (3) 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.
- (4) For Applications 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 ~~§49~~50.3 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).

- (1) 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, t~~The Development meets one of the criteria described in subparagraphs (A) - (D) of this paragraph (pursuant to the authority granted by H.R. 3221):
 - (A) Any Rural Development;
 - (B) Developments proposing entirely 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;
 - ~~(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) Developments proposed to be located in a Central Business District as defined in §50.2(7) of this chapter (relating to Definitions);
 - (D) Developments proposed in a High Opportunity Area 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).~~
- ~~(4) The Development proposing to build in an area impacted by a disaster for which federal legislation providing additional credits has been enacted.~~

§4950.6. Allocation and Award Process. The purpose of this section is to identify the statutory set-asides 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))
- (1) **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 do not expect to receive a benefit in the allocation of tax credits as a result of being affiliated with a nonprofit. The Department reserves the right to request a change in this determination and/or not recommend credits for those unwilling to switch if insufficient Applications in the Nonprofit Set-Aside are received. (§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 loan 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 **2014** Competitive Housing Tax Credits issued by the Board in the current program year 2014 will be applied to each Set-Aside, Rural Regional Allocation, Urban Regional Allocation and/or TRDO-USDA Set-Aside for the **2014 current** 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. This rural redistribution will continue until at least 20% of the funds available to the state are allocated to Rural Areas. (§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;
 - (6) 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 and this set-aside. ~~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 limit 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)

(e) 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, Rural or state collapse~~ and ~~are both each of the tied Applicants are~~ 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 involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.~~ 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.
 - (B) Applications which are determined by the Department to use the least credits per tax credit Unit will win the second tie breaker.
 - (C) 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 third 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 ~~30~~~~29~~, ~~2011~~ of the current program year will take precedence over the Housing Tax Credit Applications in the ~~2011~~current Application Round;
- (B) Housing Tax Credit Applications approved by the Board for tax credits in July ~~2011~~ of the current program year will take precedence over the Tax-Exempt Bond Developments that received their Certificate of Reservation from the TBRB on or between May ~~1~~~~2~~, ~~2011~~ and July ~~31~~~~29~~, ~~2011~~ of the current program year; and
- (C) After July ~~31~~~~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~~current 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~~current Application Round or a forward commitment, then the waiting list Application or forward commitment will be eligible for its allocation.

(f) **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.

§4950.7. 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 but creates 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; or~~
 - ~~or~~
 - ~~(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:~~
 - ~~(i) 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 non-material 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. ury to the Department.~~

- (A) Administrative Deficiencies for Applications submitted under the State Housing Credit Ceiling and Rural Rescue Applications. If an Application contains Administrative Deficiencies which, in the determination of the Department staff, require clarification, ~~or~~ correction 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 Deficiencies. 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 to do so 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 §~~49~~50.13(b) of this chapter (relating to Board Application 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.

(B) **Administrative Deficiencies for Tax Exempt Bond Applications.** 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 Deficiencies. 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 ~~§49~~50.4 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 ~~§50~~49.3 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 checklist~~ Tax Credit (Procedures) Manual.
 - (5) If a pre-application is not submitted to the Department on or before the applicable deadline indicated in ~~§50~~49.3 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, 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, 2011 as evidenced by the documentation required under §49.8(8)(A) of this chapter;~~ [Legal description of the Development Site](#); 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:
 - (i) No later than the Pre-application Neighborhood Organization Request Date 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 Pre-application 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 the Target Population being served~~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)(14) 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 Eligibility, Threshold 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-USA 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;~~
- ~~(6) 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)~~

- (g)** **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.
- (h)** **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.
- (i)** **Site Evaluation.** Site conditions shall be evaluated through a physical site inspection by the Department or its agents ~~signs~~. 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.

(j)(k) Application Process for Rural Rescue Applications under the ~~2012~~ 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 ~~2012~~ following program year Credit Ceiling and therefore, will be subject to the rules and guidelines identified in the ~~2012~~ Qualified Allocation Plan (QAP) of that program year. However, because the ~~2012~~ QAP for the following program year 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 ~~2012~~ following program years QAP by having satisfied the requirements of the ~~2011~~ QAP for the current program year, 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-USA Set Aside for the 2011 Application Round, as required under subsection (g)(3) of this section.~~
- (6) **Limitation on Allocation.** No more than \$350,000 in credits will be forward committed from the ~~2011~~ current 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 a Development located in 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:
 - (I) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§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 ~~(I)(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 Process Selection 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 a scope of work that ~~the Rehabilitation~~ will substantially improve the interiors of all Units and exterior deferred maintenance, at a minimum, condition of the housing and will involve at least ~~\$25,000~~15,000 per Unit in ~~direct hHard e~~Costs ~~(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 ~~\$19,000~~9,000.
- (4) **Experience Requirement**~~Certification~~. The purpose of the experience requirement is for someone in the Development to demonstrate they have experience in development. Evidence must be provided in the Application that meets the criteria as stated in subparagraphs (A) 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. Experience of multiple parties may not be aggregated. 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 Partner or General Contractor with a controlling interest in the Development must establish that they have experience in the development of 150 units or more. 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) AIA 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;
 - (VII) Development agreements;

- ~~(VIII)(iii)~~ Partnership agreements; or
- ~~(IX)(ix)~~ 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, Developer or their Principals have the required experience.

- (B) For purposes of this requirement any individual attempting to use the experience of another entity must demonstrate they have or had the authority to act on their behalf that substantiates the minimum 150 unit requirement.
- (C) The names on the forms and agreements in subsection (ii) of this section must 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.
- (D) Experience may not be established for a Person who at any time within the preceding three years has been involved with affordable housing that has been in material non-compliance under the Department's rules or for affordable housing in another state, has been the subject of issued IRS Form 8823 citing non-compliance that has not been or is not being corrected with reasonable due diligence.
- (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) 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) A certification of the basic common amenities selected for the Development. All 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 §~~50~~49.9(a) of this chapter. The amenities selected must be made available for the benefit of all tenants and must be made available throughout 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 the is 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 ~~40~~24, ~~4~~3 points are required to meet Threshold;
 - ~~(III) Total Units are 25 to 40, 4 points are required to meet Threshold;~~
 - ~~(III)~~(IV) 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;
 - (V) Total Units are 100 to 149, ~~14~~3 points are required to meet Threshold;
 - ~~(VI)~~ Total Units are 150 to 199, ~~18~~6 points are required to meet Threshold; or
 - ~~(VII)~~ Total Units are 200 or more, ~~22~~19 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 Developments ~~Both 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 and in addition to required accessible routes to Units or other amenities. (1 point);
 - (V) Community laundry room with at least one washer and dryer for each 25 Units (~~13~~ 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 (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 (must be all-weather construction; excludes open arbor-type structures) (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 furnished with adequate 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 area that is fully enclosed and intended for tenant owned dogs to run off leash (12 points); ~~or~~
- (XXVI) Common area Wi-Fi (1 point);
- (XXVII) Twenty-four hour camera/security system in each building (3 points);
- (XXVIII) 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 four categories: Limited Green Amenities, Enterprise Green Communities, Leadership in Energy and Environmental Design (LEED) and National Green Building Standard (NAHB) Green amenities that include the following-
- (-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 Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.~~

~~(-c-) LEED (4 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e. Certified, Silver, Gold or Platinum).~~

~~(-d-) National Green Building Standard (NAHB Green) (4 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NAHB Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).~~

~~(-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, linoleum 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 and will remain 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.
- ~~(J)~~ 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](#).
- ~~(KL)~~ A certification that ~~the Development will~~ operate 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.
- ~~(MN)~~ 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 exit removal did take place as described, then the Application may ~~will~~ 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 possible placement of detention/retention pond(s) (if applicable); and
 - (vi) Indicates the location of the required basic amenities and parking spaces;
 - (B) ~~Building~~ Floor plans and elevations for each type of residential building and each common area building clearly depicting the height of each floor, ~~and~~ a percentage estimate of the exterior composition and 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~~ 12% of the Total Direct Cost, 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 Pre-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 ~~of the prior program year, 2010~~ with option to extend through March 1, ~~of the current program year 2011~~ (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 that the proposed Development is consistent with local requirements.; ~~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 conforming but with an overlay that would make it 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.**

- (i) Evidence of all necessary 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 t~~Term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner and 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 a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or
- (III) Any federal, state or local gap financing, whether of soft or hard debt, must be identified at the time of Application 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 §~~50~~49.9(a)(5) of this chapter then documentation must be submitted as required by the deadlines stated therein; and
 - (-b-) Evidence of a complete and receipted application for funding from another Department program must be obtained no later than March 1 (or for Tax Exempt Bond Developments at the time the Volume 1 is submitted). ~~is not required except as indicated on the Uniform Application, as long as the~~The Department funding ~~is~~must be on a concurrent funding period with 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
- (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 Commitment or Policy. The Application shall include a copy of: 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)~~ a complete 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, re-notification 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 the Target Population being served ~~population being served (family 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 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 ~~a~~Area Median Gross ~~I~~Income occur; and
- (IX) The expected completion date if credits are awarded.

~~(B) — 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.~~
- ~~(B)~~ 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. ~~Documentation for individual board members and executive directors, is required for this exhibit. A~~ any Person receiving more than 10% of the Developer fee ~~and will also be required to submit documents for this exhibit. The 2011 versions of these forms, as required in the Uniform Application, must be submitted.~~ Units of General Local Government are ~~all also~~ required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or Control of the ~~Applicant and each Principal, including any Person providing the required experience~~ Person. All participation in any TDHCA funded or monitored activity, including non-housing activities, ~~as well as housing tax credit developments or other programs administered by other states using state or federal programs must be disclosed and authorize the parties overseeing such assistance to release compliance histories to the Department. must be disclosed.~~
- ~~(C)~~ The ~~documentation relating to the experience requirement~~ certification, 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 ~~Applications~~ Developments ~~must provide~~ include a 15~~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) - ~~(vii)~~ 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 was selected, in and which the Development will receive some financial or tax benefit for the involvement of the nonprofit General Partner,~~ meet the Nonprofit Set-Aside in §42(h)(5) of the Code, 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 do not expect to receive a benefit in the allocation of tax credits as a result of being affiliated with a nonprofit 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 if such request is by the Internal Revenue Service.
- (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 pursuant to §42(h)(5) of the Code and the basis for that opinion. ~~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
 - (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 as prepared by a Certified Public Accountant; 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 ~~a~~Authorization to ~~r~~Release ~~e~~Credit ~~i~~nformation ~~form must be unbound and clearly labeled. An Authorization to Release Credit Information" must be completed and signed may be requested, at the discretion of the Department, for any General Partner, Developer or Guarantor and, other Affiliates of the Applicant 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; documentation for individual board members and executive directors is not required for this exhibit.~~
- (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 ~~date~~time, 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,
 - (iv) 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; ~~7~~ §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) (1) — Financial Feasibility. (§2306.6710(b)(1)(A)) Applications may qualify to receive a maximum of 28 points for this item. The purpose of this scoring item, as the highest prioritized item under Chapter 2306, is to provide an incentive for Applications based on the financial feasibility of the Development based on the supporting financial data as required in the Application. 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):~~ To qualify for the points, the supporting financial data in the Application must include:

~~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 (1~~4~~)(B) of this subsection and will be reviewed by staff accordingly even if points under paragraph (13)(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 (13)(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 Neighborhood Organization provided that no Neighborhood Organization exists 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 a formal meeting is 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 and/or have a membership vote on whether the organization should support, oppose, or be neutral on the proposed Development, ~~and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed Development.~~ The organization 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

boundaries. The organization is also encouraged to meet with ~~invite~~ the Developer or Applicant to discuss the proposed Development ~~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 ~~establish~~ provide a reason for support or opposition or that are unclear even after correspondence with the Department will receive a score of 14 points; ~~be considered ineligible and scored as neutral (+12 points);~~
 - (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.~~
 - (iii) The Department highly values quality public input addressed to the merits of a 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 Application. 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) ~~or-~~ ~~(B)~~ 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) For Developments proposed to be located in the MSA of Houston, Dallas, Fort Worth, San Antonio or Austin, an Application may qualify to receive:
- (i) 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;
 - (ii) 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; ~~or-~~
 - (iii) 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~~
- (B) For Developments proposed to be located in areas other than those listed in subparagraph (A) of this paragraph, an Application may qualify to receive:
- (i) 22 points if at least ~~20~~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;
 - (ii) 20 points if at least ~~30~~60% of the Low-Income Units in the Development are set-aside with incomes at or below 50% of AMGI; ~~or-~~
 - (iii) 18 points if at least ~~5~~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. 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 Supportive Housing Developments ~~proposing Single Room Occupancy~~ without meeting these square footage minimums only 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 that is within the same county or contiguous county as the proposed Development.
- (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) If the support is being provided in the form of a below market rate loan, the loan must be at least 150 basis points below the current market rate and have a term of at least 3 years and origination fees (including other lender fees that are substantially similar) must be less than 2% of the loan amount. ~~Evidence to be submitted with the Application must include a copy of the commitment of funds; 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.~~

~~(viii)~~ Acceptable evidence submitted in the Application 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 Appropriate Local Official, or an executed agreement with the Unit of General Local Government or Governmental Instrumentality that will be providing the funding. If the funds have been applied for but not awarded, a letter from the funding entity indicating that an application has been received, funding is available and that award results will be announced by August 1 of the current program year is required in the Application. The Application must also include a statement from the Applicant that reflects the requirements of (A)(vii) of this section.

~~(ix) If not already provided, a~~ At 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 Department will determine if the Application would have been infeasible or noncompetitive without the source of funding. 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~~ The Commitment will be rescinded and the credits reallocated if the Department determines that the Application would have been infeasible or noncompetitive. 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.

(x) 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) Scoring. Points will be determined based on the amount of funds committed to the Development on a per Unit basis, based on the total number of Units in the Development.

~~(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.~~

- (6) **Community Support from State Representative or State Senator.** (§2306.6710(b)(1)(F) 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 a 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 +16 14 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 -16 14 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 14 12 points for this item under subparagraph (A) or (B) of this paragraph 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) For Developments proposed to be located in the MSA of Houston, Dallas, Fort Worth, San Antonio or Austin, an Application may qualify to receive:
- (i) An Application may receive 2 points for every 5% of Low-Income Units at rents and incomes at 50% of AMGI; or
 - (ii) An Application may receive 6 points for every 2.5% of Low-Income Units at rents and incomes at 30% of AMGI.
- (B) For Developments proposed to be located in areas other than those listed in paragraph (A) of this section, an Application may qualify to receive:
- (i) An Application may receive 2 points for every 2.5% of Low-Income Units at rents and incomes at 50% of AMGI; or
 - (ii) An Application may receive 6 points for every ~~2.5~~1% of Low-Income Units at rents and incomes at 30% of AMGI.
- (8) **The Cost of the Development by Square Foot.** (§2306.6710(b)(1)(H); §42(m)(1)(C)(iii)) Applications may qualify to receive ~~12~~10 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 have elevators serving four or more floors (Elevator Served Development) ~~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 ~~12~~10 points if their costs do not exceed:
- (A) \$95 per square foot (and Direct Hard Costs do not exceed \$80 per square foot) for Qualified Elderly and Elevator Served Development, single family design, ~~transitional,~~ and ~~Single Room Occupancy~~Supportive Housing Developments and Developments located in a Central Business District ~~(transitional housing for the homeless and Single Room Occupancy 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 Direct Hard Costs do not exceed \$82 per square foot); or
 - (B) \$85 per square foot (and Direct Hard Costs do not exceed \$70 per square foot) 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 (and Direct Hard Costs do not exceed \$72 per square foot). ~~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)(I) 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 ~~10~~8 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. 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 on-site 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 §~~50~~49.3 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) Additional Evidence of Preparation 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), (B) and (C) 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 (3 points).

(B) Applicants may qualify to receive up to 2 points by providing:

(i) For New Construction and Reconstruction, the submission of:

(II) Executed architectural and engineering contracts (including structural, Mechanical, Electrical, Plumbing, Civil and landscape) with architect or other Third-Party lead consultant certification showing all total fees (1 point);

(III) A survey or current plat, for the Development Site, as defined by the Texas Society of Professional Surveyors in their *Manual of Practice for Land Surveying in Texas*:

(-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).

(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).

(C) Applications that were submitted in prior Application Rounds; however, they were not considered competitive enough to ultimately receive an award may receive up to 2 points. Terminated Applications do not qualify for these points.

- (i) The Application, as submitted for the current Application Round, was previously submitted in one prior Application Round (1 point); or
- (ii) The Application, as submitted for the current Application Round, was previously submitted in two prior Application Rounds (2 points).
- (iii) Documentation must be submitted in the Application that includes the name, location, assigned TDHCA Identification Number and year of submission(s).

(1226) Leveraging of Private, State, and Federal Resources. ~~Applications may qualify to receive 1 point for this item.~~ (§2306.6725(a)(3)), (§2306.6710(B)(2)). 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. Applications may qualify to receive 7 points for a Development located outside of a Qualified Census Tract and 6 points for a Development located inside a Qualified Census Tract. To receive points under this item, the Development must have Units restricted for occupancy by households at or below 30% of AMGI. Funding sources used for points under paragraph (5) of this subsection may not be used for this point item. ~~however, funding amounts may not be duplicative.~~ Division of the same source into separate loans or grants does not result in eligibility under both paragraph (5) and this paragraph.

- (A) If in the form of a loan, funding must be the primary source of debt with a first lien position and a minimum loan term of 15 years. Origination fees cannot exceed 2% of the loan amount. Funding must be provided by a Third Party. ~~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) Permanent grant funding not secured by a deed of trust may be used, provided the grant funding is the largest source of funding not including equity generated from Housing Tax Credits or other federal tax credits. Funding must be provided by a Third Party. ~~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) Examples of sources of funds that may qualify include those listed under subparagraph (i) - (vi) of this paragraph. A Certification from the lender as of the date of such certification that the loan would meet this provision.
 - (i) HOPE VI;
 - (ii) Capital Grant Funds;
 - (iii) Community Investment Program (Federal Home Loan Bank);
 - (iv) Affordable Housing Program (Federal Home Loan Bank)
 - (v) HOME Investment Partnerships Program;
 - (vi) other sources of grants or loans that provide for a 150 basis point savings over the market interest rate for comparable terms.

~~Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. The value of the contract does not include past subsidies.~~
- ~~(D)~~ Funding to support ongoing operations, including rental subsidies, or other sources not directly offsetting the Total Housing Development Cost are not eligible for points under this paragraph. 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.
- ~~(D) 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.~~

~~(E) 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.~~

~~(E) 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 with terms meeting the requirements of subparagraphs (A) - (C) of this paragraph or ~~or a copy of the application to the funding entity and~~ a letter from the funding entity indicating that the application was received and that the terms for available funding meet the requirements of subparagraphs (A) - (C).~~

~~(F) 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.~~~~

~~(G) To qualify for this point, the Rent Schedule must show that at least 3% (not using normal rounding) of all Low Income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.~~

~~(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 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.~~

~~(13) **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 14~~12~~ 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.

- (14) **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 based on the legal description provided at pre-application~~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.~~
- (D) Be serving the same ~~t~~Target ~~p~~Population (~~general or elderly~~) as in the pre-application;
- (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 7 points~~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 (14) of this subsection. The Application score used to determine whether the Application score is 5%7 points greater or less than the number of points awarded at pre-application will also include all point losses under ~~§50~~49.7(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%7 points 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%7 points range from pre-application to Application; or
 - (ii) To request that the pre-application points be forfeited and that the Department evaluate the Application as requested in the Self-Score Form.

~~(15) Green Building Amenities. Application 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 §49.8(5)(A) of this chapter. Rehabilitation Developments (excluding Reconstruction) and Single Room Occupancy Developments will receive 1.5 points for each point requested under this paragraph.~~

~~**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 east-west;~~
- ~~(ii) 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;~~
- ~~(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.~~

(15) 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 in the Application.

(16) **Development Location.** (§2306.6725(a)(4); §42(m)(1)(C)(i)) Applications may qualify to receive 4 points under subparagraphs (A) or (B) of this paragraph or 1 point under subparagraphs (C), (D) or (E) of this paragraph. ~~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 as well as meet legally mandated requirements. 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 one of the subparagraphs (A) - (E) of this paragraph.

(A) The Development is proposed to be located in a 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. 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 Development is proposed to be located in a Central Business District as defined in §50.2 of this chapter (relating to Definitions). The Application must include a letter from the Appropriate Local Official confirming the location of the proposed Development and include the boundaries of the Central Business District. ~~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) A Federal Enterprise Community, a Growth Zone or any other comparable community as designated by HUD, which are typically defined with census tract boundaries (1 point); or ~~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.~~

(D) An Economically Distressed Area as specifically designated by the Secretary of HUD as of the beginning of the Application Acceptance Period or a Colonia (1 point). ~~The 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.~~

- (E) The Application is not receiving points under paragraph (5) of this section and the proposed Development will be located in an area supported by the Governing Body of the appropriate municipality or county containing the Development Site, as evidenced by a resolution or ordinance, submitted with the Application, supporting the location of the Development Site (1 point).
- (F) 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. ~~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).~~

~~(18) Developments in Census Tracts with No 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.~~

- (179) **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.

- (1820) **Length of Affordability Period.** (§§2306.6725(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. Rehabilitation (excluding Reconstruction) Developments are not eligible for these points. 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).

- ~~(21)~~ **19) 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-~~quarter~~ half 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) - ~~(L)~~ 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.~~
 - ~~(J)~~ Medical offices (physician, dentistry, optometry) or hospital/medical clinic.
 - ~~(K)~~ Public Schools (only eligible for Developments that are not Qualified Elderly Developments).
 - ~~(L)~~ 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).~~

- (20) Repositioning of Existing Developments. Applications may qualify to receive up to (3) points for this item. The purpose of this scoring item is to provide an incentive for Applications proposing the substantial Rehabilitation of an Existing Residential Development that meet the following criteria:
- (A) Proposes Rehabilitation (including Reconstruction);
 - (B) Contains residential buildings originally constructed between 1980 - 1990;
 - (C) The Application includes a scope of work (if Rehabilitation (excluding Reconstruction) for the interior of the Units that includes an intentional lease-down or relocation of tenants off-site; and
 - (D) The Development, as of the beginning of the Application Acceptance Period, has no income or rent restrictions recorded in the property records of the county.

- ~~(21)~~ **3) 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.

~~(2217)~~ **Economic Development Initiatives.** (§2306.127) The purpose of this item is to provide an incentive for proposed Developments located in areas that have adopted initiatives that promote economic development. An Application may qualify to receive 14 points under subparagraph (A) or (B) this item. ~~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) An economic development initiative adopted by the local government in which the Development Site is located, such as, but not limited to, a Tax Increment Financing (TIF) or Tax Increment Reinvestment Zone (TIRZ). Acceptable evidence will be a letter from the Appropriate Local Official certifying they have authority, stating the economic development initiative that is in place and certifying the date the initiative was adopted by the Unit of General Local Government. ~~A Designated State or Federal Empowerment/Enterprise Zone, Urban Enterprise Community, or Urban Enhanced Enterprise Community. 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) A Designated State Enterprise Zone. ~~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) A geographical area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (these census tracts are designated in the 2011 Housing Tax Credits Site Demographics Characteristics Report (§2306.127); or ~~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.~~

~~(23)~~**(13)** ~~Community Revitalization,~~ (§42(m)(1)(C)(iii)) or Historic Preservation or Rehabilitation. Applications may qualify to receive ~~16~~ **16** points under subparagraphs (A) ~~or (B)–(C)~~ 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.

(A) ~~The~~Any Development, ~~regardless of whether located in a Qualified Census Tract, that is part of a community revitalization plan, includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan.~~ To qualify for these points a letter from the Appropriate Local Official must be submitted affirming that the Development is located within the specific geographic area covered by the plan, that the plan is not a Consolidated Plan or other Economic Development Plan or city-wide plan, the plan has been 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.

~~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) 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. The Development itself must have the 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) 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).~~

~~(24) Qualified Census Tracts with Revitalization.~~ (§42(m)(1)(B)(ii)(III)) Applications may qualify to receive ~~1~~ **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.

~~(24)~~**(24)** 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 these points by providing the right of first refusal in the following terms.

- (A) Upon the earlier to occur of:
- (i) The Development Owner's determination to sell the Development; or
 - (ii) The Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two (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.

~~(27) — Third Party Funding Outside of Qualified Census Tracts. Applications may qualify to receive 1 point for this item. (§2306.6710(e)(1)) Evidence that the proposed Development has documented and committed Third Party funding sources and the Development is located outside of a Qualified Census Tract 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) of this subsection may not be used for this point item.~~

~~(b)28) 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 if 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. The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments. ~~and the 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 can be appealed in accordance with this section. Termination of an Application based on Material Noncompliance will follow the process as described in Chapter 60 of this title (relating to Compliance Administration).
 - (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 Credits~~Multifamily 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 Application Challenges Deadline as identified in §50.3 of this chapter ~~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 [Application Challenges Deadline as identified in §50.3 of this chapter](#) ~~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 [the deadline as posted in the Application Procedures for Housing Tax Credits with Tax Exempt Bond Financing document on the 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(j,k) 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 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:
- (1) 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 ~~a~~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 or 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. Certifications required under clause (ii) and (iii) of this subparagraph must not be older than two (2) years from the date of the submission deadline.
- (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 [Name Reservation 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; [and](#)
 - ~~(5) Evidence that the Applicant has and will maintain Site Control through 10% Test; and~~
 - ~~(56)~~ 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~~ they have and will maintain Site Control through 10% Test or through the anticipated closing date, whichever is earlier. ~~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) Evidence that the Development Owner entity has been formed must be submitted with the Carryover Allocation.
 - (5) The Department will not execute a Carryover Allocation Agreement with any Development Owner having any member in Material Noncompliance on October 1 of the current program year~~3, 2011~~.
- (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) - ~~(5)~~ 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 or 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
 - ~~(5)~~ A Certification from the lender or syndicator identifying all Guarantors.
 - ~~(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).~~
- ~~(h) Land Use Restriction Agreement (LURA). 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.~~

- (g) **Cost Certification.** The ~~cost certification procedures as identified in the Tax Credit (Procedures) Manual~~ 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 §~~50~~49.13(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 Tax Credit (Procedures) Manual~~ Cost Certification 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;
 - (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 construction 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 §~~50~~49.13(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 [recorded](#) LURA in accordance with [Chapter 60 of this title](#) ~~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.

§~~49~~50.13. [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.** (§2306.6712 and §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\(l\)](#) 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.
 - ~~(H)~~ 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 Determination 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 ~~shall~~must 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.
 - (2) A Development Owner seeking Executive Director approval of a transfer must submit ~~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 Department~~staff 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 ~~g~~General ~~p~~Partner; 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 pre-application 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 ~~4~~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 ~~of the current Application Round, 2011,~~ 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 Form~~ [IRS 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. 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 will 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.

(l) **Extension and Amendment Fees.**

- (1) All extension requests for deadlines relating to the Carryover, ~~Documentation for~~ 10% Test (submission and expenditure), ~~Substantial Construction Commencement, Placed in Service~~ or Cost Certification requirements ~~shall be submitted to the Department in writing and that are submitted after the applicable deadline must~~ be accompanied by an mandatory non-refundable extension fee in the form of a check in the amount of \$2,500. Extension requests submitted at least thirty (30) days in advance of the applicable deadline will not be required to submit an extension fee. ~~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.~~
- (2) Amendment requests must be submitted in accordance with ~~§50~~49.13(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.

~~(n)~~ Unused Credit Fee or Penalties. 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 ~~Department~~Executive Director 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%.

~~§49~~50.15. 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.

- (b) 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.

~~§49~~50.16. 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 applicable, but not limited to, underwriting, satisfactory previous participation reviews, receipt of required ~~Third~~ ~~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.~~

~~§49~~50.17. 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~~ 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 proposed QAP 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
 - (7) 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 that is four (4) months prior to the Application Acceptance Period, ~~—opens—~~ 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, Executive 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 October 21, 2011 to October 28, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2012 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 28, 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

Public Comment
Received After 9/15/11
Board Meeting

Charlie Cabler
City Manager



September 16, 2011

Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Via Email - tim.irvine@tdhca.state.tx.us

Dear Mr. Irvine:

It has come to our attention that the 2012 QAP draft presented to the TDHCA Board of Directors yesterday reduced the points associated with an affordable housing development that proposes to provide a mix of income units from up to 6 points to 1 point in the Community Revitalization, Historic Preservation and Mixed Income scoring item (§50.9 Selection Criteria (12)).

We support and need more mixed income developments in Brownsville, Texas and believe this will lead to less concentration of low income housing. Therefore, we respectfully request that TDHCA reinstate the 6 point value proposed in the initial draft of the 2012 QAP. Without more points, the developers will not build a mixed income development which was the intent of the original language and associated scoring value. We therefore request that the Agency reinstate and provide up to 6 points to the following proposed developments:

(a) The Development is part of a mixed use planned development, and the residential component of the Development itself is comprised of both Market Rate Units and Low Income Units. Points will be awarded to Developments on a scale that includes up to 30% Market Rate Units:

- a. 30% (6 points);*
- b. 20% (5 points);*
- c. 10% (4 points);"*

I hope that you will consider our support for this change and we would appreciate it if you would please pass this letter to the Members of the Board of Directors of TDHCA. Your response is greatly appreciated.

Sincerely,

Charlie Cabler
City Manager

CC: bba
xc: File

City of Brownsville
P.O. Box 911 / City Hall / 1001 E. Elizabeth St. / Brownsville, Texas 78522
(956) 548-6000
www.cob.us

"EQUAL OPPORTUNITY EMPLOYER"



CITY OF HOUSTON

Housing & Community Development

Annise D. Parker

Mayor

James Noteware
Director
P.O. Box 1562
Houston, Texas 77251-1562

T. 713-868-8300
www.houstontx.gov

September 9, 2011

Mr. Timothy Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: 2012 Draft QAP (8.22.11 Release Date)

Dear Tim,

Thank you for taking the opportunity to meet with me in Austin a few weeks ago to discuss the tax credit program in general, and our desire to plan together for our mutual benefit. To that end the Houston Housing and Community Development Department would like to submit the following comments to the draft QAP. These items are presented in order of priority for Houston.

1. **Threshold Criteria** (Section 50.8.2.A): With respect to the "Twice the State Average" clause, we agree that an Applicant should be required to obtain prior approval of the proposed development from a municipality that already has a substantial inventory of HTC units. However, Houston's HTC inventory does not consistently represent twice the state average. To ensure that new HTC developments are consistent with the City's efforts to coordinate redevelopment through collaboration with several other departments, and to:
 - o avoid inappropriate concentration of HTC units,
 - o assure that the City affirmatively furthers Fair Housing,
 - o plan and coordinate construction of affordable housing, and
 - o assure adequate infrastructure to support community needs,

we would like to request that the following clause be added to this section:

"If a municipality has a population of two million or more residents based on the 2010 census, then the Applicant must obtain prior approval of the development from the governing body of the appropriate municipality or county."

2. **Rehabilitation Costs** (Section 50.8.3): It is Houston's experience that the cost of a major rehab can equal or exceed the cost to demolish and rebuild a property. Oftentimes, the total scope of a rehab is not apparent until the developer owns the property and can do more thorough due diligence, including destructive testing. In the event that rehab cost estimates are revised upwards, even in the early stages of construction, we request that the Applicant not be penalized for changing the scope of the project to demolition and

reconstruction. We further request that no penalties be applied if the revised scope includes the elimination of several units.

3. **Carryover** (Section 50.12.e.2): Furthermore, we believe a development must (QAP draft says “may”) be reevaluated if there is a material change to the project sources and uses or other financial data, in order to avoid blindly entering into a project with a scope substantially different from the original application, and whose underwriting is no longer valid.
4. **Commitment...by a Unit of local Government** (Section 50.9.a.5): We greatly appreciate the State’s revision to include evidence of support by the jurisdiction in which a potential development is located. We request a minor clarification to this section, as shown below (Houston’s change is underlined):
...if the Chief Executive (or his or her designee) of the Unit of General Local Government where the Development Site is located provides written evidence that the jurisdiction supports such funding for the Development.
5. **Ineligible Applicants** (Section 40.4.a.3): In order to more thoroughly assess the potential Applicant, we would like the disclosure language to be broadened to include disclosure by the Applicant and related parties of not only federal tax liens, but also state, county and/or municipal unpaid taxes, as well as disclosure of any loan defaults. This information should be provided at the pre-development stage, to allow TDHCA and/or the local jurisdiction adequate information to review the Applicant’s background and suitability.
6. **High Opportunity Areas** (Section 50.2.16.D): We applaud the focus being placed on HOA’s, in order to provide tenants with the best possible opportunities for success. We would like TDHCA to consider the following suggestions:
 - We believe that all school grade levels are equally important, and thus request that the reference to elementary schools be removed. Also charter and magnet schools should be considered.
 - The issue of school quality is not a consideration for seniors housing or SRO’s; we therefore request that these developments not be penalized for not being located near schools.
7. **High Opportunity Areas** (Section 50.2.16.B): This requirement is confusing, and I believe contains a typographical error. We propose the following (Houston’s suggested change is underlined):
In a census tract which has an AMGI that is above median for that jurisdiction (draft says “census tract”) as of the first day of the Application Acceptance Period.
This change would direct applicants to areas of relatively high income levels.

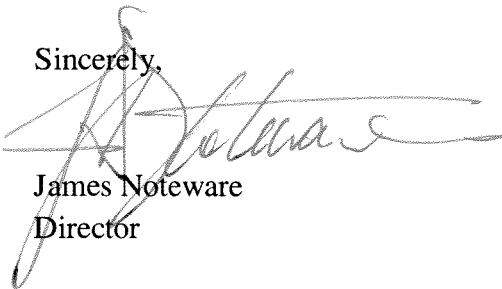
Tim, I believe that the above suggestions are just the beginning of making positive changes to the Housing Tax Credit program. We look forward to hosting you and Paul Oser in Houston to discuss our planning goals and challenges, and to consider how the tax credit program can be utilized to advance these goals.

Over time, we would like to see the process in Houston focus on our top priorities: housing the homeless, veterans, and low income families, combined with other neighborhood revitalization programs. We would like to work with the state to improve the program and make it more flexible in order to convince additional highly qualified developers to participate in the program. To that end, I believe we would like to address some current barriers to entry, including:

- Reducing the amount of time a developer must tie up land or a target for rehab (currently about one year)
- Reducing the transaction costs on HTC developments – particularly up-front due diligence requirements and expenses.

I look forward to continuing our partnership in providing quality, affordable housing to the residents of Houston and the State of Texas. I will call you Monday to discuss our suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read "James Noteware", written over a large, light-colored scribble or stamp.

James Noteware
Director



CITY OF HOUSTON
Housing & Community Development Department

Annis D. Parker

Mayor

September 27, 2011

James D. Noteware
Director
601 Sawyer Street
Houston, Texas 77007
T. (713) 868-8300
F. (713) 868 8414
www.houstonhousing.org

J. Paul Oxe, Chairman, and
Kent Conine, Boardmember
Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Petition for QAP Incentive for Rehabs or Reconstructions

Chairman Oxe, Boardmember Conine and Director Irvine:

The 2012 Draft Qualified Allocation Plan ("QAP") for the Housing Tax Credit Program proposed by staff last week has, regrettably, removed any point scoring for projects that propose Rehab or Reconstruction. It is very important to the City of Houston, that Rehab and Reconstruction remain a priority ahead of New Construction. While the Housing Tax Credit program incentivizes the development of decent, safe, affordable housing by the private sector, it could do so much more to help the Cities clean up their blight by incentivizing Rehab and Reconstruction.

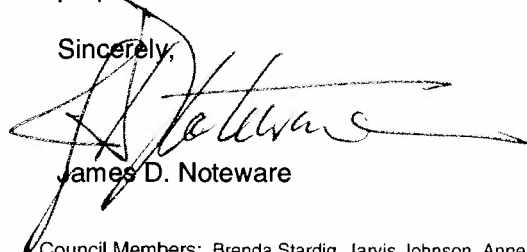
Often times, dysfunctional older properties are a drain on local resources, becoming havens for criminal activity, creating unsanitary and unsafe conditions for tenants. Also, the development of New Construction in these communities tends to put even more downward pressure on this aging housing stock.

For the last several years, the Program has directly incentivized the development of Rehabs and Reconstructions, which has greatly contributed to the redevelopment of many distressed properties throughout Texas, which may not have otherwise been done. It is important to recognize that Rehabs and Reconstructions are inherently more challenging than New Construction. They are riskier and more costly, involving tenant relocations, physical condition assessments, and environmental contaminant remediation., Additionally, there is less interest from financing partners. Therefore, the Department's attempt to 'level the playing field' with New Construction applications is actually a deterrent for developers to attempt these critical projects.

The City of Houston requests that the Department please consider the re-instatement of a Scoring Item directly incentivizing responsible Rehabilitations and Reconstructions. We recommend either a distinct Scoring Item, or an additional three (3) point item be added under §50.9(a)(12) Community Revitalization, or §50.9(a)(18) Development Location. To ensure the that the proposed re-development is appropriate for the location, we further recommend language requiring that an Appraisal be included for Rehabilitation and Reconstruction applications determining that the proposed housing is the "Highest and Best Use" for that site. Finally, it should be established that the proposed application be held to the same standard of eligibility as required under §50.4(c) Ineligible Developments, except with regard to Unit Mix of Rehab projects.

The responsible re-development of these types of projects is instrumental in revitalizing and impacting community development. Thank you very much for your consideration of this request to address the severely distressed properties in our communities.

Sincerely,



James D. Noteware



CITY OF WACO

Housing and Community Development

P.O. Box 2570
Waco, Texas 76702-2570
254 / 750-5656

9/21/2011

Mr. Kent Conine, Chair
Board of Directors
Texas Department of Housing and Community Affairs (TDHCA)
221 East 11th Street
Austin, Texas 78701

Dear Chair Conine and TDHCA Board members:

The City of Waco has been made aware that you are taking an active role in revising the 2012 QAP rules based on testimony at the 9/15/11 board meeting. Accordingly, we would like to provide insight on the mixed income/mixed use concept that the City wholeheartedly supports, and has demonstrated to the Board on multiple occasions. We appreciate all that the Board and TDHCA staff does to further quality, decent, safe, and affordable housing in our communities. However, we are gravely concerned by the lack of any real incentives for the furtherance of mixed income development. The pure concentration of low income and poverty in these developments is not the preferred affordable housing method.

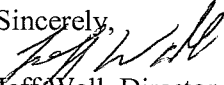
With respect to scoring item - **Community Revitalization, Historic Preservation and Mixed Income** (§50.9 Selection Criteria (12)), the 2012 QAP draft presented to the TDHCA Board at the 9/15/2011 meeting reduced the points associated with an affordable housing development that proposes to provide a mix of income units from up to 6 points to a total of 1 point regardless of the percentage of market rate units proposed in the development.

The 6 points need to be reinstated for this development activity. Otherwise, this point category will solely benefit deals in revitalization plan areas which are predominately lower income areas of the City without incentive to provide housing for a mix of incomes. Mixed income developments make inner cities healthier by creating workforce housing. They also provide low and moderate income households with proximity to better paying jobs, exposure to additional role models, and access to healthier social and civic networks. Rewarding developers that propose a holistic mixed use planned approach to developing affordable housing will expand potential permanent job opportunities to those households being served, and ultimately contribute to the economic success of the households and neighborhoods served.

TDHCA's mission is to expand the supply of decent affordable housing. Accordingly, we ask that you recognize the need to perform this mission in a manner that envisions a more holistic approach to the placement of affordable housing. We also respectfully request that you reconsider and reinstate a minimum of 6 points for the following proposed developments:

- a. *The Development is part of a mixed use planned development, and the residential component of the Development itself is comprised of both Market Rate Units and Low Income Units. Points will be awarded to Developments on a scale that includes up to 30% Market Rate Units:*
 - a. **30% (6 points);**
 - b. **20% (5 points);**
 - c. **10% (4 points);**

Sincerely,



Jeff Wall, Director

Housing and Community Development
City of Waco, TX
254-750-5652

MARK-DANA CORPORATION

26302 Oak Ridge Drive, Suite 100

Spring, Texas 77380

(713) 907-4460

(281) 419-1991 Fax

dkoogler@mark-dana.com

September 16, 2011

Texas Department of Housing and
Community Affairs
221 East 11th Street
Austin, Texas 78701-2410
Attn.: TDHCA Board Members
TDHCA Staff

Re: Comments to 2012 Qualified Allocation Plan (“QAP”) Posted for the September 15, 2011 Texas Department of Housing and Community Affairs (“TDHCA”) Board Meeting

Ladies and Gentlemen,

We appreciate the opportunity to provide comments to the QAP in connection with your proposed revisions for 2012. As you know, we have developed, built and managed affordable housing (new construction and acquisition/rehabilitation) using federal housing tax credits in Virginia since the inception of the Low Income Housing Tax Credit program and in Texas over the last several years. In fact we helped draft the initial QAP in Virginia and have participated in the subsequent revisions to the Virginia QAP. We have also worked with and participated in revisions to the Texas QAP over the last several years.

We have reviewed the proposed QAP and attended the September 15, 2011 TDHCA Board meeting. In addition, as a member of the Texas Association of Affordable Housing Providers (“TAAHP”), I participated in the development of the TAAHP Consensus Comments to the QAP (note, however, that the TAAHP Consensus Comments were to a prior draft of the proposed QAP which differed significantly from the draft posted in the Board book). We strongly agree with, and support, the TAAHP QAP Consensus Comments, but have additional comments that we would like to bring to your attention.

1. General Comments

We cannot agree more with Mr. Conine’s comments at the September Board meeting expressing concerns about the QAP providing strong incentives to build “Taj Majals.” We strongly believe that the HTC program should promote good quality safe affordable housing with an emphasis on affordable. Several of the proposed changes to the QAP will increase the cost of development and construction of properties even further and will result in making the properties less affordable (without additional tax credits or other soft money), such as:

- increasing the minimum rehabilitation amount from \$15,000 to \$20,000 per unit (§50.8(3)),

- increasing the number of required amenities for larger projects and for rehab projects (§50.8(5)(A)),
- increasing the amount of local government loan by only giving credit for interest savings (§50.9(a)(5)),
- increasing the number of tenant services (§50.9(a)(9)),
- readiness to proceed items which will increase the cost of submitting applications as well as the overall development (§50.9(a)(11)),
- requiring third party certified green standards to achieve maximum points, such as LEED Platinum (§50.9(a)(16)), and
- requiring sites to be close to 6 amenities (§50.9(a)(20)).

In general we recommend that TDHCA go back to the 2011 QAP with minor selected revisions rather than the dramatic revisions being proposed.

2. Most Significant Issues

Our biggest issues with the proposed 2012 QAP concern some of the proposed changes to the Experience section:

§50.8(4)(A) Experience – Texas vs. Out-of State (p 32-33):

There should be no distinction between Texas and out-of-state experience. Requiring that a developer have experience administering housing tax credit properties with a combined total of 80 units in Texas through at least five years of those properties compliance periods contradicts the Governors message that Texas is open to business (at best) and appears to further the Texas “good old boy network” (at worst). Requiring Texas experience will not improve the quality of applications or developments. Good Texas and out-of-state developers will continue to do good work and bad Texas developers and out-of-state developers will not.

We have developed and operated HTC properties in Virginia and in Texas and find that while the Section 42 federal tax credit program is administered differently in the two states, the similarities vastly outweigh the differences.

In addition, at the Board meeting TDHCA Staff suggested that Texas experience could be achieved by engaging local attorneys, accountants and consultants. We do not think it is a good idea to make this a requirement and is a slippery slope. TDHCA Staff will be able to evaluate the applications and developments on their own merits. I agree that both Texas and out-of-state developers will benefit from having a good experienced development team, but the selection of that team should be left to the developer.

We see no good reason for not keeping the housing tax credit process an open process.

§50.8(4)(F) Experience – IRS Form 8823 (p 33):

The proposed 2012 QAP added a new subsection (F) that provides that “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 in the preceding five years.” While most 8823 situations can be corrected immediately, please note that in certain circumstances it can take much longer. For example, a fire that destroys many units can cause an 8823 to be issued and it can take longer than three months to rebuild and have the 8823 noncompliance corrected). Also note that the Virginia QAP provides a correction period

not to exceed 90 days from the date of notice to the owner and the state housing authority (VHDA) may extend the correction period for up to 6 months, if VHDA determines there is good cause for granting the extension. This subsection should be revised to allow for the flexibility that the applicable state agencies may exercise in connection with 8823s.

3. Additional Specific Comments

The rest of our comments follow in the order of the particular section of the QAP:

§50.2(15) Definition of High Opportunity Area (p 4):

The 2011 QAP only required one criteria to be considered a High Opportunity Area. The 2012 QAP has revised the listed criteria and requires three to be considered a High Opportunity Area. Has TDHCA reviewed the effect of this new requirement? We are concerned that this will have the effect of making all projects in a region other than those that are in or near a large city or next to an exemplary school not competitive. For Region 6 this would mean that projects in the 13 counties that comprise Region 6 will not be able to compete with projects that are in or near the City of Houston or are next to an exemplary school. We agree with Staff's suggestion of requiring that the development be in a census tract with a median income higher than the median income of the county plus one other criterion. In the alternative we would recommend that this item be revised to require that only two criteria need to be met. Finally, we agree with Diana McIver's suggestion to add a fifth criteria that would be a census tract that has had population growth of 10% or greater since 2000.

§50.3 Program Calendar (pp 5–8):

The language in the introduction giving the Executive Director the ability to extend certain deadlines by five calendar days should be changed to five business days. There are too many instances when a weekend or holiday will have the effect of shorting the extension period to two or one working days. Also, please shorten the period for Amendment Requests. Changes that come up during construction need to be made and approved quickly or else they will result in substantial construction delays and increased costs. In addition, we request that the Administrative Deficiency Deadline be five (5) business days (rather than five (5) days).

§50.4(a)(11) Ineligible Applicants (pp 9–10) and §50.8(5)(N) (p 40):

The voluntary removal from a HTC project will make that developer ineligible. We have been developing, building, and managing HTC developments since the inception of the Housing Tax Credit program and we have not resigned or been removed from any of our developments. Even so, we question why the voluntary removal from participation in an HTC project should be grounds for ineligibility.

§50.4(c)(14) Ineligible Developments – Mandatory Development Amenities (pp 13–14):

What is the difference between RG-6 (specified in the 2011 QAP) and RG-6/U (specified in the proposed 2012 QAP)? I have conflicting information on this ranging from (a) there is no difference, (b) U means it is specified for underground use, (c) U means UV resistant, to (d) U means universal. What is TDHCA looking for here and is this level of micro-management necessary or beneficial?

§50.5(c)(4) Site and Development Restrictions – Limitations on the Size of Developments – Rural Developments (p 15):

We believe that this provision should only apply to developments of the same type and recommend revising as follows: “Rural Developments that are proposing an additional phase to

an existing tax credit Development of the same type; that are otherwise adjacent to an existing tax credit Development of the same type; or that are proposing a Development of the same type on a contiguous site...”

§50.5(d) Developments Proposing to Qualify for a 30% Increase in Eligible Basis (pp 16–17):

In addition to TAAHP’s consensus comments, we think that providing a 30% increase for additional 30% units serves good public policy and should not be deleted as a qualifying category.

§50.8(2)(A) Governing Body Resolutions – Twice the State Average (pp 30):

The changes regarding Extra Territorial Jurisdictions (ETJ) are confusing. It does not seem appropriate to require a city resolution for an ETJ when there is no city council member that represents the ETJ and the residents of the ETJ have no right to vote in city elections. The changes proposed make it unclear as to whether a property located in an ETJ would require a resolution from both the city and the county in which it is located.

§50.8(3) Rehabilitation Costs (pp 31-32):

We do not feel that it is appropriate to increase the minimum requirement from \$15,000 to \$20,000 (excluding off-sites and contingency). The amount of rehab required should be dictated by the condition of the property being acquired for rehab. This will have the effect of increasing the costs of some rehab projects unnecessarily. We request that TDHCA go back to the language of the 2011 QAP and not exclude off-sites and contingencies.

§50.8(5)(A) Certifications – Common Area Amenities (p 34):

In addition to TAAHP’s comments, we suggest the following:

- The increase in points (1.5 times) for rehab should remain as it is in the 2011 QAP
- What is the reason for the increase in required common amenity points for projects that are 100 units or more? This has the effect of driving up costs and reducing the number of projects that can be awarded tax credits each year.
- The community sun porch or covered community porch/patio common amenity (item (XIII)) now “must be all-weather construction” – what does all weather construction mean?

§50.9(a)(1)(A) Financial Feasibility (pp 52–53):

The new language is more restrictive of eligible lenders and it is not clear to me whether it excludes sources of lending that should be included (such as Fannie Mae, Freddie Mac, Merrill Lynch, etc.). LIHTC experience should also not be a requirement, especially in an environment where debt availability is tight. (If LIHTC experience is a requirement, it should be in lending (not syndication).

§50.9(a)(2) Quantifiable Community Participation (pp 53-56):

We agree with Staff’s proposed changes and, in addition, would like to see the 16 point category increased to 18 points so that projects that are not in areas with Qualified Neighborhood Organizations can be competitive, if those projects get civic organization support.

§50.9(a)(4)(B) The Size and Quality of the Units (p 57):

I believe it is important to give rehabs the 1.5 times points as provided in prior QAPs. Giving rehab projects a 3 point preference is not quite enough.

§50.9(a)(5) Unit of General Local Government or Governmental Instrumentality (pp 58–60):

We support going back to the 2011 QAP language with reductions in the required amount of support for the various point levels. We agree with Staff's suggestion at the Board meeting to have the deadline for loan commitments and "interlocal" agreements be the commitment notice deadline.

Short term pre-development loans are helpful and maximum points should be available for these types of loans. Please note that we found the Montgomery County CDBG loan (a pre-development loan) to be very beneficial to our Magnolia Trails project as it enabled us to purchase the land prior to closing on the equity and construction financing. The interim financing also helps bridge the equity pay-in during construction. Using the interest savings only ignores that there is real value in short term low interest interim financing. The primary benefit of any loan is the principle that is available to be used.

In addition, the interest savings concept proposed for the 2012 QAP is too vague and costly. How will the market rate from which savings will be calculated be determined? What will be included in the amount of interest? Using interest savings only significantly increases the amount of the loan and/or the term of the loan. For example for 100 urban units one will need \$200,000 in "cumulative interest savings ... calculated over the loan term based on a full amortization" in order to get 18 points.

Under the 2011 QAP, 100 urban units would require a \$450,000 loan with a two year term in order to qualify for 18 points. Under the proposed 2012 QAP, 100 urban units will require a \$1,166,667 loan with a two year term to qualify for 18 points. See the table below for the amount of loan and term of loan that will be needed in order to generate the \$200,000 in interest savings, assuming an interest rate that is 6% lower than the "market rate." The actual loan amount that will be required is significantly greater than has been required in the 2011 QAP and prior QAPs.

	Loan amount needed, if have an interest rate that is 6% less than the market rate	
Term of Loan	Total	Per Unit
1 year	\$3,333,333	\$33,333
2 years	\$1,166,667	\$11,667
5 years	\$666,667	\$6,667
10 years	\$333,333	\$3,333
15 years	\$222,222	\$2,222

Lengthening the loan term to 10 or 15 years will reduce the amount of total loan needed, but as the City of Houston and SETH commented at the Board meeting, cities (large and small) do not have the capacity to increase the amount or term of these loans. Note that Montgomery County (which is a participating jurisdiction and has HOME and CDBG funds) does not have the funds it needs unless it requires short term loans so that it can have the funds repaid in order to be used to facilitate additional housing or other projects.

§50.9(a)(6) Community Support from Elected Officials (pp 60–61):

We concur with TAAHP's support of staff's suggested changes to the timeline for this as well as the inability to change or rescind letters. In addition, we suggest that the deadline be June 1 rather than May 1, especially in years when the legislature is in session.

§50.9(a)(9) Tenant Services (pp 62):

Why are the tenant services being increased? This will have the effect of increasing project costs, without contributing to the affordability of housing (in fact it makes the housing less affordable).

§50.9(a)(11) Readiness to Proceed (pp 63-64):

We request that this new point category be deleted. These additional readiness to proceed items will increase the cost of submitting an application significantly. With respect to the geotechnical reports, in particular, it may not be practical to obtain, especially on a wooded site where the samples will not be able to be drilled without removing trees. Sellers will not want this type of invasive testing done on their property at this stage of the process (when no one knows whether the project will receive credits). Much of this work will have to be duplicated to some extent when complete construction plans are drawn.

§50.9(a)(12) Community Revitalization (pp 64-65):

Why won't Consolidated Plans and other plans such as Economic Development Plans or city-wide plans qualify? Consolidated Plans may have been adopted to comply with certain HUD requirements and programs, but they do indicate how and where a community wants to target funds for improvements or revitalization. What is the policy goal of this point category?

§50.9(a)(16) Green Building (pp 67-68):

We strongly support TAAHP's comments and request that the 2011 QAP language be used until further study of the economic benefit of the various programs. Again the goal should be to provide affordable housing (not housing with the most current trendy bells and whistles). We do support adding other third party certification program options to subsection (D) of the 2011 QAP in addition to LEED, such as Enterprise Green Communities and NAHB.

§50.9(a)(17) Developments in Census Tracts with Limited Existing HTC Developments (p 69):

We agree with TAAHP's recommendation, but would prefer that the points be increased to 6 points for census tracts with no other existing HTC Developments of the same type (as was the case in the 2010 QAP).

§50.9(a)(19) Economic Development Initiatives (pp 70-71):

We agree with TAAHP's comments and request that TDHCA include subsections (B) and (C) of the 2011 QAP.

§50.9(a)(20) Site Characteristics (p 69-70):

We agree with TAAHP's comments and recommend that the minimum number of required amenities not be increased beyond 4 amenities (leaving it at 3 would be better and 6 is far too many). Tax credit developments are an incredible economic stimulator and therefore there should be some room for a "pioneering" spirit. We have seen our tax credit developments assist in the development of nearby retail centers. Communities and neighborhoods support tax credit developments not only for the housing and jobs they provide but also to promote the development of retail facilities and other economic development. While it would be nice to be able to place all developments within walking distance of every amenity imaginable, the reality is that the closer to the heart of maximum amenities that you are, the more expensive the land. In order to keep costs down and developments affordable, a reasonable balance is needed.

§50.9(a)(26) Third Party Funding (p 76):

We agree with TAAHP's comments and emphasize that the proposed changes are a significant departure from prior QAPs (not a clarification). We request that the language of this section

revert back to language from the 2011 QAP. In the past we have been able to use the same funds to qualify for Leveraging of Private, State, and Federal Resources (§50.9(a)(25)) and Third Party Funding outside of QCT (§50.9(a)(26)) as long as the lender could meet all of the qualifications of (25) and (26). Now we can still use the same source but we will need to double the amount of the loan to qualify under both (25) and (26). Why change the way this funding has worked for the past several years?

§50.13(a) Application Reevaluation (p 89):

What is the purpose for Staff's proposed change? This appears to be a very significant change. Shouldn't there be a point at which these projects are not subject to being re-underwritten?

§50.13(d)(2) Ownership Transfers (pp 9-92):

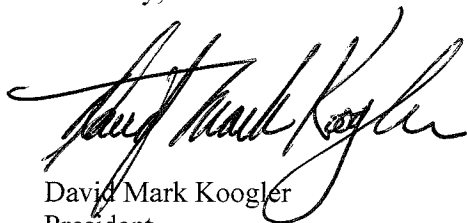
Sufficiency of the transferee's experience with Developments supported with Housing Credit Allocations is no longer required. Is this covered elsewhere? If not, this seems to conflict with the experience required for applications.

10 TAC, Chapter 1, Subchapter A, §1.1(a)(11) Definitions - Control (p 3):

This definition of Control should clarify that investor members in LLCs who do not possess other factors or attributes that give them control should not be deemed Controlling (similar to the exception stated for investor limited partners).

We appreciate the opportunity to provide comments to the QAP and hope that you will consider and make the changes that we have discussed. If you have any questions about our comments, please let us know.

Sincerely,



David Mark Koogler
President



CITYCENTRE ONE
800 TOWN & COUNTRY BLVD
SUITE 200
HOUSTON, TEXAS 77024-3920
713.629.5200

September 27, 2011

J. Paul Oxer, Chairman, and
Kent Conine, Boardmember
Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Petition for QAP Incentive for Rehabs or Reconstructions

Chairman Oxer, Boardmember Conine and Director Irvine:

The 2012 Draft Qualified Allocation Plan ("QAP") for the Housing Tax Credit Program proposed by staff last week has, regrettably, removed any point scoring for projects that propose Rehab or Reconstruction.

There are many communities throughout Texas, like Houston, which suffer from an aging housing inventory, especially affordable housing. Often times, these dysfunctional properties are a drain on local resources, becoming havens for criminal activity, creating unsanitary and unsafe conditions for tenants, and contributing to general blight. Also, the development of New Construction in these communities tends to put even more downward pressure on this aging housing stock.

For the last several years, the Program has directly incentivized the development of Rehabs and Reconstructions, which has greatly contributed to the redevelopment of many distressed properties throughout Texas, which may not have otherwise been done. It is important to recognize that Rehabs and Reconstructions are inherently more challenging than New Construction. They often involve tenant relocations, physical condition assessments, environmental contaminant remediation, less interest from financing partners, and other factors contributing to higher upfront and long-term risk and cost. Therefore, the Department's attempt to 'level the playing field' with New Construction applications is actually a deterrent for developers to attempt these critical projects.

We ask that the Department please consider the re-instatement of a Scoring Item directly incentivizing responsible Rehabilitations and Reconstructions. We recommend either a distinct Scoring Item, or an additional three (3) point item be added under §50.9(a)(12) Community Revitalization, or §50.9(a)(18) Development Location. To ensure that the proposed redevelopment is appropriate for the location, we further recommend language requiring that an Appraisal be included for Rehabilitation and Reconstruction applications determining that the proposed housing is the "Highest and Best Use" for that site. Finally, it should be established that the



proposed application be held to the same standard of eligibility as required under §50.4(c) Ineligible Developments, except with regard to Unit Mix of Rehab projects.

Thank you very much for your consideration of this request to address the severely distressed properties in our communities that contribute to neighborhood blight. The responsible re-development of these types of projects are instrumental in revitalizing and impacting community development.

Sincerely,

A handwritten signature in black ink that reads "Stephen J. Bryant". The signature is written in a cursive, flowing style.

Stephen J. "Jamie" Bryant
Director, Development
Midway Companies



PRESTWICK DEVELOPMENT

September 12, 2011

Mr. Tim Irvine
Executive Director
TDHCA
P.O. BOX 13941
Austin, TX 78711-3941

Re: 2012 Qualified Allocation Plan

Dear Mr. Irvine,

As a representative of Prestwick Development Company, LLC, I am writing to register my opposition to the proposed language pertaining to Experience Requirements contained in Section 50.8(4)(A) of the draft 2012 Qualified Allocation Plan. As currently written, a Principal of the Developer or Development Owner must establish that they have significant recent experience in housing tax credit development activities in Texas. In our opinion, this proposed language requiring "In Texas" experience violates fair trade within the parameters of a Federal housing program, and should be removed. This language is putting forth an anti-competition, anti-free market agenda that is in direct contract to the pro-business environment that Texas has long been known for.

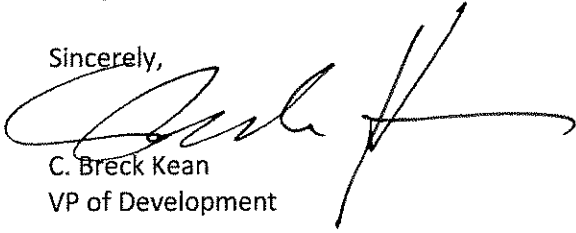
As clearly described in the Texas Government Code Chapter 2306, one of the main purposes of TDHCA is to provide for the housing needs of individuals and families of moderate, low, very low and extremely low income, and to serve as a source of information to the public regarding all affordable housing resources. The Low Income Housing Tax Credit (LIHTC) program is a Federal housing program of the U.S. Department of Treasury and administered for the benefit of Texans by TDHCA. While no one will argue that Developer experience is one of the most important underwriting criteria, the location of that experience should be immaterial to the Qualified Allocation Plan. If an experienced out of state developer can provide for the affordable housing needs within Texas communities through the LIHTC program, he/she should be allowed to do so without impediment or handicapping in the application process. It is incumbent upon TDHCA to administer all Federal affordable housing resources fairly, equitably, and without bias to where the developer is domiciled. To be clear, experienced Texas based developers are actively engaging in affordable housing development in other states without restrictions. **The 2011 QAP did not have this Experience Requirement and we respectfully request that the 2011 language be reinstated.**

3715 NORTHSIDE PKWY
BUILDING 200, SUITE 175
ATLANTA, GA 30327
PHONE: 404.949.3870
FAX: 404.949.3880

Prestwick Development is an Atlanta, Georgia based affordable housing development organization. Its principals collectively bring over 50 years of affordable housing development and asset management experience with over 10,000 units developed to date throughout the south and southeast. Prestwick has the experience, capacity and track record to successfully compete for LIHTC resources.

Thank you for your careful consideration of this request and I look forward to working with TDHCA to bring critically needed affordable housing to Texas communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Breck Kean', with a long horizontal flourish extending to the right.

C. Breck Kean
VP of Development



PRESTWICK DEVELOPMENT

September 26, 2011

Mr. Tim Irvine
Executive Director
TDHCA
P.O. Box 13941
Austin, TX 78711-3941

Re: 2012 Qualified Allocation Plan

Dear Mr. Irvine,

As a representative of Prestwick Development Company, LLC, I am writing to register my opposition to the proposed language pertaining to Experience Requirements contained in Section 50.8(4)(A) of the draft 2012 Qualified Allocation Plan. As currently written, a Principal of the Developer or Development Owner must establish that they have significant recent experience in housing tax credit development activities in Texas. In our opinion, requiring "In Texas" experience without consideration of out-of-state experience violates fair trade within the parameters of a Federal housing program, and should be removed. This language is putting forth an anti-competition, anti-free market agenda that is in direct contrast to the pro-business environment that Texas has long been known for.

The Low Income Housing Tax Credit (LIHTC) program is a Federal housing program of the U.S. Department of Treasury and administered for the benefit of Texans by TDHCA. While no one will argue that Developer experience is one of the most important underwriting criteria, the location of that experience should be immaterial to the Qualified Allocation Plan. If an experienced out of state developer can provide for the affordable housing needs within Texas communities through the LIHTC program, he/she should be allowed to do so without impediment or handicapping in the application process. It is incumbent upon TDHCA to administer all Federal affordable housing resources fairly, equitably, and without bias to where the developer is domiciled. To be clear, experienced Texas based developers are actively engaging in affordable housing development through the LIHTC program in other states without restrictions. **The 2011 QAP did not have this Experience Requirement and we respectfully request that the 2011 language be reinstated.**

Prestwick Development is an Atlanta, Georgia based affordable housing development organization. Its principals collectively bring over 60 years of affordable housing development and asset management experience with over 14,000 units developed to date throughout the south and southeast. Prestwick has the experience, capacity and track record to successfully compete for Texas LIHTC resources without being forced into a partnership with an experienced Texas based developer.

3715 NORTHSIDE PKWY
BUILDING 200, SUITE 175
ATLANTA, GA 30327
PHONE: 404.949.3870
FAX: 404.949.3880

Thank you for your careful consideration of this request and I look forward to working with TDHCA to bring critically needed affordable housing to Texas communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Breck Kean', with a long, sweeping horizontal stroke extending to the right.

C. Breck Kean
VP of Development

cc: TDHCA Board of Directors:
J. Paul Ozer, Chair
Tom H. Gann, Vice Chair
Ms. Leslie Bingham Escareno
C. Kent Conine
Lowell A. Keig
Dr. Juan Sanchez Munoz

Texas Draft 2012 QAP Comments – 9/8/11 Version – Realtex Development Corporation

General Comment – Do not support movement of sections of the QAP to General Rule or any other areas. These changes make it necessary for an applicant to have multiple documents open to understand the state’s allocation process and requirements. Unnecessary complication of process.

General Comments on Timing –

- For 9% developments, the change to include a greater focus on readiness to proceed creates a need for the Department to release information earlier. Specifically, demographic information needs to be released much earlier, for example by mid-October, rather than early December. Developers must be allowed sufficient time to complete the level of due diligence now incentivized under the selection criteria. Additionally, releasing pre-application results earlier will also become more important.
- Change from draft to final QAP – The changes proposed in the draft QAP are many, and they are substantive. The new financial feasibility items for 9% deals have a particularly large impact. Staff should be aware that reversion to previous (2011) language between the time the draft and final QAPs are published could have a detrimental effect on developments and on the 2012 cycle. Developers need to begin working right now in order to perform the due diligence that is incentivized in the current financial feasibility item. If the Department later abandons proposed language, developers will have spent significant pre-development funds based on an expectation that the draft communicates the Department’s intention, only to have those funds potentially be wasted on a development that is no longer competitive.

(Page 2) 50.1(c) – Rounding – What is the purpose of stating that applicants may not round, but then stating that staff may? Rounding is either allowed or it is not. Second sentence should be deleted.

(Page 2) 50.2(1)(B)(i) – Applicable Percentage – Carryover Allocation Agreement should be added since the applicable percentage can be locked at that time.

(Page 3) 50.2(7) – Central Business District – An area can be a legitimate Central Business or Downtown District without having a 10 story building. This number seems arbitrary, and this requirement should be deleted.

(Page 4) 50.2(15) – High Opportunity Zone – Requiring 3 of these options will significantly limit location. This is much too limiting, especially since this is also one of the very few options for a development to receive the eligible basis increase. The increase is increasingly important due to the higher cost of building due to stricter green building scoring incentives, and the deeper rent targeting incentivized under the Rent Levels of Units scoring item.

- a) Specify how measured, i.e. a radius;
- b) Date should be earlier than the beginning of the Application Acceptance Period, and should instead be September 30. See general comment above. For all data like this, waiting until early December to find out what the characteristics of a site are is far too late, especially considering proposed changes to financial feasibility section (meaning that more time for due diligence up front is needed);
- c) Site Demographic Characteristic Report must be released earlier than in previous years, i.e. no later than mid-October. The release of this information any later allows insufficient time for effective site selection;
- d) Support the allowance for district-wide enrollment; however, requirement for only one elementary school within those districts should be deleted, as it completely undermines the allowance for open enrollment (open enrollment and one school is the same thing as an attendance zone). The goal of this part of the QAP seems to be to build developments in areas where children have access to better educational opportunities. This goal is accomplished in all cases where children from the development can go to a good school (excepting magnet schools), regardless of whether the district has adopted enrollment zones or has open enrollment.

(Page 5) 50.2(26) – Transit Oriented District – New language “as designated by the Unit of General Local Government” is unclear, does not specify how this designation is documented, and as such should be deleted. Existing definition is sufficient.

(Page 5) 50.2(27) – Transitional Housing – Recommend that the definition be limited to the type of development, and not include requirements for type of sponsor. Inappropriate to tie the designation of the type of housing to whether sponsor is non profit or for profit.

(Page 6) 50.3 – Program Calendar – Recommend that experience certification documentation continue to be submitted prior to application. Performing that evaluation prior to submission of the application makes sense, both for the applicant and the Department. Department does not spend time evaluating an application from a non-qualified applicant, and the applicant can make an informed decision about whether an application should ultimately be submitted.

(Page 9) 50.4(a)(11) – Depending on the timing of Board meetings during the 9% housing tax credit application round, the requirement for a hearing before the Board have a detrimental effect on the finalization of recommendations for awards for 9% housing tax credit developments.

(Page 11) 50.4(b)(11) – Maximum Credit Per Unit – Is \$13,000 reasonable? Does this allow for eligible basis increase? Does this factor in the new green building options?

(Page 12) 50.4(c)(8) – Unit Mix Limitations – Add Central Business District to exceptions.

(Page 12) 50.4(c)(11) – Negative Site Characteristics – Delete new language allowing for staff discretion. The QAP should set out clear policies related to those features that are

considered negative and that warrant ineligibility. The addition of staff discretion provides uncertainty for applicants attempting to select sites based on the policies outlined in the QAP; this uncertainty should not be allowed for within the rules on an issue as critical as ineligibility.

(Page 16) 50.5(d) – Eligible Basis Increase –

- Language “to the extent needed and if determined to be infeasible without it” does not provide sufficient clarity related to how the amount of the eligible basis increase will be recommended. Does not clarify what measure of infeasibility will be utilized, i.e. whether Real Estate Analysis will only recommend an increase sufficient to cause deferred developer fee to equal but not exceed 50%. Suggest deletion of this language. Language should be replaced with following, “...staff will recommend a 30% increase to Eligible Basis unless a 30% increase in Eligible Basis would cause the development to be oversourced, in which case a credit amount necessary to fill the gap in financing will be recommended.”
- DDAs are not listed and should be, as required by Section 42

c) Definitions of Transit Oriented District and Central Business District should be modified as previously discussed within this document.

d) Definition of High Opportunity Areas should be modified as previously discussed within this document.

(Page 20) 50.6(e) – Tiebreaker –

A) The census tract that development is located in should be the sole tract used for evaluation. Contiguous census tracts could skew results.

B) QCP will likely be the item that determines the outcome of tiebreakers. With this in mind, the modifications to the scoring under the QCP item recommended in this document should be incorporated. Namely, there should be one score that is considered neutral, rather than the proposed scoring which awards 14 points for unclear letters and 16 points where no neighborhood organization exists; those should either both be awarded 14 points, or both be awarded 16 points.

(Page 21) 50.6(f) – Staff Recommendations – Last two sentences should be clear that recommendations will be based on the methodology outlined in the REA Rules, the QAP, and other Department rules, but that additional information may be provided; however, such additional information that is outside the scope of the selection, threshold, feasibility, and award methodology requirements shall not change recommendations based on those requirements (selection, threshold, feasibility, award methodology).

(Page 23) 50.7(a)(2) – Administrative Deficiencies – Administrative Deficiencies include the concept of point losses associated with responses outside of a specified time frame. The new language providing for Administrative Deficiencies for post award submissions raise the question of whether point losses post award going to be implemented. The QAP does not address this; the language should be modified to specify that the point loss provision of the Administrative Deficiency process applies only during the application review period.

(Page 27) 50.7(d) – Pre-Application Results – Include date by which a log has to be posted. Suggest January 13.

(Page 31) 50.8(3) – Rehabilitation Costs – Hard Costs by TDHCA definition include off-sites and contingency. Recommend that the Hard Cost definition as currently defined (including off-sites and contingency) be the measure used to establish the \$20,000 and \$12,000 minimum rehabilitation expenditures.

(Page 32) 50.8(4) Experience Requirement – Overall, good requirements. One comment:

- “This capability must be maintained continuously throughout the Compliance Period although the persons providing such experience may be changed to other qualified persons.” Sentence is contradictory to idea of experience evaluation. The experience requirement is for a principal, and requires that the principal has had involvement in the developments used for experience for five years. However, that sentence says that the persons involved may be changed during the compliance period. Does not make sense.

(Page 34) 50.8(5)(A)(ii) – Threshold Amenities – Do not support movement of sections of the QAP to General Rule or any other areas. These changes make it necessary for an applicant to have multiple documents open to understand the state’s allocation process and requirements. Unnecessary complication of process.

(Page 38) 50.8(5)(D) – Certification – Take out “and will remain”; applicant can accurately certify to what is the case at the time the certification is made, not to future events.

(Page 38) 50.8(5)(E) – Certification of Fair Housing – Location and scope of the material required to be reviewed needs to be included. A lack of specificity regarding information that applicants must certify to is problematic.

(Page 39) 50.8(5)(J) – Certification Regarding Neighborhood Organizations – Is this appropriate given the changes to QCP section regarding applicants helping to form Neighborhood Organizations?

(Page 41) 50.8(6)(B) – Rehab Elevations – Photographs of the current building exterior should be sufficient for “before” renovation. Delete requirement for before renovation drawings for rehabilitation developments where the exterior composition is being altered.

(Page 42) 50.8(8)(A)(iv) – Identity of Interest – Leave identity of interest requirements in QAP, and have that language mirror REA Rules.

- Revert to 2011 language, use of a 10% return on cost.

(Page 43) 50.8(8)(B)(i) – Jurisdiction with no Zoning – Agree with proposed changes. Also, related to public comment at the 9/15/11 board meeting from City of Houston staff, we do not agree that the language should revert to 2011. It is not the job of TDHCA or

the QAP to allow one city in the state with no zoning to have a method to approve land use. That is a local issue that should be addressed through zoning, not through the QAP.

(Page 47) Signage – Support the deletion of section.

(Page 48) 50.8(10)(C) – Previous Participation – Authorization for national non-compliance check must be specific that only instances where IRS Forms 8823 remained uncorrected for 3 months or more within the past 5 years (consistent with the experience standard set in paragraph 4) should be reported. Not all states interpret “noncompliance” as TDHCA does, and specific guidance for what is reported must be given.

(Pages 50 and 51) 50.8(13) – Authorization to Release Credit Information – Staff now is able to ask for the form for persons specifically excluded from the requirement, and for information specifically excluded from the requirement, if staff deems it necessary. Ample time must be allowed for an applicant to secure such signatures. This is not specifically required by the QAP, and therefore cannot be something an applicant is able to lose points for after 5 days. Language should be added to indicate that “discretionary” information requested is not subject to the timeline and penalties associated with Administrative Deficiencies.

(Page 51) 50.8(14)(C) – Property Condition Assessment – Support deletion of requirement for PCA for Reconstruction developments.

(Page 52) 50.9(a) – Self Score – There is no longer a requirement for points to have been requested in order to be awarded?

(Page 54) 50.9(a)(2) – QCP – Support addition of language stating that a non-qualified Neighborhood Organization can be evaluated for points under (11)(B) even if points not requested.

(Page 55) 50.9(a)(2)(A)(vi) – Assistance with Formation of Neighborhood Organizations – Delete “that no Neighborhood Organization exists.” Would prevent the formation of a resident council in the case of a rehabilitation development if some other neighborhood organization outside the development already existed.

(Page 55) 50.9(a)(2)(A)(viii) – QCP – This paragraph is confusing and contradictory. Begins with “While not required,” and then goes on to state that “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 boundaries.” Because the paragraph provides guidelines, not requirements, it is inappropriate to state requirements for who is involved in an optional meeting. This language should be deleted.

(Page 56) 50.9(a)(2)(B)(i)(II) and (III) – QCP Scoring – There should be one neutral score. Currently, areas with no neighborhood organizations receive more points than unclear letters from neighborhood organizations. It is unclear why this preference for

areas with no neighborhood organizations exists. Points under (II) and (III) should be equal.

(Page 57) 50.9(a)(4)(B) – Quality of Units – Do not agree with moving essential lists of amenities or any other information relevant to selection items out of the QAP. Amenity list should be moved back to the QAP.

(Page 58) 50.9(a)(5)(A)(iv) – Tax Exemptions – Value used to calculate contribution should be for the time period during which the exemption is received, up to a maximum of 15 years.

(Page 59) 50.9(a)(5)(A)(vi) – Rental Subsidy –

- Term – 15 year minimum term should be deleted. If the amount of the subsidy is sufficient to meet the threshold contribution amount over a shorter period of time than 15 years, it seems that the points should be allowed.
- Support the clarification that the rental subsidy cannot be a federal HAP contract that is simply administered by Southwest Housing Compliance Corporation.

(Page 59) 50.9(a)(5)(A)(vii) – Unit of Local Government Loan –

- Delete following language, “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.”

The lower per unit contributions outlined in 50.9(a)(5)(B)(i) and (ii) (\$2,000 and \$1,000 compared to \$4,500 and \$2,250 in 2011) suggest a lower funding requirement. However, comparing a 100 unit development at 2011’s \$4,500 per unit contribution (total contribution of \$450,000 for maximum points) to the “interest savings” method described in the language above, a loan amount 456% greater is now required to achieve maximum points (assuming a construction loan with a 24 month period and a 4% “interest savings,” a \$2.5M loan is required). In today’s economic environment, it is unreasonable to assume that Units of Local Government have funds of that magnitude available.

- Reinstate all deleted language. Not all funding cycles at the local level coincide with the 9% program; therefore, an intent to apply and an application for funding should be allowed as acceptable evidence.

(Page 59) 50.9(a)(5)(A)(vii) – Timing – Revise language to add evidence of application as an allowable option for evidence. Requirement to apply by March 1 will limit the funds that an applicant can seek, i.e. those cities whose application cycle does not coincide with the 9% cycle. For example, for 2011 the City of Houston’s funding applications were due in July 2011.

(Page 61) 50.9(a)(7) – Rent Levels of Units – The percentage of units at 30% and 50% AMI should be updated to require the same percentages as in 2011 to get maximum points. The Draft QAP proposes fewer options to achieve an eligible basis boost, incentivizes higher cost developments through the new green building criteria, and at the same time incentivizes even deeper rent targeting. These changes harm the feasibility of developments. For this scoring item, the percentages of deeper rent targeting should not be higher than in the past, especially given the other changes in the QAP.

(Page 61) 50.9(a)(8) – Cost by Square Foot – New, higher standard for green amenities and green points have not been appropriately considered in this scoring item.

(Page 62) 50.9(a)(9) – Tenant Services – Do not agree with moving essential lists of supportive services or any other information relevant to selection items out of the QAP.

(Page 63) 50.9(a)(11) – Readiness to Proceed – Support the addition of this scoring criteria.

(Page 64) 50.9(a)(12)(A)(iv) – Community Revitalization, Historic Preservation, or Mixed Income – Take this requirement out. Presenting the plan and a letter from the local official stating that the development contributes to the plan is sufficient. An additional narrative is redundant and unnecessary.

(Page 65) 50.9(a)(13) – Housing Needs Characteristics – This scoring criteria should be deleted. The Housing Needs Scores are based on a complicated formula that it seems no one understands. It also drives development into the same cities and towns in each region year after year, which results in a concentration of affordable housing in certain towns.

(Page 66) 50.9(a)(15) – Pre-Application – Do not agree with assignments being complete at the time of pre-application. Site control should not be in the name of an entity that is not formed, and applicants should not be required to form entities prior to pre-application. Certification of same principal, and assignment by application should be sufficient.

(Page 68) 50.9(a)(16) – LEED –

- The change to require LEED Platinum for maximum points could have an impact on number of applications awarded. The question staff needs to consider is whether the highest level of LEED certification is more important than developing a greater number of units. This will be the tradeoff. If LEED Platinum is not considered to be the ultimate goal, and maybe LEED Certified or some other lesser designation, meets the Department's goals, the Department should move this threshold downward in order to spread the credits around.
- This change should be factored into the proposed changes for 50.9(a)(8) Cost by Square Foot.

(Page 69) 50.9(a)(18) – Development Location – See previous comments regarding definitions of High Opportunity Area and Central Business District.

(Page 72) 50.9(a)(22) – Site Characteristics –

- Increasing the number of services is fine, but, the requirement that only one amenity from each section can be counted should be deleted. Suggest that development must have one amenity from three different categories, after which more than one amenity in each category may be counted.
- Medical facilities – A hospital is a more favorable, and is a different amenity than a physician office. Have those as two separate options.

(Page 75) 50.9(a)(25)(C) – Leveraging of Private, State, and Federal Resources –

- Delete new requirement that only new subsidy or subsidy with 15 year term qualifies. Leveraging is accomplished regardless of whether the rental subsidy is new or has been in place on an existing development.
- New language is confusing as to where the funds must come from. “The funding for which is provided directly by the private, state, or federal resource... by the UGLG or an instrumentality thereof.” Modify language to clarify whether the funds must come directly from the private, state, or federal resource, or whether they are allowed to be administered by the UGLG. Suggest that administration by the UGLG is allowed.

(Page 76) 50.9(b)(A) – Penalties – The penalty is assessed regardless of whether an extension was requested; therefore, the reference to subsequent request of an extension is unnecessary. Almost suggests that if you miss the deadline but do not subsequently ask for an extension the points aren’t deducted.

(Page 79) 50.9(c) – Forward Commitments – In general, it is good to require a greater level of review of applications being considered for forward commitments. However, the new language has some unintended consequences:

- New language incentivizes developers to request forward commitments.
- New process will likely delay the awarding of forward commitments. This means that developers will not have the information they need about which locations to focus on in time to do the necessary due diligence encouraged elsewhere in the QAP. Applicants need to know what funds are available earlier, not later.

(Page 91) 50.13(c) – Extension Requests – Support change to allow Executive Director approval.

**Draft 2012 Qualified Allocation Plan
Questions
September 20, 2011**

50.2.(7) Definitions. Central Business District or Downtown District – There was discussion to remove the ten (10) story building requirement. What is the position of staff?

50.2.(16)(C) High Opportunity Area – It was our understanding that “a census tract that has a 15% or less poverty rate” would be required to meet the definition of High Opportunity Area + 2 additional items from the list. Please confirm.

Also, it was recommended to add an additional item “increase in population of 10% or more in the CT from 2000 to 2010”. What is staff’s position on adding this language?

50.6.(b)(1) Nonprofit Set Aside –Will there be a separate log for nonprofit set aside or will it remain in the general allocation?

50.6.(3) At-Risk Set Aside –Can an application that selected to be part of the at-risk set aside allocation move to regional allocation during the application process?

50.6.(e)(A) Tie Breakers Factors – When you say “funded by HTC or Tax Exempt Bonds” do you mean 4% LIHTC with TE Bonds and 9% Tax Credits? Is there another program that allows funding with TE Bonds besides the LIHTC Bond Program?

LEED – It was discussed at the 09-15-11 Board Meeting to add Certification of NHB to qualify for points? Have you awarded a point structure for this?

50.9.(12)(C) – Define mixed use planned development. Do you want retail in addition to market rate units? Why not an option to choose one or the other? Neither will use LIHTC. Also, what if the retail exists adjacent to the HTC site which has yet to be developed in the mixed use planned development?

50.9.(19)(A) – Why have State Programs been eliminated?

September 25, 2011

TDHCA 2012 DRAFT QUALIFIED ALLOCATION PLAN (QAP) COMMENTS/ACTION REQUESTED:

- 1) **50.2.(16) High Opportunity Area** –**CURRENT STATUS:** New Draft of the QAP awards 4 points if the development meets (C) below and at least 2 of the following (adding (C) as a mandatory requirement was made at the 09-15-11 meeting):
- (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.
 - (E) High Growth Area – the population has increased at a minimum of 10% in the census tract since the 2000 census. *(this category was added at the 09-15-11 Board Meeting)*

ISSUE: In a State our size, many good real estate sites for affordable housing will not be a consideration because of the high level of criteria set in this scoring item. By requiring (C) be met and two (2) other items is unrealistic to meet the intent of this scoring item.

RECOMMENDED ACTION: Recommend each item be valued equally in one of the two options below.

Option 1: Meet three (3) of the proposed five (5) elements for 4 points. If a project does not meet at least three (3) then no points are awarded. No mandatory requirement for meeting (C). **OR**

Option 2: One (1) point for each item. The more a development site meets definition the more points will be added. Total possible points - five (5).

-
- 2) **50.9.(12) Community Revitalization** – The Community Revitalization Plan as described in the draft QAP eliminates nearly 100% of all planning documents for community revitalization by local jurisdictions.

CURRENT STATUS: TDHCA does not view special taxing districts such as TIF's/TIRZ as Economic Development Planning as Community Revitalization Planning.

We strongly disagree. In Dallas as in most major cities in Texas, tax increment financing districts is a strong if not the strongest community revitalization tool in the City's arsenal. TIF's were created to revitalize the Central Business District, State Thomas, CityPlace area, and in recent years Lake Highlands as well as yes other more economically challenged areas such as The Gateway in Oak Cliff, Fort Worth Avenue, South Dallas/Fair Park, and The Cedars. State Statute requires municipalities to approve by Council action a "Development and Financing Plan" for revitalizing the boundaries of the designated area. I would be hard pressed to think of any community in Texas that created a TIF or TIRZ for purposes other than community revitalization. Many developments would not occur "but for" the TIF designation and plan.

Community Revitalization points would be rightfully earned for projects locating in TIF's as they would be rightfully earned in the "Economic Development Initiatives" section below.

RECOMMENDATION: Allow a Tax Increment Financing District or TIRZ be acceptable as an example of a Community Revitalization Plan.

- 3) **50.9.(17) Community Development Initiatives** – This section has been changed to “Economic Development Initiatives”.

While the Staff allows local governmental initiatives and HUD economic development programs, they still do not allow any State economic development initiatives to qualify for the points.

RECOMMENDATION: Allow State economic development programs as acceptable in meeting the requirements for “Economic Development Initiatives” for the development of affordable housing.

50.2.(7) Definitions. Central Business District or Downtown District – there are numerous cities in Texas with population of less than 50,000 that have CBD’s. We recommend reducing the population to 25,000 provided the area is designated by the City and remove ten (10) story building requirement.

50.6.(b)(1) Nonprofit Set Aside – Will there be a separate log for nonprofit set aside or will it remain in the general allocation?

50.6.(3) At-Risk Set Aside – If an applicant selected to be part of the at-risk set aside allocation they should not be allowed to move to regional allocation during the application process.

50.6.(e)(A) Tie Breakers Factors – When you say “funded by HTC or Tax Exempt Bonds” do you mean 4% LIHTC with TE Bonds and 9% Tax Credits? Is there another program that allows funding with TE Bonds besides the LIHTC Bond Program?

LEED – If silver, gold or platinum LEED is chosen by applicant then cost of LEED program must be certified by a LEED specialist and included in development cost schedule on separate line item.

50.9.(12)(C) – Define mixed use planned development. Do you want retail in addition to market rate? Why not an option to choose one or the other? In either case LIHTC will not be used. Note: Market is saturated with empty market rate units and empty retail space. This may create financial feasibility issues.

50.9.(25)(26) – 2% of total development cost in some cases will be greater than the amount required by Government Instrumentality. Shouldn’t the percentage be reduced since this category is worth fewer points?



September 14, 2011

Mr. Tim Irvine
Acting Director
TDHCA
221 East 11th Street
Austin, Texas 78701
512-475-3800

Re: Requested changes to TDHCA staff draft of QAP to be presented to the Board 9/15/11

We appreciate your attention to the following request. We understand that the 2012 QAP draft will be presented to the TDHCA Board for consideration and will be adopted at the November Board meeting. Several changes have been made in this draft QAP that could result in a return to greater concentration of affordable housing in core central cities, and make it harder to develop affordable housing in suburban and outlying smaller city locations. The core central cities tend to have more areas that need revitalization, and also have areas such as TIF's TIRZ's, and large public transportation systems. We would like to request some minor changes in the QAP that would help allow a balance of development in core central cities, suburban areas and smaller cities.

1-Selection Criteria 50.9 (a) 12 Community Revitalization- We would like to see this paragraph deleted in its entirety. If that is not possible, we would like to reduce the points from 7 to 6, and delete section C. Market rate units and mixed use are not affordable for most developments in suburban areas and smaller cities.

2-High Opportunity Area Definition 50.2 (15) (A). Please add the ability to document accessible public transportation to the site, if "on call" transportation is available to the site for seniors and special needs residents. Many cities and counties now provide affordable transportation to income challenged seniors and special needs, when full public transportation may not be generally available.

3-Selection Criteria 50.9 (a) (19). Economic Development Initiatives- Please remove section B in its entirety. Suburban and smaller cities typically do not have TIF's and TIRZ's, and we believe this will encourage concentration in urban core cities.

4- Selection Criteria 50.9 (a) (11) Readiness to proceed. We request reducing these points from 7 to 4. The third party reports required to achieve a score of 7 are unreasonably expensive at this stage when the applicant doesn't even know if they will be allocated credits. For smaller market size developments or with multiple applications, this is even more unreasonable from an application cost standpoint. We suggest that applicants be required to submit these reports within 4 weeks of being selected for underwriting.

3-Tie Breaker-We would like to suggest that the first tie breaker be based on the lowest amount of tax credit units per capita in the CITY of application rather than census tract and adjoining census tracts.

4-Experience requirement- 4 (F). IRS Form 8823. We suggest changing this wording to allow 120 days to cure, verses 90 days, or longer if the applicant can show best efforts to cure. An example of this is the applicant has done everything they can do to cure a deficiency but the lease term has to expire before the resident moves out. This could take up to 12 months.

Sincerely,



Bradley E. Forslund
President
Churchill Residential

Waco Housing Coalition

Member Organizations:

City of Waco Housing &
Community Development
Services

Heart of Central Texas
Independent Living Center

NeighborWorks® Waco

Waco Community
Development Corporation

Waco Habitat for Humanity

Waco Housing Authority

9/14/2011

Board of Directors of
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: 2012 Draft QAP (9.8.11 Release Date)

Dear Chairman Oxer and Members of the Board:

The Waco Housing Coalition a coalition on Non-profits working with housing issues would like to thank you for allowing us to comment on your preliminary draft of the 2012 Qualified Allocation Plan (QAP). We would like to submit the following feedback and recommended changes to the QAP as follows:

1. We would like to ask that you include Historic Tax Credits as part of the application in the current draft of the scoring item titled **Community Revitalization, Historic Preservation or Mixed Income** (pgs. 64-65).
2. We implore you to reinstate the earlier point structure for the historic preservation and mixed use development. We believe that mixed income developments are the solution to the problems that have been recurring across the country with the high concentrations of all low income families that is facilitated by these Tax Credit projects. The reduction in points from 6 points to 1 point does not provide incentives to developers to build mixed income developments. Nationally, there has been a huge movement with the HOPE VI projects to move away from high concentrations of all low income families. Additionally, our City has experienced firsthand two tax credit projects that went bad in the past 5 years. We believe the main problem was management but also the high concentration of all low income families created the environment for management to fail. The solution to these obvious failures is mixed income developments. We have great examples of highly successful mixed income developments. We have 6 apartment complexes owned by the Non-Profit arm of the Local Housing Authority that are true mixed income developments. These complexes have been highly successful and not created the problems that the previous 2 tax credit projects created. We want any tax credit projects to be long term successful and a positive addition to our cities. Please provide significant point incentives for developers to build mixed income developments

Waco Housing Coalition

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3. We encourage you to add an additional point category that includes Local Governmental support. This will give the local governmental bodies the ability to support projects that are in alignment with their comprehensive master plans for their cities. It also allows the Local Governmental body the ability to discourage developments that are not in alignment with their comprehensive master plan for the city.

Thank you for giving us the opportunity to provide input into the 2012 QAP.

Sincerely,



Michael Stone, Executive Director
President of Waco Housing Coalition
Executive Director of Waco Community Development
254-235-7358
mike@wacocdc.org

cc: Tim Irvine, Executive Director
TDHCA

Waco Housing Coalition

Member Organizations:

City of Waco Housing &
Community Development
Services

Heart of Central Texas
Independent Living Center

NeighborWorks® Waco

Waco Community
Development Corporation

Waco Habitat for Humanity

Waco Housing Authority

9/21/2011

Mr. Conine, Board Member
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: 2012 Draft QAP (9.8.11 Release Date)

Dear Mr. Conine:

The Waco Housing Coalition a coalition on Non-profits working with housing issues would like to thank you for your service at the Texas Department of Housing and Community Affairs..

I am writing you for your support and help with the QAP changes that are presently being presented to the TDHCA Board. Tax Credit Projects have traditionally been a place for a high concentration of all low income families. This has to stop.

For the past many years the federal government has seen the error of concentrating poverty and created multiple programs to steer the Federal Public Housing to mixed income developments. The first round of this was Section 8 vouchers, then the Hope VI grants and now the Choice Neighborhoods grants. All of these are designed to help de concentrate poverty in the inner city parts of our cities.

Locally in Waco, we have seen firsthand the negative effects of concentrated poverty in the failure of the Parkside Villages Apartments. We have also seen the positive results of healthy mixed income apartments. We have 6 apartment complexes in the Greater Waco area that are owned by the Non-Profit arm of the Local Housing Authority that are true mixed income developments. These complexes have been highly successful. These apartment complexes highlight the design that we need others to follow, a smaller density of low income families

This year we thought that the TDHCA was going to take the lead and create incentives in the Tax Credit Process to have Mixed Income complexes built. In the preliminary draft of the 2012 Qualified Allocation Plan (QAP) mixed income developments were provided a sliding scale of incentive points(1-6pts). More points were awarded to a more mixed income development project. However, the latest version that is going to the TDHCA board allows a maximum of 1 pt. This does not provide a

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reasonable incentive for mixed income developments. It rewards projects that are all low income developments. The mixed income incentives points need to be put back into the QAP.

I am requesting that you put the Mixed Income Development Incentive back in the QAP. We need TDHCA to be forward thinking and developing incentives that create healthy mixed income neighborhoods. If the QAP continues as it exists today, we will continue to receive Tax Credit Projects that are not long term sustainable and detrimental to neighborhoods. Then we will continue to see the failures like Parkside Villages destroy our neighborhoods.

Please help us in developing mixed income neighborhoods for our cities.

Sincerely,



Michael Stone, Executive Director
President of Waco Housing Coalition
Executive Director of Waco Community Development
254-235-7358
mike@wacocdc.org

From: TDHCA Rule Comments
To: Tim Irvine; Tom Gouris; Teresa Morales; Teresa Shell;
Raquel Morales;
Subject: FW: 2012 Draft QAP Rules
Date: Wednesday, September 14, 2011 4:16:47 PM

From: Norman Henry [mailto:nhenry@buildersofhopecdc.com]
Sent: Wednesday, September 14, 2011 3:58 PM
To: tdhcarulecomments@tdhca.state.tx.us
Cc: Norman Henry
Subject: Re: 2012 Draft QAP Rules

I would like to offer the following changes for consideration:

Section 50.8 (a) (4) – allow local jurisdictions to provide experience documentation of the 80 unit requirement if the entity is a local CHDO and the number of units being proposed to develop is less than 50 units. However the Property manager and/or General Contractor/Developer must have previous tax credit experience. This arrangement will not impact the Credit Cap of the other entities involved in the transaction.

Section 50.5 –include another development location for “Previous foreclosed existing Residential Development and/or scattered site land bank lots” This will encourage development of abandoned foreclosed properties including the land that’s in the Land Banks as a result of NSP Funding. Dallas County has over 100,000 vacant, foreclosed lots available for development.

Points Section:

1. Increase points for green building (Item number #16) to 12 points. Green building should be a higher priority to encourage more green projects.
2. Citizen community points should be decreased to 16. The points allowed should be on the same level as the State Representative. The State Representative reflects the needs of the entire district and will in most cases be less emotional about the project.

Thank you for the opportunity to give input.

Norman Henry
Builders of Hope CDC
214-920-9850

From: Hal Fairbanks
To: Tom Gouris;
cc: Teresa Morales; Donna Rickenbacker;
Tim Irvine;
Subject: RE: Draft QAP
Date: Friday, September 16, 2011 12:18:15 PM

Tom,

I heard you had a busy Board Meeting yesterday. I understand several folks commented on the exact wording regarding requirements for submission of proof of historic designations. I wanted to make sure you understood the concerns about submission of proof of designation as opposed to concerns about submission of proof of the use of Historic Credits, which I think you have addressed in the current draft QAP. Below is the referenced language from the latest QAP. I have highlighted the part discussing the designation requirements and inserted some suggested language in red. This is a somewhat technical issue, but I think it is an important issue/concern for TDHCA to understand.

The points in question are only available for buildings that are (i) historic and (ii) use Historic Tax Credits. However, you do not need an historic designation on a building to qualify for Historic Tax Credits. To close a Historic Tax Credit transaction you need an approved Part 1 form (it is subtitled "Determination of Eligibility"). The only way to proceed without an approved Part 1 form is to have a building that is already individually listed on the National Register of Historic Places (a "federal historic designation"), which can be independently confirmed. It takes six months, at a minimum, to process an individual listed on the National Register. However, the Part I can be processed in two to three months.

If the building does not have a designation itself, but is in an historic district, an approved Part 1 form, would determine that the building is eligible for the Historic Credit Program, because the building contributes significantly to the character of the historic district. No further designation or determination of the building's eligibility is required to participate in the

Historic Tax Credit program, just an approved Part 1 form.

If the building does not have a designation itself, nor is it in an historic district, an approved Part 1 form, would determine that the building is eligible for the Historic Credit Program, because the building itself qualifies for an individual listing on the National Register of Historic Places. Again the Part 1 still determines eligibility for the Historic Tax Credit Program, and still is sufficient to close financing on an Historic Tax Credit Equity transaction, although there is the requirement that the individual listing on the National Register be completed within 24 months of completion of the project.

The reason for use of the Part 1 form is because it takes a long time to process an individual listing on the National Register and buildings that do not have an individual federal designation, but contribute to the character of a federal historic district are eligible to participate in the Historic Tax Credit program.

The point that folks making public comments were trying to make is that TDHCA should (i) affirmatively state that an approved Part 1 form counts as an historic designation and that it may be submitted in response to the Commitment Notice (to give time to process a Part 1), or alternatively (ii) drop the requirement for submitting proof of an historic designation, since it is not necessarily needed to participate in the Historic Tax Credit Program and proof of the use of Historic Credits will be required at Cost Certification.

The problem is that buildings that are already listed on the National Register comprise only a small fraction (probably <5%) of the total set of buildings that would qualify to participate in the Historic Credit program. Artificially limiting the universe of buildings that could qualify to use

Historic Tax Credits, by requiring that an historic designation to be in place and submitted at the time of housing credit application although that is not required to participate in the Historic Tax Credit program, will discourage the use of the Historic Tax Credit rather than encouraging it

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 , for example an approved National Park Service Part I application.

Such evidence shall be submitted along with the response to the Commitment Notice.

The Applicant will be required to show proof of the Historic Tax Credits at Cost Certification.

Sorry for such a long email, on such a small bit of language, but I know you want to understand the issues folks are raising and TDHCA has demonstrated it wants incentive use of the historic credit. Please feel free to call me should you have any questions.

Best Regards,

-Hal

Hal Fairbanks

VP Acquisitions

HRI Properties

909 Poydras Street

Suite 3100

New Orleans, LA 70112

(504) 566-0204 main

(504) 679-5068 direct

(504) 415-5068 cell

(504) 525-3932 fax

From: Tom Gouris [mailto:tom.gouris@tdhca.state.tx.us]

Sent: Thursday, September 08, 2011 7:08 PM

To: Hal Fairbanks; Tim Irvine; tom.gouris@tdhca.state.tx.us

From: Raquel Morales
To: Teresa Morales;
Subject: FW: Draft QAP comment
Date: Thursday, September 29, 2011 10:15:07 AM

Raquel Morales

9% Housing Tax Credit Administrator
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: (512) 475-1676
Fax: (512) 475-0764

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

From: Michelle Grandt [mailto:Michelle@delphihousing.com]
Sent: Tuesday, September 27, 2011 11:18 AM
To: Raquel Morales
Subject: Draft QAP comment

Raquel,

Please consider this comment:

Section 50.8 Threshold Criteria.
(3) Rehabilitation Costs.

Developments involving Rehabilitation must establish a scope of work that will substantially improve the interiors of all Units and exterior deferred maintenance, at a minimum, and will involve at least \$20,000 per Unit in Hard Costs excluding off-sites and contingency unless financed with TRDO-USDA or a Tax-Exempt Bond Development.

Michelle Grandt

Delphi Affordable Housing Group, Inc.
9433 Bee Caves Road, Suite 3-201
Austin, Texas 78733
(512) 494-8200 ext. 212
(512) 494-8201 facsimile

Teresa Morales

From: Raquel Morales
Sent: Thursday, September 29, 2011 11:22 AM
To: Teresa Morales
Subject: FW: QAP Comment

Here's another one.

Raquel Morales

9% Housing Tax Credit Administrator
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: (512) 475-1676
Fax: (512) 475-0764

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From: terry coyne [<mailto:emailcoyne@gmail.com>]
Sent: Thursday, September 29, 2011 11:05 AM
To: Raquel Morales
Subject: QAP Comment

Hi Raquel,

Please accept this QAP comment based on the version of the QAP that was included in the 9/15/11 Board Book.

There exists little incentive to developing in areas with Neighborhood Organizations. If no Neighborhood Organizations exists a project receives 16 points under **50.9(a)(2) Quantifiable Community Participation** and then is eligible for 6 points under **50.9(a)(14) Community Input other than Quantifiable Community Participation** for a maximum total of 22 points. Compared to a maximum total of 24 points under **(2) & (14)** if a project is within a Neighborhood Organizations footprint.

REQUEST:

If an Application is able to garner the support from both a Neighborhood Organization AND community and civic organizations this should be recognized and rewarded to some extent.

Proposed additional language to **50.9(a)(14) Community Input other than Quantifiable Community Participation:**

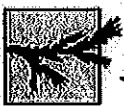
"If an Application was awarded 24 points under paragraph (2) of this subsection, then that Application may receive up to **4** points for letters that qualify for points under subparagraph (A), (B) or (C) of this paragraph."

Thanks for your consideration.

Best,

--

Terry Coyne
JUNIPER HOUSING LLC
terrancecoyne@yahoo.com



JUNIPER HOUSING LLC
eco-affordable communities

smart sites - green systems - sustainable materials - tenant enrichment



Comments to Draft 2012 QAP and Definitions

1. We need to reexamine the new Green Building Certification standards (Definitions and page 67 of the QAP). By adopting LEED Platinum, Cross Architects of Plano has stated that TDHCA could be adding up to \$800,000 to the typical design and construction costs of a 100-unit multifamily development (see attached letter). In addition, Galier Tolson French of Bedford has just completed a Platinum LEED deal. They felt that it increased construction costs by 25% (see attached letter). They also stated that they were within 2 weeks of completion of the project and still weren't sure that they would be able to achieve the Platinum rating even though they had designed the project to achieve such a rating. Before adopting such a high standard, we recommend that TDHCA perform a separate study and roundtable to determine if there are alternatives, such as the "National Association of Home Builder's National Green Building Standard", or the "Green Building Initiative", that will provide energy efficient units without substantially increasing the cost of the units, thereby requiring more credits to be utilized per unit and decreasing the amount of units that can be financed by LIHTC in a single year. In the meantime, please retain the 2011 standards for the 2012 QAP.
2. Tie Breaker Factors (page 20). The first factor defies logic. In some census tracts, one development is too many. In others, five may not be enough. The second factor basically means that any development that has support from a neighborhood association will defeat a development without a neighborhood association. Should this really be the determining factor? Instead, we should have item (C) as the first tie breaker. This ensures that applicants ask for the least amount of LIHTC necessary to make their development economically feasible. This would allow TDHCA to fund more units with this finite resource.
3. Experience Requirement (page 32). Is there a reason for changing the rule? Did someone who met the prior rule receive an award of LIHTC and then fail to complete the development as proposed? If not, then please don't keep changing the requirements to address a problem that doesn't exist. We've had to go through recertification for the past two years, so let's keep the same rules unless there is a problem. Also, is this rule saying that if you built 1,000 units of LIHTC housing in the last four years, none of that counts as experience since the units do not have five years of compliance history? If so, that seems to make no sense since the market is saying that this is an experienced, capable developer by providing equity and debt for the prior developments built by that developer.
4. QCP (page 56). Under scoring category (III), a neutral score would be a score that neither penalizes nor rewards an Application for which no Neighborhood Organization exists; that score would be 18 points, not 16. Please change the points for this situation accordingly.
5. Cost of Development by Square Foot (page 61). If you do not change scoring item #16 back to the language in the 2011 QAP, and you keep the same language as currently stated, then you need to increase this item by \$7 per square foot. If you change from the 2011 language in item #16, but adopt a different standard, then you still need to reevaluate and increase the limits for this scoring item (assume that the average unit is 1,000 square feet on a family development and 825 square feet on an elderly development).
6. Readiness to Proceed (page 63). To meet the requirements of this scoring item, the average Applicant will have to expend about \$39,000. This will reduce competition, as there are few developers that can afford to spend an additional \$39,000 on an application prior to its receiving an award of LIHTC. Further, it will require almost all nonprofits to partner with a for-profit developer, as very few have the resources to spend that amount of money on an application. The pertinent question is: are we addressing a problem that does not exist? How many developments have received an award of LIHTC and then failed to be built due to permitting issues? If the answer is none or almost none, then don't adopt an expensive "fix" for a problem that doesn't exist.
7. Community Revitalization, item C (page 65). We adopted the idea of mixed-income developments as part of the 2001 QAP and found out that the theory did not work in practice. That's why this was removed from the QAP. The rents end up dropping almost to the LIHTC rents and then the development is economically underwater if it was underwritten at true market rents. Anybody that can afford a true market rent will choose to live in a 100% market rate rental development. The rents on the "market" units drop to about \$50 over the LIHTC rents, and

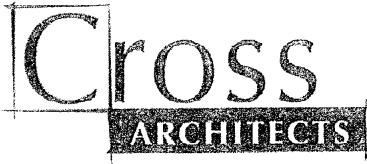
the renters are those who barely exceed the LIHTC limits (usually earning in the 65-80% of AMI range). Further, with the tax credit percentage dropping from a fixed 9% down to a current 7.8%, the applications cannot afford to not receive credits on 10% of their eligible basis. Therefore, we should eliminate this as a scoring item.

8. Central Business District (page 3). Is there any reason for the requirement that the CBD have one building at least 10 stories tall? If not, then we recommend that this requirement be removed so that more cities qualify under the definition.
9. Developments Proposing to Qualify for a 30% increase in Eligible Basis (page 16). Please restore item 2(C), whereby a development is eligible for the boost if it agrees to provide an additional 10% of the units at 30% AMI.
10. Ineligible Applications (page 11). Almost all single family type LIHTC units are 3 or 4 bedroom units. Therefore, we recommend that the \$13,000 limit on LIHTC per unit be raised to \$15,000 per unit for this type of housing.

Governor Perry has been trumpeting to the rest of the nation that we are the state that has the least amount of regulations, and that is why we have prospered more than the rest of the country. Many of the items enunciated above reflect new regulations that appear to have been adopted not to address real issues, but merely for the sake of adopting new regulations. Each of these items needs to be evaluated and **not** adopted unless there is a true problem that needs to be addressed.

Please go back and look at the history of the LIHTC program in Texas. In 2001, our QAP had a total of 32 pages and our Real Estate Analysis Rules and Guidelines (REA) had a total of 11 pages. For 2012, the draft QAP has 98 pages and the draft REA has 41 pages. As a thirty-year tax CPA who has worked with the LIHTC program since 1989 as a CPA and since 1993 as a developer, I can tell you that **Congress has not changed Section 42 so remarkably since 2001 that the QAP and REA had to increase by 323%**. Yet, in 2001 we were able to produce quality affordable housing that met the goals created for this program by Congress in 1986. **Those goals have not changed since 1986**, but this program has been so reshaped and redirected away from its original intent in Texas that it barely resembles the original program.

Commissioner Conine alluded to this in his overall comments about the draft 2012 QAP. In that vein, we'd like to make a suggestion that reflects "thinking outside the box". About six years ago, the Executive Director convened a volunteer group of stakeholders consisting of developers, lenders, syndicators, attorneys and accountants to meet and completely revamp the QAP and REA. At the initial meeting, it was suggested that we completely eliminate the current rules and start over, returning to the original goals of the program. However, we determined that it would take too long to do that, and, in the end, only minimal changes were made. This year presents us with a unique opportunity. Suppose that the Board awarded all of the 2012 LIHTC as Forward Commitments? That would allow all of the developments to be placed in service by 2013 and to utilize their eligible basis with the full 9% credit percentage, lowering the amount of debt needed on each application and thereby lowering the risk that the developments would later become economically unfeasible. Further, this would give the staff and the stakeholders the time needed to completely rewrite the program rules and eliminate all of the extraneous demands that have nothing to do with providing quality affordable housing that have been placed on the program. We believe that this reflects the Governor's sentiment that government needs to be streamlined and become the least intrusive element in the lives of the people.



September 14, 2011

Letter

Roundstone Development
Clifton Phillips
1750 Valley View Lane, Suite 420
Dallas, Texas 75234
(972)243-4205

Mr. Phillips,

It has come to our attention that the TDHCA is considering awarding points for LEED certified projects. It is our understanding that a project obtaining a HERS Score of 85 or lower will be awarded 2 points, a LEED certified project will be awarded 3 points, LEED Silver certification will be awarded 4 points, LEED Gold certification will be awarded 5 points and LEED Platinum will be awarded 6 points.

It is our opinion that requiring LEED certification for tax credit projects could cause potential problems for developers that are not fully aware of the magnitude that LEED certification can add to the scope of work of a construction project. An uneducated developer may believe they can in good faith achieve a LEED Gold or Platinum certification while developing their proposal, but due to budget constraints or variables beyond their control such as the volatility of construction prices; they may find it impossible to meet that obligation once the project is actually bid by a contractor. Such a scenario would create a dilemma for all parties involved that may be almost impossible to correct if a project has already been awarded. We also believe that some developers may choose to take credit for LEED certification on their application when they are not certain that the project budget can sustain the additional costs in an effort to obtain the most points for the project, therefore taking a risk that they may or may not be able to make it work in the end. This would essentially award a developer that may not be able to achieve LEED certification while disqualifying another developer who actually did his due diligence and did not take the credit because he knew it was not feasible for that project.

We have designed over thirty tax credit projects and several LEED projects as well and in our opinion we believe that the additional costs associated with achieving a LEED Platinum certification on a 100 unit development could be as high as \$800,000.00 above and beyond the typical design and construction costs associated with a multi-family development of that size. With this in mind there are other programs that could be

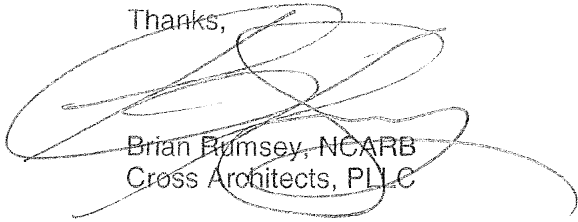
CROSS ARCHITECTS, PLLC
1255 W. 15th Street #125 • Plano, Texas 75075 • 972.398.6644 • 972.312.8666 Fax



implemented, such as the "Green Building Initiative," that would not be as costly or difficult to achieve. We believe it would be less confusing and more cost effective to award points for a different "Green Building" system that is more compatible with affordable housing projects or award the same number of points for all LEED certification levels so if a developer chooses to take the points for building a LEED project he is awarded the same points regardless of the level of certification that the projects actually achieves. This would level the playing field and help eliminate the urge for some developers to automatically choose the highest points in an effort to simply win the project while having no regard for the complex and difficult task ahead of them.

We hope that you will reexamine and reconsider the LEED initiative for TDHCA projects.

Thanks,

A large, stylized handwritten signature in black ink, appearing to read "Brian Rumsey".

Brian Rumsey, NCARB
Cross Architects, PLLC



Galier | Tolson | French

Architecture
Planning
Project Management

September 12, 2011

Mr. Clifton Phillips
Roundstone Development
Two Hickory Center
1750 Valley View Lane
Suite 420
Dallas, Texas 75234

Dear Mr. Phillips,

Please consider this letter as my thoughts and comments on the proposed TDHCA QAP changes for 2012 adding LEED requirements to the scoring criteria. Though I am 100% in support of sustainable green building requirements and initiatives, I think these should always be seriously considered and phased in over several years for the best end results. Our firm has done 8,000 Tax-Credit elderly units Texas for a dozen or more clients and nearly 6,000 more family units in Texas and other states.

The cost of going LEED in the typical TDHCA type project is going to ensure most projects that use these points for scoring will have difficulty getting built by private developers. We recently completed a LEED Platinum project in Harris County. This project was on an in-fill suburban site and was designed with an urban-style three story building and several single story 4-plex buildings. The cost of the making the job LEED Platinum was relatively easy to quantify since the decision to design to LEED standards was made largely after the job was contracted for construction. The total cost of taking a standard tax credit apartment community to LEED Platinum was at a minimum a 25-28% increase in the cost of the job. Without substantial additional governmental financial subsidies and contributions to this institutional housing developer this job would not have been able to go LEED Platinum or even LEED. We are doing a current market rate LEED Certified project in Oklahoma City. The urban in-fill site is ideal for LEED and the additional cost to the developer is still about a 5-8% more. On this job the developer can pass those costs on to their residents, where Tax Credit projects can not.

In addition to the cost, the complexity of the LEED design and certification process will make it hugely difficult for TDHCA to monitor compliance with the program. The LEED process is fluid and requires expensive professionals to monitor and guide the work. Most affordable general contractors and developers in Texas have not done a LEED multi-family job. The learning curve will be sharp and costly. This process should be acknowledged by the board and built into a more long term, holistic plan to encourage green building initiatives.



Galier | Tolson | French

Architecture
Planning
Project Management

LEED has name recognition. There are many other high quality sustainable building programs out there including, Enterprise Green Communities and Earth Craft that are in my opinion more community, resident and developer friendly. These should be included in a menu of options for developers to choose from based on each projects specific needs and requirements. LEED is also in my opinion biased toward urban projects and not easily adapted to rural or even suburb areas for housing.

If LEED levels are made a scoring item, in our experience, most developers will be forced to take the maximum points then figure out how to make the deal work. Requiring anything LEED beyond the Certified level seems to be a problematic and will surely create issues for TDHCA and developers. These problems will ultimately slow the final goal of great affordable housing that has been built to be sustainable.

I would strongly encourage the TDHCA Board and other folks involved in this process to consider more green building programs then just LEED and phasing in their initiatives over a period of years so the industry can more ready to receive and implement them.

Sincerely,

J. Marc Tolson

J. Marc Tolson, AIA
Owner/ Managing Partner

JMT/kw

BOARD ACTION SUMMARY
MULTIFAMILY FINANCE DIVISION
OCTOBER 4, 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 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 between October 21st and October 28th. There will also be consolidated public hearings during this time to garner public comment. The QAP 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, the definition for Single Room Occupancy has been 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, categories of LEED certification as well as categories of NAHB Green. 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, Executive 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 October 21, 2011 to October 28, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2012 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 28, 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) Definitions. 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 ~~e~~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 ~~b~~Bedroom- [designed principally for use by a single person](#).

(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 managers, 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.

(4~~1~~9) 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.

(4~~2~~1) 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~~3~~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))~~

(4~~4~~3) 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.

(4~~5~~4) 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.

(4~~6~~5) 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.

(47~~6~~) 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)

(48~~7~~) 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.~~

(50~~4~~) 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.

(51~~2~~) 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.

(52~~3~~) 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. (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);
- (O) 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);

- (R) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);
- (S) Horseshoe pit, putting green or shuffleboard court (1 point);
- (T) Community Dining Room w/full or warming kitchen furnished with adequate tables and 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
- (V) 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 subparagraph (U) of this paragraph is not selected;
- (W) Sport Court (Tennis, Basketball or Volleyball) (2 points);
- (X) 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);
- (Y) Community Theater Room equipped with a 52 inch or larger screen with surround sound equipment; DVD player; and theater seating (3 points);
- (Z) Dog Park area that is fully enclosed and intended for tenant owned dogs to run off leash (1 point);
- (AA) Common area Wi-Fi (1 point); or
- (BB) 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 four categories: Limited Green Amenities, Enterprise Green Communities, Leadership in Energy and Environmental Design (LEED) and National Green Building Standard (NAHB) Green. (maximum 4 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 Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(-c-) LEED (4 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e. Certified, Silver, Gold or Platinum).

(-d-) National Green Building Standard (NAHB Green) (4 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NAHB Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

(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.

(1) Covered entries (1 point):

(2) Nine foot ceilings in living room and all bedrooms (at minimum) (1 point):

(3) Microwave ovens (1 point):

(4) Self-cleaning or continuous cleaning ovens (1 point):

(5) Refrigerator with icemaker (1 point):

(6) 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):

(8) Thirty (30) year shingle or metal roofing (1 point):

(9) 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.

- (1) Joint use library center, as evidenced by a written agreement with the local school district (2 points):
- (2) Weekday character building 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.)) (2 points):
- (3) Daily transportation (i.e. bus passes, cab vouchers, specialized van on-site) (4 points):
- (4) Food pantry/common household items accessible to residents at least on a monthly basis (1 point):
- (5) GED preparation classes (shall include a certified instructor providing on-site coursework and exam) (1 point):
- (6) English as a second language classes (shall include a certified instructor providing on-site coursework and exam) (1 point):
- (7) 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):
- (8) Annual health fair (1 point):
- (9) 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 points):
- (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):
- (19) 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, Executive 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 October 21, 2011 to April October 28, 2011 to receive input on this section. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2012 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 28, 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.

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

COMMUNITY AFFAIRS

BOARD ACTION ITEM

OCTOBER 4, 2011

Presentation, Discussion and Possible Approval of the Request for Applications (RFA) to provide Community Services Block Grant (CSBG) services to Loving, Reeves, Ward, and Winkler Counties beginning January 1, 2012.

RECOMMENDED ACTION

Approve Release of RFA:

RESOLVED, that the Executive Director is authorized to release a Request for Applications and to negotiate a commitment of FFY 2012 CSBG funds for a state contract with one service provider successfully applying to serve eligible clients in the counties of Loving, Reeves, Ward, and Winkler; which contract shall be expressly made subject to the ratification of the Governing Board and if necessary, designation by the Governor of the State of Texas.

BACKGROUND

In order to meet the requirements of Section 676A of the Community Services Block Grant (CSBG) Act that all areas of the State be served by a CSBG eligible entity, the Department intends to solicit applications to serve Loving, Reeves, Ward, and Winkler Counties, which are currently unserved due to the voluntary relinquishment of the CSBG program by the Community Council of Reeves County (CC of Reeves). Eligible applicants include organizations with a private non-profit 501(c)(3) status or a general unit of local government.

The Community Council of Reeves County previously administered a series of federal, state, and local programs on behalf of the area's low-income persons. The Department received notification from CC of Reeves that on July 14, 2011, CC of Reeves Board of Directors relinquished all programs under contract with the Texas Department of Housing and Community Affairs, including CSBG. The CSBG Act requires the State to solicit applications from local organizations to resume CSBG-supported services in areas that become unserved.

The Department intends to meet this requirement by releasing a Request for Applications. Due to time constraints, staff is requesting the Board authorize the Executive Director to provisionally award a contract to provide such services based on an objective, standardized scoring instrument. The awarded contract shall be subject to ratification by the Governing Board. If the successful applicant is not already designated as a CSBG Eligible Entity (Community Action Agency), designation of such status shall be requested of the Governor of the State of Texas.

Request for Applications

**Organization
to
Administer the
2012 Community Services Block Grant (CSBG)
Program**

**Service Area

Counties
of
Loving, Reeves, Ward, and Winkler**

October 2011

Internet Address: www.tdhca.state.tx.us

TO: COMMUNITY SERVICES BLOCK GRANT (CSBG) ELIGIBLE ENTITIES

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INCOME GUIDELINES**

REQUEST FOR APPLICATIONS
2012 COMMUNITY SERVICES BLOCK GRANT (CSBG) PROGRAM

SERVICE AREA:
COUNTIES
OF
LOVING, REEVES, WARD, AND WINKLER

PART A. GENERAL INFORMATION

BACKGROUND

Public Law No. 97-35, the Omnibus Budget Reconciliation Act of 1981, established the Community Services Block Grant Program making grants available to states to ameliorate the causes of poverty in local communities. Under the “block grant” concept, the U.S. Department of Health and Human Services provides annual allotments to states that, in turn, award not less than 90% of the funds to a statewide network of local organizations. The CSBG funds provided to the network organizations are for providing direct anti-poverty services/assistance and for providing administrative support to the organizations for those programs with little or no administrative allowance. Direct services to low-income clients are for activities to address the following, but are not limited to: remove obstacles and solve problems that block the achievement of self-sufficiency, secure and retain meaningful employment, attain an adequate education, make better use of available income, obtain and maintain adequate housing and a suitable living environment, obtain emergency assistance (including disaster recovery activities), and, address the needs of youth (including after-school child care programs) in low-income communities.

Texas Government Code 2306.097 states that energy services programs that serve low-income individuals, such as the Texas Weatherization Assistance Program and the Texas Comprehensive Energy Assistance Program, shall operate in conjunction with the Texas Community Services Block Grant Program. Therefore, all applicants responding to this CSBG RFA shall commit to area coordination and collaboration among these three (3) programs to maximize multi-program services and assistance on behalf of area low-income clientele.

RFA PURPOSE

The Texas Department of Housing and Community Affairs (the Department), through this Request for Applications (RFA), is soliciting existing Texas CSBG eligible entities or other eligible organizations to administer the Community Service Block Grant Program in the following unserved area: Counties of Loving, Reeves, Ward, and Winkler. Organizations shall submit one application for serving all four (4) unserved counties.

ELIGIBLE APPLICANT ORGANIZATIONS

In accordance with the CSBG Act, grant funds may be made available locally to CSBG eligible entities and other organizations. When an area ceases to be served by an eligible entity, the State may solicit an application from a private non-profit organization (which may include an eligible entity) located in the unserved area, or from a private non-profit eligible entity that is located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area. If no private non-profit organization is identified or determined to be qualified to serve the unserved area, the State may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. Political subdivisions of the State, for the purposes of this RFA, include units of local government (cities and counties) as well as regional councils of government.

GENERAL RFA INSTRUCTIONS/APPLICANTS' MINIMUM QUALIFICATIONS

Provided within this RFA packet are instructions for applying for possible CSBG funding for non-profit organizations and political subdivisions of the State interested in serving as a sub-recipient of Community Service Block Grant Program funds. In order for a private non-profit organization to be considered to be a CSBG eligible entity, the organization shall provide documentation of its current 501(c)(3) status and shall agree to administer the Community Services Block Grant Program through a governing tripartite board as described in Section 676B of the CSBG Act. In order for a public organization to be considered to be an eligible entity, the organization shall agree to administer the Community Services Block Grant Program through a governing tripartite board as described in the CSBG Act or by another mechanism specified by the State with an assurance that decision making and participation by low-income individuals in the development, planning, implementation, and evaluation of CSBG-funded programs takes place. "Another mechanism" may include an advisory board or an advisory group authorized by the public organization to guide the governance of the CSBG Program under contract with the Department. See Appendix A.--CSBG Act--Section 676B. TRIPARTITE BOARDS.

PLANNED AWARD

The Department intends to make one award that will best enable the Department's selected sub-recipient organization to administer the 2012 Community Service Block Grant Program in one single service area: Counties of Loving, Reeves, Ward, and Winkler. The Department's selection of the sub-recipient organization will be determined by management based upon scoring of applications and the recommendations by Department staff. Awarded RFA funds may be provided by the Department to a single organization for serving just the four-county area. Or, RFA funds may be provided to an existing CSBG eligible entity which will expand its CSBG service area to include the four (4) new counties effective January 1, 2012.

Funding levels will be ultimately determined based on appropriated funds from Congress, and the CSBG funding allocation formula developed by the Department and approved by the US Department of Health and Human Services

QUESTIONS/INQUIRIES

Questions relating to this RFA packet and instructions for preparing an application may be directed to the Department's Community Services Section staff: Rita Gonzales-Garza, Project Manager for Planning and Contract Implementation, at (512) 475-3905 or rita.garza@tdhca.state.tx.us or J. Al Almaguer, Senior Planner, at (512) 475-3908 or al.almaguer@tdhca.state.tx.us.

APPLICATION DEADLINE & SUBMISSION INSTRUCTIONS

ALL APPLICATIONS MUST SPECIFICALLY ADDRESS EACH AND ALL OF THE DOCUMENT REQUIREMENTS SET FORTH IN THIS RFA IN THE ORDER REQUESTED IN THE INSTRUCTIONS. APPLICATIONS SHALL BE IN 11 POINT FONT OR LARGER, ON 8½" X 11" SHEETS CONSECUTIVELY NUMBERED WITH 1" MARGINS, AND WITHOUT STAPLES OR PAPER CLIPS. BINDER CLIPS TO SEPARATE THE ORIGINAL APPLICATION FROM THE COPY ARE ACCEPTABLE. ANY PORTIONS OF THE APPLICATION, INCLUDING ATTACHMENTS, APPENDICES, AND EXHIBITS, MUST BE PROPERLY LABELED WITH A COVER PAGE.

Applications to be mailed via regular mail are to be addressed as follows:

**Stuart P. Campbell
Manager
Texas Department of Housing and Community Affairs
Community Services Section
P.O. Box 13941
Austin, Texas 78711-3941**

Applications to be hand-delivered or submitted via special courier or special delivery are to be addressed as follows:

**Stuart P. Campbell
Manager
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701**

An original application, including the requested audit documentation, is to be submitted and accompanied with a full identical copy, less the audit materials. In addition, the submission package shall include an electronic CD of the application labeled with the name of the applicant organization and applicable program/program year. The deadline for the Department's receipt of applications is 5:00 p.m., Wednesday, November 30, 2011.

Applications received after the established deadline will not be considered for funding.

IMPORTANT: Applicants are STRONGLY ENCOURAGED to allow sufficient time for the delivery of the application. Applications mailed through the US Postal Service are processed at a central Capitol Processing Center before delivery to the Department, This process may cause delay, even if mailed using Priority Mail or Express Mail. Applications are only considered delivered when time stamped at delivery to TDHCA, NOT the Capitol Processing Center.

GRANT TERMS & CONTRACT PERIODS

The Community Services Block Grant funds are made available to the states on an annual federal fiscal year basis. The Department's 12-month contracts with local CSBG organizations are routinely from January 1st through December 31st. For the purpose of this RFA, the Department will plan execution of a 12-month contract with the selected organization from January 1, 2012 through December 31, 2012.

CONTRACT DELIVERABLES & REPORTING REQUIREMENTS

The Department will execute a CSBG contract to support assistance and services on behalf of eligible low-income clients based on provisions of the CSBG Act and the Texas Administrative Code portion applicable to the CSBG Program. See Appendix A-- Public Law 105-285 with the CSBG Act and Appendix B--Texas Administrative Code.

The contract will authorize the subrecipient organization selected to access formula-driven CSBG funds for providing administrative support to low-income service programs and for supporting the provision of direct services to clients with the activities identified in the RFA component below titled **ELIGIBLE USES OF FUNDS AND BUDGET CATEGORIES**. The subrecipient will be authorized to access CSBG funds on a monthly basis not to exceed a 30-day need. The subrecipient organization will be required to establish an applicant intake system that complies with CSBG client program eligibility requirements. Services and assistance provided must be tracked by the subrecipient organization in order to submit monthly performance reports to the Department. The subrecipient organization must also maintain expenditure records in order to submit monthly expenditure reports to the Department and for facilitating the organization's preparation of each fiscal year's post-program audit.

SERVICE AREA COVERAGE REQUIREMENT

The Department is seeking an applicant organization to administer the Community Services Block Grant Program to provide assistance and services in accordance with the CSBG Act to eligible low-income clientele in the unserved counties of Loving, Reeves, Ward, and Winkler. Both the applicant's transmittal letter submitting the competitive application package to the Department as well as the application's project narrative shall reflect information on the applicant's intention to serve the named unserved service area counties.

CLIENT ELIGIBILITY REQUIREMENT

Clients to be served with the support of CSBG funds must have an annualized income not to exceed 125% of the poverty income guidelines as provided by the U.S. Department of Health and Human Services. The Department will be responsible for forwarding to the CSBG subrecipient organization current poverty income guidelines information or for identifying the appropriate link to access the same. See Appendix C.--U.S. Department of Health and Human Services Poverty Income Guidelines.

The subrecipient organization selected shall establish an applicant intake system to guard against serving applicants who do not meet the CSBG income criterion. The local CSBG subrecipient organization will be responsible for ensuring that those clients served with CSBG funds have proper eligibility documentation on file as the Department staff will check the same during the on-site CSBG contract monitoring process.

ELIGIBLE USES OF FUNDS AND BUDGET CATEGORIES

Subrecipient organizations may use CSBG funds to provide administrative support to their CSBG program or their other low-income service programs and for providing direct services to CSBG eligible clients. Direct services funds on behalf of CSBG-eligible clients may be used to support activities to address, but are not limited to, the following:

- remove obstacles and solve problems that block the achievement of self-sufficiency;
- secure and retain meaningful employment;
- attain an adequate education;
- make better use of available income;
- obtain and maintain adequate housing and a suitable living environment;;
- obtain emergency assistance (including disaster recovery assistance); and,
- address the needs of youth (including after-school child care programs) in low-income communities.

The major categories for the CSBG budget are as follows:

- Personnel
- Fringe Benefits
- Travel
- Supplies
- Equipment
- Contractual
- Other
- Indirect Costs

If an organization budgets funds in the Indirect Costs category, then the application package must contain the organization's approved indirect cost plan by its cognizant funding agency.

Each application submitted in response to this RFA shall contain completed budget support sheets to detail the budget sub-reserves in each major CSBG budget category. See RFA Packet Attachment titled CSBG Budget and Budget Support Sheets.

INELIGIBLE USES OF FUNDS

CSBG funds may not be used for the purchase, construction, or permanent improvement (other than the low-cost residential weatherization or other energy-related home repairs) of any building or other facility. Any organization that receives funds from this RFA and assumes responsibility for planning, developing, and coordinating CSBG activities shall be deemed a state sub-grantee. As such, CSBG funds received by a sub-grantee shall not be used in the provision of services or the employment or assignment of personnel to support the following activities: any partisan or non-partisan political activity or any political activity in an election for public or party office; any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or, any voter registration activity. Any new prohibitions promulgated by the U.S. Department of Health and Human Services on the uses of CSBG funds will be outlined in the CSBG contract between the Department and the local sub-recipient organization.

AUDITING REQUIREMENTS

The Department requires that each sub-recipient organization that expends \$500,000 or more in state or federal financial assistance during a fiscal year arrange for the performance of an annual independent audit of the funds received. The audit shall be conducted in accordance with the Single Audit Act provisions. Sub-recipient organizations expending less than \$500,000 in state or federal financial assistance in a fiscal year shall arrange for conducting and submission of an annual financial statement audit.

Audits are to be submitted to the Department within 30 days of the completion of the same but not more than nine (9) months after the end of the organization's audited fiscal year period. Applicant organizations shall complete, sign, and submit an Audit Certification Form (ACF) in response to this RFA. If awarded funds, the subrecipient organization shall also submit a completed Audit Certification Form to the Department within 60 days after the end of the organization's fiscal year. See RFA Packet Attachment titled Audit Certification Form.

PART B. APPLICATION CONTENT

All pages of the application shall be numbered consecutively. The most recent audit, including the management letter if prepared by an independent audit firm, shall be submitted as the latter part of the application. The numbered pages of the audit do not need to be re-numbered.

Each package must have a transmittal letter and the application must contain the completed items listed below in the following order:

- 1) State of Texas CSBG Application Form**
- 2) Table of Contents with Page Numbers**

3) Standard Form 424

4) Articles of Incorporation or Charter

5) Bylaws, including the marked section which authorizes the governing board or equivalent policymaking entity to make policies and decisions for the organization

6) Current Internal Revenue Service (IRS) Ruling--All private non-profit applicant organizations must document their status as a 501(c)(3) tax-exempt entity. The Department prefers that documentation within the application be on IRS letterhead which is legible and signed by the IRS District Director. Other documentation which may be utilized to document a 501(c)(3) status may be a letter from the State of Texas Comptroller of Public Accounts or a certified legal document showing the current ruling status. Information that an applicant organization is a local non-profit affiliate of a state or national non-profit organization with current ruling status can be submitted if the applicant organization is a subsidiary of that parent organization.

7) Project Narrative--The project narrative must be no more than 15 pages, be formatted using 11 point font or greater, double spaced, and be on standard 8½"x11" sheets with 1" margins.

8) Roster for Board of Directors or Advisory Committee/Group--Complete the form and provide the requested information for each member of the applicant's Board or Advisory Committee/Group.

9) Attendance Roster for Board of Directors or Advisory Committee/Group--Complete the form using official attendance records for the 12-month period referenced on the form.

10) Current Services Provided Summary--Applicant organizations shall complete the Current Services Form by providing a description of their current programs administered and the respective services/activities rendered by each.

11) Unmet Needs Documentation--Applicants shall complete one form or table for each county to be served. The Data Required block requests information for two blank columns: Data Provided and Data Source. The information requested should be the most recent data available and should be presented briefly and concisely.

12) Completed and signed Audit Certification Form

13) Completed and signed HB 1196 Certification Form

14) CSBG Budget and Budget Support Sheets--Applicants shall submit one (1) CSBG Budget and accompanying Budget Support Sheets for serving the counties of Loving, Reeves, Ward, and Winkler for the period from January 1, 2012 to December 31, 2012.

15) Each applicant organization shall submit a copy of its bylaws as well as its current policies and procedures associated with personnel, travel, financial accounting, and procurement. Applicants shall include a statement within its application transmittal letter or within an appropriate component of the application

that if awarded funds from this RFA that it will abide by the applicable OMB Circulars. Non-profit organizations shall follow OMB Circular A-122 for cost principles, OMB Circular A-110 for administrative requirements, and OMB Circular A-133 for audit requirements. Local government units shall follow OMB A-87 Circular for cost principles, OMB Circular A-102 for administrative requirements, and OMB Circular A-133 for audit requirements.

16) Documentation of current fidelity bond coverage.

17) Fiscal Accountability Documentation--All applications shall include written documentation demonstrating the applicant's fiscal accountability, even if the information has been previously submitted to the Department. Submissions shall include one (1) complete unbound copy of the most recent audit and management letter in accordance with the Single Audit Act requirements. Those applicant organizations with an annual state or federal expenditures total below \$500,000 shall submit the following end-of-the-year financial statements for the most recent fiscal year audited--balance sheet; income statement; and, statement of cash flow.

PART C. APPLICATION REVIEW PROCESS

Applicants who have unresolved monitoring and audit findings from any TDHCA- funded program may be point penalized or disqualified from funding consideration. The Department will consider the most recent monitoring results for applicant organizations that have previously received funds administered by the Department's Community Affairs Division and performance related to other Department-funded programs. Consideration will also be given to timeliness on submission of required monthly program and expenditure reports in the past. In order for staff to proceed with the RFA's CSBG funding process, the Department's Executive Director must approve all funding recommended by Department staff and be ratified by the Department's Governing Board.

The Department will create a standard review instrument for use by an assigned team of in-house reviewers. Each application will be evaluated and scored using criteria consistent with the information and instructions contained in the RFA Application Packet.

Factors to be considered in the review of each application will include, but not be limited to:

- applicant's compliance with RFA Packet instructions;
- applicant's ability to demonstrate success in providing services that meet the needs of low-income persons;
- the extent to which activities proposed to be funded with CSBG funds are consistent with the needs of the county(ies);
- applicant's ability to demonstrate staff and structure capacities to carry-out the proposed services;

- applicant's demonstrated expertise in administering one or more low-income service programs including the Weatherization Assistance Program or the Texas Comprehensive Energy Assistance Program;
- per the CSBG Act, organizations that currently administer CSBG shall receive special and priority consideration over all other applicants that do not currently administer Department programs overseen by the Community Affairs Division; and,
- applicant's ability to demonstrate positive past performance with Department funded programs, including the results of Department monitoring reviews, the records for timely submission of monthly reports, results of the most recent fiscal audit, and other information deemed relevant to past program performance.

PART D. PROJECT NARRATIVE INSTRUCTIONS

The application's Project Narrative must provide all the information requested and the information shall be presented in the order of the outline provided herein. If, in your opinion, certain information is not applicable to your organization, please state so in your application and the reason(s) why.

I. DESCRIPTION OF APPLICANT ORGANIZATION

A. Organization and Board of Directors

1. Describe the organization's history and mission. Include information on the current staff size and the educational background/work experience of key management staff.
2. Provide information about the board of directors, the regularity of meetings, if quorums have been established at the meetings during the past 12 months, a list of subcommittees, and any other relevant information related to the board of directors.
3. Provide copies of special certifications or licenses your organization has and information on any special recognition of its operations or its staff.
4. Applicants are required to establish that they are legally qualified to do business in the State of Texas, that they are in good standing with the Comptroller of Public Accounts, and that they are not subject to federal debarment or to any legal impediment that would prohibit entering into a contract.

B. Funding and Programs

1. Provide information on funding sources and accountability procedures:
 - a. Describe funding sources and amount of federal, state, local, and private funds currently received annually by your organization.

- b. Describe organization's recent experience managing grants of similar size and scope.
 - c. Describe how your organization follows the Generally Accepted Accounting Principles.
 - d. Name the accounting software to be used to manage the CSBG funds.
 - e. Reference the completion date of your organization's last financial audit.
 - f. Indicate whether your organization has received any major audit findings or questioned costs in the last five (5) years.
 2. Provide information on programs:
 - a. Describe the type(s) of services provided by the programs currently administered.
 - b. Provide the total number of persons served annually by programs currently administered.
 - c. Describe the target group(s) served by programs administered.
 3. Provide a certification for each of the following topics regarding your financial history:
 - a. Provide an assurance that no legal or administrative proceedings are pending and that no proceedings have been concluded adverse to the applicant within the last five (5) years which relate to procurement or performance of any public or private grants, agreements, and/or contracts.
 - b. Indicate whether your entity has been debarred from doing business with the federal government, the State of Texas, or any other organization.
 - c. Provide an acknowledgement that the organization is not in arrears for federal, state or local taxes of any type; that it does not owe any monies to the State or a state agency for the administration or enforcement of any environmental laws of the State; that it does not owe any other monies to the State, a state agency or a political subdivision of the State that are past due and whether the amounts owed are being contested in a court of law; and, that there are no outstanding liens, levies, lawsuits, or investigations of any type pending. If such an acknowledgement cannot be provided, a detailed explanation is to be attached.

C. Service Delivery

1. Service Area and Facilities

- a. Identify the counties served in your current service area as well as any new counties that, as a result of this RFA, that you propose to now include in your service area.
- b. Identify the location of the applicant's main office and the services provided at the main office. Identify the hours of operation and the staffing (number of staff, job title, etc.) at the main office.
- c. Identify field offices operated to provide services to low-income clients and describe the services provided at the each of those locations.

Identify the hours of operation and the staffing (number of staff, job title, etc.) at each office and any additional field offices you would add in responding to this RFA.

- d. Describe the intake and assessment process utilized for low-income clients seeking services and assistance at each location. If the process is the same at all locations, then describe the process once and indicate that it is applied organization-wide.
 - e. Describe the process used to refer outside, incoming clients to services and programs administered by your organization.
2. Identify any counties in your current and proposed service area that do not have a field office and explain how services are to be delivered to residents of those counties, if this application is funded.
 3. Describe methods to be utilized by your organization to deliver services in the expanded service area.
 4. Describe how programs and services are coordinated between the main office and each of the field offices.
 5. Describe how field offices report fiscal and service data information to the main office in order for your organization to submit financial and performance data to funding entities.

D. Coordination of Services

Describe your organization's Process for Linkages and Funding Coordination:

1. Identify the service providers with which your organization links services to clients and coordinates/leverages funding to meet the needs of clients. List this information by county. Include city and county governments, faith-based organizations, non-profit organizations, state agencies, etc.
2. Describe the process utilized by your organization to establish and maintain organization links with other service providers in the service area. Identify how coordination is maintained, either through the attendance at meetings, regular calls to other organizations, etc.
3. Provide information on any memorandums of understanding and/or service agreements your organization has with other entities.
4. Describe the process to refer individuals and/or clients to services and assistance with other entities including, but not limited to, city and county governments, faith-based organizations, non-profit organizations, state agencies, etc. Describe how follow-up service, if any, is provided to clients referred.

E. Case Management

Describe the case management services provided by your organization. Include a description of locations where such is provided, the process utilized to determine persons who would benefit from case management services, the assessment and goal setting process, and the case management services provided.

II. UNMET NEED IN SERVICE AREA

Complete an Unmet Needs Documentation Table for each added county proposed to be served with this RFA's CSBG funds.

III. CSBG RFA PROJECT DESCRIPTION

Provide a detailed description of the new CSBG project/initiative for which you are requesting RFA funding. Include the following information:

- 1. Describe programs, services, and efforts your organization plans to carry out if this RFA's CSBG funds are received. Identify whether your initiative is an expanded current program, a current service to be expanded, or an effort which is a newly-planned initiative to be carried out.**
- 2. What type of direct assistance (rent, utility, food, etc.) do you plan to provide the clients with the new CSBG funds? See RFA's Background component and Eligible Uses of Funds and Budget Categories component.**
- 3. How many new clients do you plan to assist with the new CSBG funds for the 12-month period, if your organization is funded?**
- 4. Provide a description of how the newly-funded CSBG services will be rendered to clients and persons seeking assistance. Include information on sites [city(ies) and county(ies)] where services will be provided, hours of site operation, staffing (job titles) and duties of staff by site, services to be provided by site, and any other relevant information.**
- 5. Provide a narrative description of the proposed budget category costs associated with the administration of the CSBG funds and the provision of CSBG direct services as well as linkage/referral services to provide other services to CSBG eligible clients. Include information on direct service costs (direct assistance to CSBG clients), operation and facility costs, including reserves for Personnel, Fringe Benefits, Travel, Supplies, Equipment, Contractual, Other, and Indirect Costs, as applicable.**
- 6. Describe the outcomes (measurable, direct customer benefits) that your organization plans to achieve as a result of the administration of the new CSBG funds.**
- 7. Describe how the new CSBG funds will be integrated into your current method of service delivery. Also, elaborate on how collaboration will occur to maximize client services from among the Community Services Block Grant**

8. Provide a description of how you will ensure that all field staff are properly trained and qualified to perform their assigned CSBG-related responsibilities. Include the following information:
 - a. How will you ensure that all staff and subcontractors, if any, have adequate time to participate in training without interfering with their current, routine service delivery?
 - b. Indicate whether your organization will provide or require any training other than the training routinely provided through TDHCA.

IV. PROJECT EVALUATION AND CONCLUSION

- A. Describe the process to be utilized by your organization to measure the effectiveness of the services to be provided and/or to be supported with the new CSBG funds. Will outcome measures be set? What data will be maintained? How often will data be gathered?
- B. What factors make your organization the most appropriate choice to administer the proposed CSBG Program activities?

PART E. RFA PACKET ATTACHMENTS

- A. STATE OF TEXAS CSBG APPLICATION FORM
- B. APPLICATION FOR FEDERAL ASSISTANCE--SF 424
- C. ROSTER FOR BOARD OF DIRECTORS
- D. ATTENDANCE ROSTER FOR BOARD OF DIRECTORS
- E. CURRENT SERVICES PROVIDED FORM
- F. UNMET NEEDS DOCUMENTATION TABLE
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- H. HB 1196 AGREEMENT
- I. CSBG BUDGET & BUDGET SUPPORT SHEETS

PART F. RFA PACKET APPENDICES

- A. Public Law 105-285--CSBG ACT Component
- B. TAC Title 10. Part 1. Chapter 5. Subchapter B.--CSBG Provisions
- C. USDHHS Poverty Income Guidelines

Appendix A.

Public Law 105-285

Community Services Block Grant (CSBG) Act Component

Appendix B.

**Texas Administrative Code
Title 10
Part 1.
Chapter 5
Subchapter B.--CSBG Provisions**

Appendix C.

2011

U.S. Department of Health and Human Services

Poverty Income Guidelines

At 100%

HOUSING RESOURCE CENTER
BOARD ACTION REQUEST
October 4, 2011

Presentation, Discussion and Possible Authorization of the 2012 Regional Allocation Formula Methodology (Draft).

RECOMMENDED ACTION

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

WHEREAS, the Draft 2012 Regional Allocation Formula Methodology for the HOME, Housing Tax Credit and Housing Trust Fund programs was approved with an addendum at the September 15, 2011 Governing Board meeting to be opened for comment on September 30, 2011, and

WHEREAS, the Draft 2012 Regional Allocation Formula Methodology with addendum for the Housing Tax Credit Program has raised questions and concerns, and

WHEREAS, as a result of the public comment addendum, the Draft 2012 Regional Allocation Formula Methodology was clarified by staff before posting,

RESOLVED that the proposed Draft 2012 HOME, Housing Tax Credit and Housing Trust Fund Regional Allocation Formula Methodology with public comment addendum for Housing Tax Credit Program and clarification is hereby accepted as the amended draft in lieu of the September 15, 2011 draft.

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 30th 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.

ATTACHMENT A
2012 REGIONAL ALLOCATION FORMULA METHODOLOGY

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.

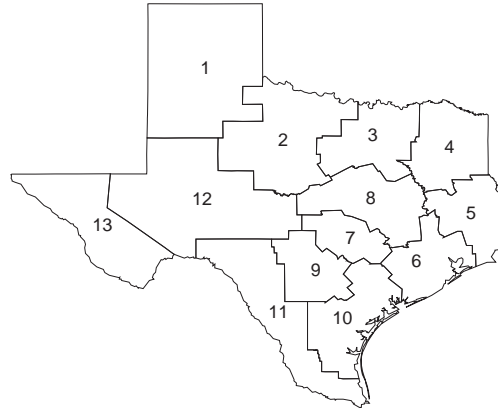


Figure 1. State Service Regions

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

[Per the September 15, 2011 TDHCA Governing Board meeting, staff is attaching a Public Comment Addendum to this methodology. The addendum, “Proposed Forward Commitment Position Paper”, will be presented as part of the public comment for the methodology. Staff will address the issues the addendum raises in its response to public comment and final RAF at the Governing Board’s November 10, 2011 meeting.](#)

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.

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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 [allocation of](#) HOME, HTF and HTC.

- ~~Housing Trust Fund Rental Development Funding~~
- HUD HOME Funds (TDHCA and Participating Jurisdiction)

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.

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- HUD Housing for Persons with AIDS Funding
- HUD Public Housing Authority (PHA) Capital Funding
- 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.

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.

4. Each over allocated resource difference is divided by the state resource difference. This quotient is the over allocation percentage.
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 50,000.⁷

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

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.

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

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.

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Rural and Urban Regional Funding Amounts

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.

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.

Adjustments for Prior Year Overfunding or Underfunding of Subregions and Forward Commitments

Once all adjustments for the regional allocation of all other housing resources and need are accounted for, the subregional funding amounts are adjusted dollar-for-dollar by the amount of overfunding or underfunding each subregion experienced during the prior year's cycle and forward commitment awards made during the prior year's cycle. Incorporating these adjustments at this stage, rather than including housing tax credits as a housing resource, will result in less dilution of the prior year's tax credit funding decisions and provide for a more true accounting of a subregion's funding level across years.

Adjustments for Minimum Subregional Funding Amounts

For the HTC RAF, the regional amount of rural and urban funding is adjusted to a minimum \$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
Public Comment Addendum

PROPOSED FORWARD COMMITMENT POSITION PAPER

As part of the authority granted to the state of Texas by the U.S. Treasury and Section 42 of the Internal Revenue Code, TDHCA has the ability to award “forward commitments” in a calendar year from a state’s allocation of credits in the subsequent year. The Board of Governors of TDHCA has broad authority in which to make these forward commitments and Texas statutes are silent on how those forward commitments are to be allocated—whether it is by region, points, need, special set-aside or if they are to be allocated at all.

Since the advent of the Regional Allocation Formula (RAF) in 2001, TDHCA has enforced a policy of taking forward commitments out of the funding cycle from the particular region in which they were awarded for the *following* year, and also put them in the RAF as if they were awarded in the *following* year. This policy has sometimes created situations whereby there are no tax credits for a particular sub-region for an entire cycle (calendar year), limiting competition for credits in that sub-region. This is true especially in the smaller regions, but this situation also recently occurred in Region 3—“the Dallas Region” in 2011. An unintended result when this occurs is that a developer or development is punished (because there are no funds to compete for) in a current year, due to a forward commitment that was made in a prior year in that same region.

Example: Developer A has requested and received a forward commitment for \$1 million in 2011 in Sub-Region 1. Sub-Region 1 is due to receive only \$1million in 2012 under the Regional Allocation Formula (RAF), hence there is no money available for Sub-Region 1 per the current TDHCA policy due to the 2011 forward commitment. Developer B, who did not apply in 2011, submits a worthwhile application in 2012 with full community support and an extremely high score. The TDHCA Board in 2012 now is in a position to either deny the worthy application from Developer B or grant a forward commitment to the application and take all of the money for 2013.

TAAHP submits the following suggestions for a policy change for the 2012 cycle:

- End the process of taking a “forward commitment” out of the following year’s funding at 100% for a region, and instead take the money “off the top” before the RAF, identical to the policy in place now for the “at risk set aside.” Forward commitments are already counted as a factor in the RAF the year they are finally committed (the year after the forward commitment) for that region, and we propose no change to this policy. This will ensure that forward commitments are only “counted once” against a region, instead of being counted against the region 100% the year after the forward, and then placed in the RAF for the subsequent year as well.

This policy change would ensure that all 26 sub-regions have some level of funding every year, and ensure healthy competition for tax credit funding throughout the state.

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QUESTIONS AND COMMENTS ¶
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None at this time

None at this time

None at this time

None at this time

**MULTIFAMILY FINANCE DIVISION
BOARD ACTION REQUEST
October 4, 2011**

Presentation, Discussion, and Possible Action regarding a commitment of Housing Tax Credits from the 2011 State Housing Credit Ceiling for Application #11223, The Terrace at MidTowne.

Requested Action

Approve the issuance of a commitment of Housing Tax Credits from the 2011 State Housing Credit Ceiling for Application #11223, The Terrace at MidTowne.

WHEREAS, the Board approved commitments of Housing Tax Credits from the 2011 State Housing Credit Ceiling and approved the waiting list of applications as presented to the Board on July 28, 2011; and

WHEREAS, due to staff error the list of recommended applications for commitments of Housing Tax Credits did not reflect a recommendation for application #11223, The Terrace at MidTowne; therefore

It is hereby,

RESOLVED, that the Board approve a commitment of Housing Tax Credits from the 2011 State Housing Credit Ceiling for Application #11223, The Terrace at MidTowne.

Background

The Board approved the list of recommended applications for commitments of Housing Tax Credits from the 2011 State Housing Credit Ceiling and approved the waiting list of applications at its July 28, 2011 meeting. At that time, The Terrace at MidTowne (#11223) was included on the waiting list but did not receive a commitment of Housing Tax Credits due to the limited amount of remaining funding in its subregion. However, due to staffing and personnel changes, staff did not account for a return of credits to Region 3 resulting from issuance of IRS Forms 8609 to #08223, Evergreen at Morningstar. The amount of credit issued in the Forms 8609 provides for a return of \$216,316. If the \$216,316 in returned credit had been properly accounted for, \$1,117,400 would have remained available in Urban Region 3 which is sufficient to fully fund the next highest application, The Terrace at MidTowne (\$1,017,933). Instead the returned credits were not considered at all and therefore \$901,084 remaining in the region went into the statewide collapse.

This does not negatively impact any other applications because \$872,039 will remain in statewide collapse if The Terrace at MidTowne is awarded. Staff's recommendation is to effectively move a portion of these unused funds back to Region 3 from the statewide

collapse/waiting list pool to award The Terrace at MidTowne. A summary of the previous accounting and recommended correction is below.

	As Approved	After Correction	\$ Change
Region 3 Urban Total Funds	\$8,970,733	\$9,087,149	\$216,316
Awards approved on July 31	\$8,069,649	\$8,069,649	\$0
The Terrace at MidTowne	\$0	\$1,017,933	\$1,017,933
Region 3 Urban amount going to SW Collapse	\$901,084	\$99,467	(\$801,617)
Total Remaining Available to Allocate to Waiting List	\$1,673,656	\$872,039	(\$801,617)

The underwriting for The Terrace at MidTowne has been completed. Updated application logs are attached.

**MULTIFAMILY FINANCE DIVISION
BOARD ACTION REQUEST
October 4, 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.

**At-Risk and USDA Awarded and Waiting List Applications
2011 Competitive Housing Tax Credit Program
As of October 4, 2011**

Estimated State Ceiling to be Allocated: \$8,182,646

File #	Region Status ¹	Development Name	Address	City	Allocation ²	Set-Asides ³			LI Units	Total Units	Target ⁴ Pop	Housing ⁵ Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶	
11003	3 A	Wynnewood Seniors Housing	Approx. 1500 Block of S. Zang Blvd. (W. side of street)	Dallas	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	140	140	E	NC	\$1,606,374	Brian L. Roop	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010	
									Total:	140	140		\$1,606,374					
11251	3 R	Bluebonnet Villa / Primrose Park	3100 Blessing Crt.	Bedford	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	103	104	E	AC/RH	\$938,309	Michelle Norris	<input type="checkbox"/>	214.0	Competitive in At-Risk Set-Aside	
11030	5 R	Pine Ridge Manor	1100 MLK Jr. Dr.	Crockett	Rural	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	70	70	G	AC/RH	\$600,000	Ike Akbari	<input checked="" type="checkbox"/>	213.0	Competitive in At-Risk Set-Aside	
11224	6 R	Magnolia Acres	108 Deborah Dr.	Angleton	Rural	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	66	67	E	AC/RH/RC	\$641,203	Michelle Norris	<input type="checkbox"/>	211.0	Competitive in At-Risk Set-Aside	
11203	3 R	Woodside Village Apts., Ltd.	703 Bumpas St.	McKinney	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	100	100	G	AC/RH	\$968,227	Sarah Rucker	<input checked="" type="checkbox"/>	210.0	Competitive in At-Risk Set-Aside	
11055	3 R	Pilgrim Valley Manor	1701 E Robert St.	Fort Worth	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	168	168	G	AC/RH	\$1,387,324	Ike Akbari	<input type="checkbox"/>	209.0	Competitive in At-Risk Set-Aside	
11120	12 R	La Promesa Apts	4590 N Texas St.	Odessa	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	136	136	G	AC/RH	\$1,435,861	Chris Barnes	<input type="checkbox"/>	208.0	Competitive in Region	
11084	5 R	Southwood Apts	2050 South Byrd Ave.	Shepherd	Rural	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	48	48	G	AC/RH	\$347,472	Ronald Potterpin	<input checked="" type="checkbox"/>	178.0	Competitive in USDA Allocation	
11135	9 R	Jourdanton Square Apts	2701 Zanderson St.	Jourdanton	Rural	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	52	52	G	AC/RH	\$383,024	Dennis Hoover	<input checked="" type="checkbox"/>	166.0	Competitive in USDA Allocation	
11083	4 R	Countrywood Apts	7080 Lamar Rd.	Reno	Rural	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	24	24	G	AC/RH	\$189,311	Ronald Potterpin	<input checked="" type="checkbox"/>	162.0	Competitive in USDA Allocation	
11082	8 R	Oakwood Apts	701 N. Madison St.	Madisonville	Rural	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	36	G	AC/RH	\$283,295	Ronald Potterpin	<input type="checkbox"/>	158.0	Competitive in USDA Allocation	
11081	8 R	Northwood Apts	516 Laredo St.	Navasota	Rural	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	48	48	G	AC/RH	\$332,894	Ronald Potterpin	<input type="checkbox"/>	155.0	Competitive in USDA Allocation	
									Total:	851	853		\$7,506,920					
11033	10 N	American GI Forum Village I & II	1801 Bosquez St., Box 81	Robstown	Rural	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	76	76	G	AC/RH	\$944,918*	Walter Martinez	<input checked="" type="checkbox"/>	208.0	Not Competitive in Region	

1 = Status of Award Abbreviation: Development Previously Awarded 2010 Housing Tax Credits=A, Recommended for Award=R, Not Recommended for Award=N.

2 = Allocation: Rural Regional Allocation or Urban Regional Allocation.

3 = Set-Aside Abbreviations: TRDO-USDA=USDA, Nonprofit=NP, At-Risk=AR.

4 = Target Population Abbreviation: Intergenerational=I, Elderly=E, General=G.

5 = Housing Activity: New Construction=NC, Rehabilitation (includes Reconstruction)=RH, Adaptive Reuse=ADR.

6 = Comment: Reason for Recommendation

* = Recommended Credit: Development is displaying the requested amount because a real estate analysis has not yet been completed.

File #	Region Status ¹	Development Name	Address	City	Allocation ²	Set-Asides ³			LI Units	Total Units	Target ⁴ Pop	Housing ⁵ Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶
11134	4 N	Grand Manor Apts	2700 N Grand Ave.	Tyler	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	120	120	G	AC/RH	\$1,267,523*	Ross Stiteley	<input type="checkbox"/>	205.0	Not Competitive in Region
11198	1 N	Casa Orlando Apts	1810 Third St.	Lubbock	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	70	70	G	AC/RH	\$632,687*	Daniel F. O'Dea	<input type="checkbox"/>	200.0	Not Competitive in Region
11231	7 N	Spring Hollow Apts	4803 & 4804 Loyola Ln.	Austin	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	100	100	G	AC/RH	\$758,602*	Gary Gill	<input type="checkbox"/>	192.0	Not Competitive in Region
11148	11 N	Ivy Terrace	2801 W Maple Ave.	McAllen	Urban	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	80	80	G	AC/RH	\$750,502*	Bryon Gongaware	<input type="checkbox"/>	164.0	Not Competitive in Region
Total:									446	446			\$4,354,232				
17 Total Applications									1,437	1,439			\$13,467,526				

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3 = Set-Aside Abbreviations: TRDO-USDA=USDA, Nonprofit=NP, At-Risk=AR.

4 = Target Population Abbreviation: Intergenerational=I, Elderly=E, General=G.

5 = Housing Activity: New Construction=NC, Rehabilitation (includes Reconstruction)=RH, Adaptive Reuse=ADR.

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**Regional Awarded and Waiting List Applications
2011 Competitive Housing Tax Credit Program
As of October 4, 2011**

Estimated State Ceiling to be Allocated: \$48,038,915

Region File #	Status ¹	Development Name	Address	City	Allocation ²	Set-Asides ³ USDA NP	LI Units	Total Target ⁴ Pop	Housing ⁵ Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶
Region: 1														
Allocation Information for Region 1:		Total Credits Available for Region: \$2,054,155				Urban Allocation: \$1,189,699				Rural Allocation: \$864,456				
Applications Submitted in Region 1: Urban														
11195	1 R	Stonebridge of Lubbock	NWC of 71st St. and Ironton Ave.	Lubbock	Urban	<input type="checkbox"/> <input type="checkbox"/>	152	152	G NC	\$1,865,935	Victoria W. Spicer	<input type="checkbox"/>	213.0	Competitive in Region
						Total:	152	152		\$1,865,935				
11074	1 N	The Villas at Tuscany	SWC of Lola Ave. and 66th St.	Lubbock	Urban	<input type="checkbox"/> <input type="checkbox"/>	80	80	E NC	\$788,972	Brett Johnson	<input type="checkbox"/>	213.0	Not Competitive in Region
11163	1 N	The Grove at Elm Park	approx. .18 miles W of 34th St. and Milwaukee Ave.	Lubbock	Urban	<input type="checkbox"/> <input type="checkbox"/>	128	128	G NC	\$1,768,281*	Shari Flynn	<input type="checkbox"/>	206.0	Not Competitive in Region
11067	1 N	Southwest Plains Villas	E 4th & Guava St.	Lubbock	Urban	<input type="checkbox"/> <input type="checkbox"/>	120	120	G NC	\$1,999,908*	R. J. Collins	<input type="checkbox"/>	200.0	Not Competitive in Region
						Total:	328	328		\$4,557,161				
						Total:	480	480		\$6,423,096				
Applications Submitted in Region 1: Rural														
11164	1 R	Oasis Cove	N corner of N 7th St. and 9th Ave.	Canadian	Rural	<input type="checkbox"/> <input type="checkbox"/>	56	64	G NC	\$760,840	Mark Mayfield	<input checked="" type="checkbox"/>	204.0	Competitive in Region
						Total:	56	64		\$760,840				
11196	1 N	Central Village Apts	910 W 28th St.	Plainview	Rural	<input type="checkbox"/> <input type="checkbox"/>	84	84	G AC/RH	\$719,572*	Daniel F. O'Dea	<input type="checkbox"/>	193.0	Not Competitive in Region
						Total:	84	84		\$719,572				
						Total:	140	148		\$1,480,412				
6 Applications in Region						Region Total:	620	628		\$7,903,508				

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Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total Target ⁴	Housing ⁵	Recommended* Owner	TDHCA Final	Score	Comment ⁶
						USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME	

Region: 2

Allocation Information for Region 2:	Total Credits Available for Region: \$1,268,773	Urban Allocation: \$703,775	Rural Allocation: \$564,998
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Applications Submitted in Region 2:		Urban														
11246	2 R	Tylor Grand	4249 Catclaw Dr.	Abilene	Urban	<input type="checkbox"/>	<input type="checkbox"/>	119	120	G	NC	\$1,395,109	Louis Wolfson III	<input type="checkbox"/>	212.0	Significant Sub-Regional Shortfall in State Collapse
						Total:	119	120			\$1,395,109					
11066	2 N	Anson Park III	2820 Old Anson Rd.	Abilene	Urban	<input type="checkbox"/>	<input type="checkbox"/>	76	80	G	NC	\$1,068,981*	Jay Collins	<input type="checkbox"/>	207.0	Not Competitive in Region
11180	2 N	Rainy Creek Apts	Griffith Rd. at Scottish Rd.	Abilene	Urban	<input type="checkbox"/>	<input type="checkbox"/>	84	84	G	NC	\$967,134*	Justin Zimmerman	<input type="checkbox"/>	203.0	Not Competitive in Region
11089	2 N	Parkstone Senior Village Phase II	Approximately 1401 W Rathgeber Rd.	Wichita Falls	Urban	<input type="checkbox"/>	<input type="checkbox"/>	64	64	E	NC	\$721,737*	Randy Stevenson	<input type="checkbox"/>	197.0	Not Competitive in Region
						Total:	224	228			\$2,757,852					
						Total:	343	348			\$4,152,961					
Applications Submitted in Region 2:		Rural														
11061	2 R	Pioneer Crossing for Seniors Burkburnet	1100 Christie Ln.	Burkburnet	Rural	<input type="checkbox"/>	<input type="checkbox"/>	80	80	E	NC	\$866,446	Noorallah Jooma	<input checked="" type="checkbox"/>	206.0	Significant Sub-Regional Shortfall in State Collapse
						Total:	80	80			\$866,446					
						Total:	80	80			\$866,446					
5 Applications in Region						Region Total:	423	428			\$5,019,407					

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Region	File #	Status	Development Name	Address	City	Allocation	Set-Asides	LI	Total Target	Housing	Recommended*	Owner	TDHCA	Final	Comment
3							USDA NP	Units	Units	Pop	Credit	Contact	HOME	Score	

Region: 3

Allocation Information for Region 3:	Total Credits Available for Region: \$10,357,103	Urban Allocation: \$9,187,049	Rural Allocation: \$1,170,054
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Applications Submitted in Region 3: Urban																		
11012	3	A	Hillside West Seniors	Near 32 Pinnacle Park Blvd.	Dallas	Urban	<input type="checkbox"/>	<input type="checkbox"/>	130	130	E	NC	\$1,624,738	Brandon Bolin	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010	
11011	3	A	Sedona Ranch	6101 Old Denton Rd.	Fort Worth	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	172	172	E	NC	\$1,940,000	Manish Verma	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010	
11007	3	A	Terrell Homes I	Scattered Sites (N. of Hwy 287, E. of Hwy 35W, S. of Hwy 30 and W. of MLK Jr. Hwy)	Fort Worth	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	54	54	G	NC	\$1,136,782	Jesus Chapa	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010	
11004	3	A	North Court Villas	South side Stonebrook Pkwy between Woodstream Dr & Preston Rd	Frisco	Urban	<input type="checkbox"/>	<input type="checkbox"/>	150	150	G	NC	\$2,000,000	Cherno M. Njie	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010	
									Total:	506	506			\$6,701,520				
11248	3	R	Singing Oaks	307 N Loop 288	Denton	Urban	<input type="checkbox"/>	<input type="checkbox"/>	122	126	G	AC/RH	\$1,368,129	Mitchell Friedman	<input type="checkbox"/>	215.0	Competitive in Region	
11223	3	R	The Terrace at MidTowne	SWC of George Hopper Rd. and Abigail	Midlothian	Urban	<input type="checkbox"/>	<input type="checkbox"/>	84	96	E	NC	\$1,017,933	Diana McIver	<input checked="" type="checkbox"/>	211.0	Competitive in Region	
									Total:	206	222			\$2,386,062				
11127	3	N	1400 Belleview	1401 Browder St.	Dallas	Urban	<input type="checkbox"/>	<input type="checkbox"/>	164	164	G	NC	\$2,000,000*	Kristian Teleki	<input type="checkbox"/>	210.0	Not Competitive in Region	
11098	3	N	Hatcher Square	NWC of Scyene Rd. at Hatcher Blvd.	Dallas	Urban	<input type="checkbox"/>	<input type="checkbox"/>	136	136	G	NC	\$2,000,000*	Jon Edmonds	<input type="checkbox"/>	210.0	Not Competitive in Region	
11183	3	N	Lakeside Village Homes	Scattered sites bordered by W Vickery Blvd., W Rosedale St., Bryant Irvin Rd., Camp Bowie W Blvd. and Hulen St.	Fort Worth	Urban	<input type="checkbox"/>	<input type="checkbox"/>	36	36	G	NC	\$733,139*	Jesus Chapa	<input type="checkbox"/>	209.0	Not Competitive in Region	
11216	3	N	The Sierra on Pioneer Road	SEC of Pioneer Rd. and Sierra Dr.	Mesquite	Urban	<input type="checkbox"/>	<input type="checkbox"/>	84	92	E	NC	\$900,000*	Janine Sisak	<input checked="" type="checkbox"/>	208.0	Not Competitive in Region	
11178	3	N	Esperanza Cove Senior Apts	2819 E Belknap St.	Fort Worth	Urban	<input type="checkbox"/>	<input type="checkbox"/>	61	61	E	NC	\$775,979*	Jesus Chapa	<input type="checkbox"/>	206.0	Not Competitive in Region	
11124	3	N	Peoples El Shaddai	2836 E Overton Rd.	Dallas	Urban	<input type="checkbox"/>	<input type="checkbox"/>	100	100	G	AC/RH	\$1,168,597*	Jeff Huggett	<input type="checkbox"/>	199.0	Not Competitive in Region	

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Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total	Target ⁴	Housing ⁵	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶
							USDA NP	Units	Units	Pop	Activity					
	11056	3 N	St. Paul Apts	1801 Young St. & 1818 Wood St.	Dallas	Urban	<input type="checkbox"/> <input type="checkbox"/>	146	146	G	NC	\$1,408,163*	Lawrence E. Hamilton III	<input type="checkbox"/>	199.0	Not Competitive in Region
	11139	3 N	Champion Homes at Copperidge	5522 Maple Ave.	Dallas	Urban	<input type="checkbox"/> <input type="checkbox"/>	126	252	G	NC	\$2,309,382*	Saleem Jafar	<input type="checkbox"/>	196.0	Not Competitive/Violates \$2M Cap
	11142	3 N	Veterans Place	4623 S Lancaster Rd.	Dallas	Urban	<input type="checkbox"/> <input type="checkbox"/>	150	150	G	NC	\$1,703,127*	Yigal Lelah	<input type="checkbox"/>	192.0	Not Competitive in Region
	11205	3 N	Hawk Ridge Apts	9200 block of Dale Ln.	White Settlement	Urban	<input type="checkbox"/> <input type="checkbox"/>	144	144	G	NC	\$1,468,620*	Bert Magill	<input type="checkbox"/>	191.0	Not Competitive in Region
	11244	3 N	E2 Flats	211 N Ervay	Dallas	Urban	<input type="checkbox"/> <input type="checkbox"/>	119	119	G	ADR	\$1,759,015*	Bill Newsome	<input type="checkbox"/>	184.0	Not Competitive in Region
	11107	3 N	Kinwest Manor	1500 block of Kinwest Pkwy	Irving	Urban	<input type="checkbox"/> <input checked="" type="checkbox"/>	156	156	E	NC	\$1,913,438*	Bradley Kyles	<input type="checkbox"/>	183.0	Not Competitive in Region
	11114	3 N	Green Haus on the Santa Fe Trail	4611 East Side Ave.	Dallas	Urban	<input type="checkbox"/> <input checked="" type="checkbox"/>	24	24	G	NC	\$191,228*	Maria Machado	<input type="checkbox"/>	180.0	Not Competitive in Region
	11262	3 N	The Millennium - McKinney	McKinney Ranch Rd. and Stacy Rd.	McKinney	Urban	<input type="checkbox"/> <input type="checkbox"/>	172	172	G	NC	\$2,000,000*	Brandon Bolin	<input type="checkbox"/>	165.0	Not Competitive in Region
							Total: 1,618		1,752			\$20,330,688				
							Total: 2,330		2,480			\$29,418,270				
Applications Submitted in Region 3: Rural																
	11005	3 A	Silver Spring at Forney	SEC of FM 548 and Reeder Ln.	Forney	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	E	NC	\$802,682	Alice Wong	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010
							Total: 80		80			\$802,682				
	11179	3 R	Meadowlake Village Apts	209 S Grand Ave.	Mabank	Rural	<input checked="" type="checkbox"/> <input type="checkbox"/>	40	40	G	RH	\$395,449	Warren L. Maupin, Jr.	<input checked="" type="checkbox"/>	190.0	Competitive in USDA Allocation
							Total: 40		40			\$395,449				
	11062	3 N	Pioneer Crossing for Seniors Mineral Wells	1500 Martin Luther King St.	Mineral Wells	Rural	<input type="checkbox"/> <input type="checkbox"/>	36	36	E	NC	\$517,747*	Noorallah Jooma	<input checked="" type="checkbox"/>	210.0	Not Competitive in Region
	11122	3 N	Silver Spring Grand Heritage	SWC of Hwy 78 and CR 484	Lavon	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	E	NC	\$986,853*	Alice Wong	<input type="checkbox"/>	210.0	Not Competitive in Region
	11230	3 N	West Park Senior Housing	W Park Row and 44th St.	Corsicana	Rural	<input type="checkbox"/> <input checked="" type="checkbox"/>	48	48	E	NC	\$636,948*	Emanuel H. Glockzin, Jr.	<input checked="" type="checkbox"/>	204.0	Not Competitive in Region
	11222	3 N	Westway Place	44th St., off W Park Row	Corsicana	Rural	<input type="checkbox"/> <input type="checkbox"/>	36	36	G	NC	\$546,156*	Emanuel H. Glockzin, Jr.	<input checked="" type="checkbox"/>	204.0	Not Competitive in Region
	11175	3 N	Three Forks Ranch	US Hwy 175 and State Hwy 34	Kaufman	Rural	<input type="checkbox"/> <input checked="" type="checkbox"/>	80	80	E	NC	\$939,820*	Monique Allen	<input type="checkbox"/>	200.0	Not Competitive in Region

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File #	Region Status ¹	Development Name	Address	City	Allocation ²	Set-Asides ³ USDA NP	LI Units	Total Units	Target ⁴ Pop	Housing ⁵ Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶	
11171	3 N	South Fork Apts	Lockhart Rd. at W Washington St.	Stephenville	Rural	<input type="checkbox"/> <input type="checkbox"/>	59	60	G	NC	\$729,975*	Justin Zimmerman	<input type="checkbox"/>	193.0	Not Competitive in Region	
11020	3 N	The Grand Texan-Waxahachie	SEC of U.S. Hwy 77 and Park Hills Dr.	Waxahachie	Rural	<input type="checkbox"/> <input type="checkbox"/>	65	80	E	NC	\$705,431*	Kenneth H. Mitchell	<input type="checkbox"/>	190.0	Not Competitive in Region	
							Total:	404	420							
							Total:	524	540							
							Region Total:	2,854	3,020							
29 Applications in Region																

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5 = Housing Activity: New Construction=NC, Rehabilitation (includes Reconstruction)=RH, Adaptive Reuse=ADR.

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Region	File #	Status	Development Name	Address	City	Allocation	Set-Asides	LI	Total Target	Housing	Recommended*	Owner	TDHCA	Final	Comment
4							USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME	Score

Region: 4

Allocation Information for Region 4:	Total Credits Available for Region:	\$2,083,120	Urban Allocation:	\$795,395	Rural Allocation:	\$1,287,725
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Applications Submitted in Region 4:		Urban														
11097	4 R	RoseHill Ridge	1125 Stuckey	Texarkana	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	122	122	G	AC/RH/RC	\$1,964,020	Naomi W. Byrne	<input type="checkbox"/>	207.0	Significant Sub-Regional Shortfall in State Collapse
						Total:		122	122			\$1,964,020				
11245	4 N	Bar T Apts	NW Quadrant of Bill Owens and Heather	Longview	Urban	<input type="checkbox"/>	<input type="checkbox"/>	115	116	G	NC	\$1,396,034*	Michael Wohl	<input type="checkbox"/>	188.0	Not Competitive in Region
						Total:		115	116			\$1,396,034				
						Total:		237	238			\$3,360,054				
Applications Submitted in Region 4:		Rural														
11138	4 R	SilverLeaf at Gun Barrel City	400 Block Church St.	Gun Barrel City	Rural	<input type="checkbox"/>	<input type="checkbox"/>	80	80	E	NC	\$941,119	J Michael Sugrue	<input checked="" type="checkbox"/>	199.0	Competitive in Region
						Total:		80	80			\$941,119				
11221	4 N	Stonebridge Place	S Royall St.	Palestine	Rural	<input type="checkbox"/>	<input checked="" type="checkbox"/>	76	80	E	NC	\$975,341*	Emanuel H. Glockzin, Jr.	<input checked="" type="checkbox"/>	193.0	Not Competitive in Region
						Total:		76	80			\$975,341				
						Total:		156	160			\$1,916,460				
4 Applications in Region						Region Total:		393	398			\$5,276,514				

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5 = Housing Activity: New Construction=NC, Rehabilitation (includes Reconstruction)=RH, Adaptive Reuse=ADR.
6 = Comment: Reason for Recommendation
* = Recommended Credit: Development is displaying the requested amount because a real estate analysis has not yet been completed.

Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total Target ⁴	Housing ⁵	Recommended* Owner	TDHCA Final	Final	Comment ⁶
						USDA NP	USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME Score

Region: 5

Allocation Information for Region 5:	Total Credits Available for Region: \$2,478,774	Urban Allocation: \$786,646	Rural Allocation: \$1,692,128
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Applications Submitted in Region 5:		Urban														
11185	5 R	Azure Pointe	Chinn Lane, East of Hwy 69/96	Beaumont	Urban	<input type="checkbox"/>	<input type="checkbox"/>	140	140	G	NC	\$1,962,797	Robert Reyna	<input type="checkbox"/>	202.0	Significant Sub-Regional Shortfall in State Collapse
						Total:		140	140			\$1,962,797				
11054	5 N	Beaumont Place of Grace	approx. 4400 Warren St.	Beaumont	Urban	<input type="checkbox"/>	<input type="checkbox"/>	112	128	E	NC	\$1,705,637*	Christopher Akbari	<input type="checkbox"/>	190.0	Not Competitive in Region
						Total:		112	128			\$1,705,637				
						Total:		252	268			\$3,668,434				
Applications Submitted in Region 5:		Rural														
11086	5 R	La Belle Vie	350 ft SE of Shakespeare Ln. on W side of N LHS Dr.	Lumberton	Rural	<input type="checkbox"/>	<input type="checkbox"/>	80	80	E	NC	\$927,326	Donald R. Ball	<input type="checkbox"/>	189.0	Competitive in Region
						Total:		80	80			\$927,326				
11085	5 N	Whitetail Ridge	355 FM 83	Hemphill	Rural	<input type="checkbox"/>	<input type="checkbox"/>	36	36	E	NC	\$479,094*	Melda Bartholdi	<input type="checkbox"/>	199.0	Not Recommended by REA
						Total:		36	36			\$479,094				
						Total:		116	116			\$1,406,420				
4 Applications in Region						Region Total:		368	384			\$5,074,854				

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4 = Target Population Abbreviation: Intergenerational=I, Elderly=E, General=G.

5 = Housing Activity: New Construction=NC, Rehabilitation (includes Reconstruction)=RH, Adaptive Reuse=ADR.

6 = Comment: Reason for Recommendation

* = Recommended Credit: Development is displaying the requested amount because a real estate analysis has not yet been completed.

Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total Target ⁴	Housing ⁵	Recommended* Owner	TDHCA	Final	Comment ⁶
						USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME	Score

Region: 6

Allocation Information for Region 6:	Total Credits Available for Region: \$11,343,600	Urban Allocation: \$10,145,991	Rural Allocation: \$1,197,609
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Applications Submitted in Region 6: Urban																
11238	6 R	The Sunningdale	N side of Wellman, W of IH-45	Shenandoah	Urban	<input type="checkbox"/>	<input type="checkbox"/>	130	130	E	NC	\$1,766,562	Keith Short	<input type="checkbox"/>	213.0	Competitive in Region
11193	6 R	Alexander Place Apts	2401 N Alexander Dr.	Baytown	Urban	<input type="checkbox"/>	<input type="checkbox"/>	36	36	G	NC	\$606,452	Joyce Young	<input type="checkbox"/>	212.0	Competitive in Region
11200	6 R	Silvercreek II Apts	4619 W 34th St.	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	148	148	G	AC/RH	\$1,643,413	Michael Robinson	<input type="checkbox"/>	212.0	Competitive in Region
11260	6 R	Bissonnet Gardens Apts	7500 Bissonnet St.	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	140	140	G	AC/RH/RC	\$1,627,811	Amay Inamdar	<input type="checkbox"/>	211.0	Competitive in Region
11149	6 R	Branch Village Apts	7601 Curry St.	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	160	160	G	AC/RH	\$1,597,576	Mark Moorhouse	<input type="checkbox"/>	209.0	Competitive in Region
11096	6 R	Mariposa at Calder Drive	approx. the 1100 block of FM 517 W	League City	Urban	<input type="checkbox"/>	<input type="checkbox"/>	176	180	E	NC	\$2,000,000	Stuart Shaw	<input checked="" type="checkbox"/>	209.0	Competitive in Region
							Total:	790	794			\$9,241,814				
11022	6 N	East Houston Gardens	7600 E Houston Rd.	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	86	86	G	AC/RH/RC	\$1,097,180*	Amanda Haney	<input type="checkbox"/>	207.0	Not Competitive in Region
11080	6 N	Hidden Valley Estates	NEC of Veterans Memorial Dr. & Dewalt Rd.	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	150	150	G	NC	\$1,978,636*	Dru Childre	<input type="checkbox"/>	207.0	Not Competitive in Region
11024	6 N	Zion Bayou	5200-5390 Airport Blvd.	Houston	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	84	84	G	NC	\$1,244,498*	L. David Punch	<input type="checkbox"/>	207.0	Not Competitive in Region
11087	6 N	Tidwell Lakes Ranch	15.69 acre tract approx. 1000' N of 12900 block of Tidwell/W of the approx. 9000 block of E Sam Houston Pkwy N	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	94	95	G	NC	\$1,888,910	W. Barry Kahn	<input type="checkbox"/>	207.0	Not Competitive in Region
11255	6 N	Justice Park Senior Villas	Justice Park Dr. N of W 43rd	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	144	144	E	NC	\$1,799,961*	Chris Richardson	<input type="checkbox"/>	207.0	Not Competitive in Region
11137	6 N	Genoa Ranch	16.97 acre tract E of MLK Jr., S of East Orem, and N of the approx. 4800 block of Alameda-Genoa	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	78	79	G	NC	\$1,583,573*	John E. Hettig	<input type="checkbox"/>	206.0	Not Competitive in Region
11049	6 N	The Palisades of Inwood	5800 W Mount Houston Rd.	Houston	Urban	<input type="checkbox"/>	<input type="checkbox"/>	127	127	E	NC	\$1,633,534*	Marvalette Hunter	<input checked="" type="checkbox"/>	204.0	Not Competitive in Region
11177	6 N	Trinity East Village	14 contiguous parcels bordered by St. Charles St., Tuam St., Live Oak St. and McGowen St.	Houston	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	70	70	E	NC	\$977,500*	Tina Council	<input type="checkbox"/>	202.0	Not Competitive in Region

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File #	Region Status	Development Name	Address	City	Allocation	Set-Asides USDA NP	LI Units	Total Units	Target Pop	Housing Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment
11243	6 N	HomeTowne at Kingwood	E side of Winford Square Dr., N of Kellington Dr.	Houston	Urban	<input type="checkbox"/> <input type="checkbox"/>	144	144	E	NC	\$1,573,597*	Craig Spaulding	<input type="checkbox"/>	201.0	Not Competitive in Region
11150	6 N	New Hope Housing at Rittenhouse	7020 Stuebner Airline Rd.	Houston	Urban	<input type="checkbox"/> <input checked="" type="checkbox"/>	160	160	G	NC	\$989,141*	Joy Horak-Brown	<input type="checkbox"/>	195.0	Not Competitive in Region
11249	6 N	Silvercreek I Apts	3200 Mangum	Houston	Urban	<input type="checkbox"/> <input type="checkbox"/>	128	128	G	AC/RH	\$1,712,569*	Michael Robinson	<input type="checkbox"/>	194.0	Not Competitive in Region
11239	6 N	Sansbury Senior	SWQ of Sansbury and Crabb River Rd.	Greatwood	Urban	<input type="checkbox"/> <input type="checkbox"/>	90	90	E	NC	\$1,228,922*	Kenneth W. Fambro	<input type="checkbox"/>	188.0	Not Competitive in Region
11235	6 N	HomeTowne at Westheimer Lakes	5.37 acres on S side FM 1093, W of FM 723	Houston	Urban	<input type="checkbox"/> <input type="checkbox"/>	126	126	E	NC	\$1,691,058*	Richard E. Simmons	<input type="checkbox"/>	174.0	Not Competitive in Region
11037	6 N	Spring Trace	W side Aldine Westfield Rd., N of Gwenfair Dr., E of Hardy Toll Rd., S of Cypresswood Dr.	Spring	Urban	<input type="checkbox"/> <input type="checkbox"/>	180	180	E	NC	\$2,000,000*	David Mark Koogler	<input type="checkbox"/>	173.0	Not Competitive in Region
11206	6 N	Enclave on S. Main Apts	12001 S Main St.	Houston	Urban	<input type="checkbox"/> <input type="checkbox"/>	144	144	G	NC	\$1,880,249*	Bert Magill	<input type="checkbox"/>	163.0	Not Competitive in Region
11072	6 N	The Landings at Westheimer Lakes	N side Canyon Fields Dr., W of FM 723	Houston	Urban	<input type="checkbox"/> <input type="checkbox"/>	96	96	G	NC	\$1,265,692*	Craig H. Lintner	<input type="checkbox"/>	155.0	Not Competitive in Region
						Total: 1,901 1,903				\$24,545,020					
						Total: 2,691 2,697				\$33,786,834					
Applications Submitted in Region 6:		Rural													
11257	6 R	Brazos Senior Villas	SEC of FM 2218 and Reading Rd.	Rosenberg	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	E	NC	\$1,047,374	Les Kilday	<input type="checkbox"/>	207.0	Competitive in Region
						Total: 80 80				\$1,047,374					
11167	6 N	The Monarch at Bay Prairie	12th St., NW of Moore Ave. Intersection	Bay City	Rural	<input type="checkbox"/> <input checked="" type="checkbox"/>	74	80	E	NC	\$974,996	Ron Williams	<input checked="" type="checkbox"/>	206.0	Not Competitive in Region
11039	6 N	Timberbrook Village	E side of Nichols Sawmill Rd. b/t Sara Ln. and Sanders St.	Magnolia	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	G	NC	\$1,060,000*	David Mark Koogler	<input type="checkbox"/>	200.0	Not Competitive in Region
11046	6 N	Buckhorn Place	NWC of IH-45 & Smither Rd.	Huntsville	Rural	<input type="checkbox"/> <input type="checkbox"/>	76	76	G	NC	\$1,099,408*	Chris Dischinger	<input type="checkbox"/>	174.0	Not Competitive in Region
						Total: 230 236				\$3,134,404					
						Total: 310 316				\$4,181,778					
26 Applications in Region						Region Total: 3,001 3,013				\$37,968,612					

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21. **§50.9(a)(3) – Income Levels of the Tenants (Page 55 of 95).** This scoring item was modified to reflect deeper targeting for Developments proposed in major MSA’s in order to achieve the maximum points and less restrictive deep targeting for those Developments proposed in other areas.
22. **§50.9(a)(4) – Size and Quality of the Units (Page 55 of 95).** 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 56 of 95).** This section is revised to reflect lower amounts per Unit required to meet the 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). The source must be a local source and if in the form of a loan, it must be in the form of a below market rate loan, the loan must be at least 150 basis points below the current market rate and have a term of at least 3 years and origination fees of less than 2% of the loan amount. 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 59 of 95).** 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)(7) – Rent Levels of the Tenants (Page 59 of 95).** This scoring item was modified to reflect deeper targeting for Developments proposed in major MSA’s in order to achieve the maximum points and less restrictive deep targeting for those Developments proposed in other areas.
26. **§50.9(a)(8) – Cost of the Development Per Square Foot (Page 60 of 95).** This section is modified to include limits on the Direct Hard Costs per square foot.
27. **§50.9(a)(9) – Tenant Services (Page 61 of 95).** 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.
28. **§50.9(a)(11) – Additional Evidence of Preparation to Proceed (Page 62 of 95).** 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. Additionally, it includes an item for those Applications that have been submitted in prior Application Rounds; however, they were not competitive enough to ultimately receive an award.

Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total Target ⁴	Housing ⁵	Recommended* Owner	TDHCA	Final	Comment ⁶
						USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME	Score

Region: 7

Allocation Information for Region 7:	Total Credits Available for Region: \$2,574,457	Urban Allocation: \$1,979,019	Rural Allocation: \$595,439
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Applications Submitted in Region 7:		Urban														
11217	7 R	The Overlook at Plum Creek	4000 block of Cromwell Dr.	Kyle	Urban	<input type="checkbox"/>	<input type="checkbox"/>	80	94	E	NC	\$962,282	Diana McIver	<input checked="" type="checkbox"/>	210.0	Competitive in Region
						Total:	80	94			\$962,282					
11123	7 N	Allegre Point	IH-35 and Fleischer Rd.	Austin	Urban	<input type="checkbox"/>	<input type="checkbox"/>	180	184	G	NC	\$2,000,000*	Kenneth Lewis	<input type="checkbox"/>	208.0	Not Competitive in Region
11071	7 N	Heritage Oak Hill	8922 Manchaca Rd.	Austin	Urban	<input type="checkbox"/>	<input type="checkbox"/>	96	96	E	NC	\$1,311,149*	Daniel Allgeier	<input type="checkbox"/>	206.0	Not Competitive in Region
11218	7 N	The Works at Pleasant Valley	835 N. Pleasant Valley Rd.	Austin	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	36	G	NC	\$488,350*	Susan McDowell	<input type="checkbox"/>	204.0	Not Competitive in Region
11250	7 N	Cypress Creek at Four Seasons	approx. 0.1 miles E of FM 150 & Lehman Rd. on Lehman Rd.	Kyle	Urban	<input type="checkbox"/>	<input type="checkbox"/>	156	160	G	NC	\$2,060,759*	Stuart Shaw	<input checked="" type="checkbox"/>	185.0	Not Competitive in Region
						Total:	468	476			\$5,860,258					
						Total:	548	570			\$6,822,540					

Applications Submitted in Region 7:		Rural														
11077	7 R	Main Street Commons	E side of Main St., S of Carlos Parker	Taylor	Rural	<input type="checkbox"/>	<input type="checkbox"/>	75	75	E	NC	\$1,061,857	Michael Roderer	<input checked="" type="checkbox"/>	211.0	Significant Sub-Regional Shortfall in Rural Collapse
						Total:	75	75			\$1,061,857					
11140	7 N	Villas of Giddings	40 lots in Rolling Oaks Subdivision	Giddings	Rural	<input type="checkbox"/>	<input type="checkbox"/>	35	36	G	NC	\$733,728*	Kelly Garrett	<input checked="" type="checkbox"/>	205.0	Not Competitive in Region
11041	7 N	Riverwood Commons	SEC of Old Austin Hwy & Hasler Blvd.	Bastrop	Rural	<input type="checkbox"/>	<input type="checkbox"/>	36	36	E	NC	\$622,937*	Will Markel	<input checked="" type="checkbox"/>	203.0	Not Competitive in Region
						Total:	71	72			\$1,356,665					
						Total:	146	147			\$2,418,522					
8 Applications in Region						Region Total:	694	717			\$9,241,062					

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Region: 8

Allocation Information for Region 8:	Total Credits Available for Region: \$2,587,219	Urban Allocation: \$1,991,475	Rural Allocation: \$595,744
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Applications Submitted in Region 8: Urban																
11027	8 R	Brookview Village	100 block W Hwy 190	Copperas Cove	Urban	<input type="checkbox"/>	<input type="checkbox"/>	96	96	E	NC	\$1,038,574	Granger MacDonald	<input type="checkbox"/>	200.0	Competitive in Region
							Total:	96	96			\$1,038,574				
11169	8 N	Merritt Bryan Station Senior Village	N of Hwy 6 and W of Old Reliance Rd.	Bryan	Urban	<input type="checkbox"/>	<input type="checkbox"/>	144	144	E	NC	\$1,811,478*	Colby Denison	<input type="checkbox"/>	196.0	Not Competitive in Region
11241	8 N	Park Hudson Senior	SWC of Cross Park and FM 158	Bryan	Urban	<input type="checkbox"/>	<input type="checkbox"/>	90	90	E	NC	\$1,245,984*	Paul Milosevich	<input type="checkbox"/>	196.0	Not Competitive in Region
11214	8 N	Cobblestone Village	Highpoint Dr. near Braircrest Dr.	Bryan	Urban	<input type="checkbox"/>	<input type="checkbox"/>	68	68	E	NC	\$870,480*	Emanuel H. Glockzin, Jr.	<input checked="" type="checkbox"/>	192.0	Not Competitive in Region
11065	8 N	Robinson Senior Villages	San Benito Rd. & Santa Anna Rd.	Robinson	Urban	<input type="checkbox"/>	<input type="checkbox"/>	120	120	E	NC	\$1,649,897*	Tim Lang	<input type="checkbox"/>	191.0	Not Competitive in Region
11057	8 N	The Mercer	Austin's Colony Pkwy b/t Hwy 6 & Boonville Rd.	Bryan	Urban	<input type="checkbox"/>	<input type="checkbox"/>	152	156	G	NC	\$1,760,291*	Mark Musemeche	<input type="checkbox"/>	184.0	Not Competitive in Region
11094	8 N	Mariposa at Highway 6	approx. 0.15 miles S of Boonville Rd. and Wildflower Dr. (W side of Wildflower Dr.)	Bryan	Urban	<input type="checkbox"/>	<input type="checkbox"/>	156	160	E	NC	\$1,888,178*	Stuart Shaw	<input type="checkbox"/>	183.0	Not Competitive in Region
							Total:	730	738			\$9,226,308				
							Total:	826	834			\$10,264,882				
Applications Submitted in Region 8: Rural																
11202	8 R	Hunter's Chase Senior Apts	N side of E Belton Ave., E of Yoakum	Rockdale	Rural	<input type="checkbox"/>	<input type="checkbox"/>	80	80	E	NC	\$871,034	Gary Maddock	<input checked="" type="checkbox"/>	202.0	Significant Sub-Regional Shortfall in Rural Collapse
							Total:	80	80			\$871,034				
							Total:	80	80			\$871,034				
8 Applications in Region						Region Total:		906	914			\$11,135,916				

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Region File #	Status ¹	Development Name	Address	City	Allocation ²	Set-Asides ³ USDA NP	LI Units	Total Target ⁴ Units	Housing ⁵ Pop	Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶
Region: 9															
Allocation Information for Region 9:		Total Credits Available for Region:				\$3,622,744		Urban Allocation:			\$2,966,715		Rural Allocation:		\$656,029
Applications Submitted in Region 9: Urban															
11006	9 A	The Terrace at Haven for Hope	N. San Marcos & Perez St.	San Antonio	Urban	<input type="checkbox"/> <input checked="" type="checkbox"/>	140	140	G	NC	\$1,638,351	Meghan Garza-Oswald	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010
						Total:	140	140			\$1,638,351				
11090	9 N	Sutton Oaks II	approx. 750 Runnels Ave.	San Antonio	Urban	<input type="checkbox"/> <input type="checkbox"/>	162	208	G	NC	\$2,000,000*	Lourdes Castro Ramirez	<input type="checkbox"/>	206.0	Not Competitive in Region
11156	9 N	Montabella Senior	NWC of Lakeview Dr. & Foster Rd.	San Antonio	Urban	<input type="checkbox"/> <input checked="" type="checkbox"/>	90	90	E	NC	\$1,145,528*	Susan R. Sheeran	<input type="checkbox"/>	203.0	Not Competitive in Region
						Total:	252	298			\$3,145,528				
						Total:	392	438			\$4,783,879				
Applications Submitted in Region 9: Rural															
11112	9 R	Artisan at Dilley	400 Anne St.	Dilley	Rural	<input type="checkbox"/> <input type="checkbox"/>	46	46	G	AC/RH/RC	\$690,483	Sandra McGowan	<input checked="" type="checkbox"/>	207.0	Significant Sub-Regional Shortfall in Rural Collapse
						Total:	46	46			\$690,483				
11073	9 N	Cypress Run	Kitty Hawk Rd. across from Wagon Crossing	Universal City	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	G	NC	\$1,070,658	Craig H. Lintner	<input type="checkbox"/>	206.0	Not Competitive in Region
11026	9 N	Walnut Springs	1300 E Walnut St.	Seguin	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	E	NC	\$902,870*	Granger MacDonald	<input checked="" type="checkbox"/>	201.0	Not Competitive in Region
						Total:	160	160			\$1,973,528				
						Total:	206	206			\$2,664,011				
6 Applications in Region						Region Total:	598	644			\$7,447,890				

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Region File #	Status ¹	Development Name	Address	City	Allocation ²	Set-Asides ³ USDA NP	LI Units	Total Target ⁴ Units	Housing ⁵ Pop	Activity	Recommended* Credit	Owner Contact	TDHCA HOME	Final Score	Comment ⁶
Region: 10															
Allocation Information for Region 10: Total Credits Available for Region: \$1,969,583 Urban Allocation: \$1,202,967 Rural Allocation: \$766,616															
Applications Submitted in Region 10: Urban															
11115	10 R	Castle Manor Apts	655 Castle Park Dr.	Corpus Christi	Urban	<input type="checkbox"/> <input type="checkbox"/>	62	62	G	AC/RH	\$655,519	Paul Patierno	<input type="checkbox"/>	215.0	Competitive in Region
						Total:	62	62			\$655,519				
11227	10 N	Dolphin's Landing Apts	6402 Weber Rd.	Corpus Christi	Urban	<input type="checkbox"/> <input type="checkbox"/>	218	218	G	AC/RH	\$2,000,000	Michael Nguyen	<input type="checkbox"/>	213.0	Not Competitive in Region
11166	10 N	The Palms at Leopard	Palm Ave. b/t Lipan St. & Leopard St.	Corpus Christi	Urban	<input type="checkbox"/> <input type="checkbox"/>	120	120	G	NC	\$1,653,271*	M. Steven Henderson	<input type="checkbox"/>	211.0	Not Competitive in Region
11079	10 N	Lexington Landing	1455 Southgate Dr.	Corpus Christi	Urban	<input type="checkbox"/> <input checked="" type="checkbox"/>	156	156	G	AC/RH/RC	\$2,000,000*	Richard J. Franco	<input type="checkbox"/>	209.0	Not Competitive in Region
11045	10 N	Lexington Vista	NWC of Downing St.	Corpus Christi	Urban	<input type="checkbox"/> <input type="checkbox"/>	100	100	E	NC	\$1,365,970*	Mark Lechner	<input type="checkbox"/>	209.0	Not Competitive in Region
11050	10 N	Palm Gardens	NEC of Sandra Ln.	Corpus Christi	Urban	<input type="checkbox"/> <input type="checkbox"/>	156	156	G	NC	\$1,996,605*	Mark Lechner	<input type="checkbox"/>	209.0	Not Competitive in Region
11025	10 N	Seaside Manor	SWC of FM 1069 and Gallion St.	Ingleside	Urban	<input type="checkbox"/> <input type="checkbox"/>	100	100	E	NC	\$1,097,081*	Justin MacDonald	<input checked="" type="checkbox"/>	197.0	Not Competitive in Region
11168	10 N	The Trails at Nodding Pines	SW corner of Holly Road and Nodding Pines	Corpus Christi	Urban	<input type="checkbox"/> <input type="checkbox"/>	84	88	G	NC	\$1,100,000*	Janine Sisak	<input type="checkbox"/>	188.0	Not Competitive in Region
						Total:	934	938			\$11,212,927				
						Total:	996	1,000			\$11,868,446				
Applications Submitted in Region 10: Rural															
11208	10 R	Amber Stone Apts	208 & 210 E Crockett St.	Beeville	Rural	<input type="checkbox"/> <input type="checkbox"/>	54	54	G	AC/RH/RC	\$682,682	Adrian Iglesias	<input checked="" type="checkbox"/>	214.0	Competitive in Region
						Total:	54	54			\$682,682				
11058	10 N	Connell Villa	1605 E Santa Gertrudis	Kingsville	Rural	<input type="checkbox"/> <input type="checkbox"/>	36	36	G	AC/RH/RC	\$618,132*	Cory Hinojosa	<input checked="" type="checkbox"/>	208.0	Not Competitive in Region
11021	10 N	Candlestick Village	3901 Hwy 35 N	Fulton	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	E	NC	\$1,048,780*	Charles Holcomb	<input type="checkbox"/>	198.0	Not Competitive in Region
						Total:	116	116			\$1,666,912				
						Total:	170	170			\$2,349,594				
11 Applications in Region						Region Total: 1,166		1,170			\$14,218,040				

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Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total Target ⁴	Housing ⁵	Recommended* Owner	TDHCA	Final	Comment ⁶
						USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME	Score

Region: 11

Allocation Information for Region 11:	Total Credits Available for Region: \$4,114,753	Urban Allocation: \$2,655,037	Rural Allocation: \$1,459,716
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Applications Submitted in Region 11: Urban

11008	11 A	Champion Homes at Canyon Creek	1700 N. Minnesota Ave.	Brownsville	Urban	<input type="checkbox"/>	<input type="checkbox"/>	100	100	G	NC	\$1,348,738	Saleem Jafar	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010
						Total:	100	100			\$1,348,738					
11059	11 N	Colonia Guadalupe	2000 San Francisco Ave.	Laredo	Urban	<input type="checkbox"/>	<input type="checkbox"/>	144	144	G	AC/RH/RC	\$1,710,260	Laura Llanes	<input type="checkbox"/>	214.0	Not Competitive in Region
11232	11 N	River Valley Apts	702 S. M St.	Harlingen	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	104	104	G	AC/RH/RC	\$1,132,577*	Rick J. Deyoe	<input type="checkbox"/>	214.0	Not Competitive in Region
11031	11 N	La Hacienda Apts.	3567 W. Business 83	Harlingen	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	55	56	G	AC/RH/RC	\$783,316*	Nick Mitchell-Bennett	<input checked="" type="checkbox"/>	214.0	Not Competitive in Region
11043	11 N	La Serena	10 acres SWC Hwy 83 and Tamm Ln.	Harlingen	Urban	<input type="checkbox"/>	<input type="checkbox"/>	156	156	G	NC	\$2,000,000*	Scott Brian	<input type="checkbox"/>	212.0	Not Competitive in Region
11048	11 N	La Privada	10+/- acres off Chapin Rd. SEC	Edinburg	Urban	<input type="checkbox"/>	<input type="checkbox"/>	156	156	G	NC	\$2,000,000*	Scott Brian	<input type="checkbox"/>	209.0	Not Competitive in Region
11157	11 N	Andalusia Pointe	approx. 2200 SE of Hwy 77 & County Rd. 508	Combes	Urban	<input type="checkbox"/>	<input type="checkbox"/>	104	104	G	NC	\$1,455,633*	Jared Hockema	<input type="checkbox"/>	204.0	Not Competitive in Region
11102	11 N	Christie's Cove	Ramsey Rd. and Lafayette Ave.	Harlingen	Urban	<input type="checkbox"/>	<input type="checkbox"/>	125	125	G	NC	\$1,961,722*	Ana Silveria Sierra	<input type="checkbox"/>	191.0	Not Competitive in Region
11036	11 N	Hidalgo Sr. Apts.	8.75 acres of the SWC of 2.5 Mile Rd. and 8 Mile Rd.	Weslaco	Urban	<input type="checkbox"/>	<input type="checkbox"/>	120	120	E	NC	\$1,414,753*	Kimberly Keener	<input type="checkbox"/>	180.0	Not Competitive in Region
						Total:	964	965			\$12,458,261					
						Total:	1,064	1,065			\$13,806,999					

Applications Submitted in Region 11: Rural

11009	11 A	Sunflower Estates	404 Lion's Villa Ave.	La Feria	Rural	<input type="checkbox"/>	<input checked="" type="checkbox"/>	77	80	G	NC	\$1,010,136	Sunny K. Philip	<input checked="" type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010
						Total:	77	80			\$1,010,136					
11105	11 N	Aster Villas	2800 block of Veterans Blvd.	Del Rio	Rural	<input type="checkbox"/>	<input type="checkbox"/>	80	80	G	NC	\$1,034,797*	Clifton Phillips	<input type="checkbox"/>	198.0	Not Competitive in Region
						Total:	80	80			\$1,034,797					
						Total:	157	160			\$2,044,933					

11 Applications in Region

Region Total: 1,221 1,225 \$15,851,932

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Region: 12

Allocation Information for Region 12:	Total Credits Available for Region: \$1,619,625	Urban Allocation: \$1,054,563	Rural Allocation: \$565,061
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Applications Submitted in Region 12: Urban																	
11165	12	R	Playa Del Pueblo	Approx 400 linear feet East of S Terrell St. & IH-20	Midland	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	96	96	G	NC	\$1,315,954	David Diaz	<input type="checkbox"/>	203.0	Significant Sub-Regional Shortfall in State Collapse
									Total:	96	96			\$1,315,954			
11151	12	N	Sage Brush Apts	Tradewinds Blvd. N of IH-20 Business	Midland	Urban	<input type="checkbox"/>	<input type="checkbox"/>	77	78	E	NC	\$942,786*	Vaughn C. Zimmerman	<input type="checkbox"/>	202.0	Not Competitive in Region
11237	12	N	Summer Crest Senior Development	N side of Summer Crest Dr., W of FM 2288	San Angelo	Urban	<input type="checkbox"/>	<input type="checkbox"/>	90	90	E	NC	\$1,180,971*	Chuck Hammonds	<input type="checkbox"/>	183.0	Not Competitive in Region
11226	12	N	Clear Springs	7700 E Bankhead Hwy	Odessa	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	140	140	E	NC	\$1,753,480*	Maribel Estrella	<input type="checkbox"/>	182.0	Not Competitive in Region
11261	12	N	North Angelo Housing Estates	various scattered sites	San Angelo	Urban	<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	36	G	NC	\$494,376*	Terry Shaner	<input type="checkbox"/>	181.0	Not Competitive in Region
									Total:	343	344			\$4,371,613			
									Total:	439	440			\$5,687,567			
Applications Submitted in Region 12: Rural																	
11197	12	R	Park Village Apts	1905 Wasson Rd.	Big Spring	Rural	<input type="checkbox"/>	<input type="checkbox"/>	76	76	G	AC/RH	\$645,907	Daniel F. O'Dea	<input type="checkbox"/>	204.0	Significant Sub-Regional Shortfall in Rural Collapse
									Total:	76	76			\$645,907			
11181	12	N	Dunes Apts	SE Ave. G at SE 3rd St.	Seminole	Rural	<input type="checkbox"/>	<input type="checkbox"/>	59	60	G	NC	\$661,313	Kelly Holden	<input type="checkbox"/>	165.0	Not Competitive in Region
									Total:	59	60			\$661,313			
									Total:	135	136			\$1,307,220			
7 Applications in Region						Region Total:		574	576			\$6,994,787					

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Region	File #	Status	Development Name	Address	City	Allocation ²	Set-Asides ³	LI	Total Target ⁴	Housing ⁵	Recommended* Owner	TDHCA Final	Score	Comment ⁶
						USDA NP	Units	Units	Pop	Activity	Credit	Contact	HOME	

Region: 13

Allocation Information for Region 13:	Total Credits Available for Region: \$1,965,011	Urban Allocation: \$1,384,139	Rural Allocation: \$580,872
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Applications Submitted in Region 13: Urban

11000	13 A	Canutillo Palms	Parcel directly South of Canutillo High School. 200 ft West of I-10	El Paso	Urban	<input type="checkbox"/> <input type="checkbox"/>	172	172	G	NC	\$2,000,000	R. L. Bowling, IV	<input type="checkbox"/>	300.0	Forward Commitment of 2011 Credits Made in 2010
							Total:	172	172			\$2,000,000			
11234	13 N	Villas at West Mountain	NWC Helen of Troy and Northwestern	El Paso	Urban	<input type="checkbox"/> <input type="checkbox"/>	156	156	G	NC	\$1,719,033*	Ike J. Monty	<input type="checkbox"/>	202.0	Not Competitive in Region
11068	13 N	North Desert Palms	100' NW of Angora Loop & Dyer St. off of Dyer	El Paso	Urban	<input type="checkbox"/> <input type="checkbox"/>	149	172	G	NC	\$1,996,938*	R. L. Bowling, IV	<input type="checkbox"/>	178.0	Not Competitive in Region
							Total:	305	328			\$3,715,971			
							Total:	477	500			\$5,715,971			

Applications Submitted in Region 13: Rural

11070	13 R	Presidio Palms II	behind 12960 Alnor St.	San Elizario	Rural	<input type="checkbox"/> <input type="checkbox"/>	80	80	G	NC	\$1,056,218	R. L. Bowling, IV	<input type="checkbox"/>	166.0	Competitive in Region
							Total:	80	80			\$1,056,218			
							Total:	80	80			\$1,056,218			
							Region Total:	557	580			\$6,772,189			

4 Applications in Region

129	Total Applications						13,375	13,697			\$168,584,042			
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